

ARDS AND NORTH DOWN BOROUGH COUNCIL

26 September 2023

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 3 October 2023**, 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 05 September 2023 (Copy attached)
4. Planning Applications (Reports attached)

4.1	LA06/2018/0673/O	Proposed dwelling and garage. Lands approx. 51m east of 1 Cardy Road East and approx. 11m south of 10 Cardy Road East Greyabbey Person speaking in support of the application - Gavin McGill via Zoom
4.2	LA06/2021/1168/O	Dwelling and garage on farm. Land approx. 70m SE of 15 Newcastle Road, Portaferry
4.3	LA06/2021/0061/F	Proposed residential development comprising the erection of 188 No. dwellings, open space (including NS 43) landscaping, children's play area, next phase of the distributor road, internal road network, SuDs ponds and all associated site and access works and proposed amendment of the section 76 planning agreement

		<p>(additional information and amended Concept Masterplan and Phasing Plan).</p> <p>Lands to West of Nos. 110 & 110A-110D Movilla Road; North of Nos. 6-10 (evens) Cloverhill Park, Nos. 1, 3 & 10 Cloverhill Crescent, Nos. 5, 7 & 8 Deanswood Crescent, Nos. 12-26 (evens) Edenvale Crescent, Nos. 58 & 87 Stratheden Heights, Nos. 7, 8, 10 & 12 Kensington Park, and Nos. 2, 2A & 4 Earlswood Drive, East of Nos. 15-27 (odds) Cronstown Cottage Avenue, South of No. 8 Cronstown Lane & North of Phase 2 of "Rivenwood", Newtownards</p> <p>Person speaking in support of the application: Tom Stokes TSA, accompanied by James Fraser. With Andrew Fraser, Brian Speers, Emma McIlwaine & a representative from OCSC via Zoom.</p>
4.4	LA06/2019/0751/F	<p>Demolition of rear double garage and erection of single storey detached building for ancillary use</p> <p>Land at Back Hill to the rear of 7 West Hill, Groomsport</p>
4.5	LA06/2023/1329/F	<p>Demolition of existing garage, two storey and single storey side extensions, Juliet balconies and dormer window to front</p> <p>17 Braeside, Newtownards</p> <p>In support of the application: (Agent) Stephen Dickson</p> <p>Person speaking against the application - Patricia Robie</p>
4.6	LA06/2022/1150/F	<p>Assisted living accommodation for young adults</p> <p>Abbeyfield, 156 Upper Greenwell Street, Newtownards</p>

5. Update on Planning Appeals (report attached)

6. Update on Correspondence regarding NIW Coastal Fence (report attached)

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

7. Local Development Plan (LDP) - Strategic Approach to Undeveloped Coast (report attached)

8. Local Development Plan (LDP) - Timetable (report attached)

MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)

Councillor Cathcart	Alderman McIlveen (Chair)
Councillor Creighton	Councillor McKee
Alderman Graham	Councillor McLaren
Councillor Harbinson	Councillor McRandal
Councillor Kerr	Councillor Morgan
Councillor Martin	Alderman Smith
Councillor McCollum	Councillor Woods
Alderman McDowell (Vice Chair)	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 September 2023 at 7.00pm.

PRESENT:

In the Chair: Alderman McIlveen

Aldermen: Graham
Smith McDowell

Councillors: Cathcart McCollum
Creighton McKee (zoom)
Kerr (7.09pm) Morgan
Martin Wray
McCracken

Officers: Director of Prosperity (A McCullough), Head of Planning (G Kerr), Principal Planning Officer (C Blair) and Democratic Services Officer (J Glasgow)

1. APOLOGIES

An apology for inability to attend was received from Councillor McRandal, Councillor McLaren and Councillor Woods.

2. DECLARATIONS OF INTEREST

Councillor McCollum declared an interest in Item 4. 3 – LA06/2022/0904/F - Sir Samuel Kelly Lifeboat Shelter, Copelands Marina Car Park, Donaghadee.

3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE 01 AUGUST 2023

PREVIOUSLY CIRCULATED:- Copy of the above.

NOTED.

4. PLANNING APPLICATIONS

4.1 LA06/2022/1296/RM - 19 Seaview Terrace, Holywood - Domestic garage and domestic building
(Appendix I)

DEA: Holywood and Clandeboye

Committee Interest: A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation.

Proposal: Domestic garage and domestic building

Site Location: 19 Seaview Terrace, Holywood

Recommendation: Approval of Reserved Matters

The Head of Planning (G Kerr) outlined the detail of the proposal which was a reserved matters application for a domestic garage and domestic outbuilding located at 19 Seaview Terrace, Holywood. The application was being presented to committee due to the number of objections received to the proposal.

The Site Location Plan showed the location of 19 Seaview terrace and application site at the opposite site of shared private lane identified on the visual in green. It was important for members to note that outline planning permission for a domestic garage and building had already been granted on this site. The application before committee was for approval of the matters reserved by the extant outline permission. A reserved matters application did not represent a further application for planning permission on the site.

In the determination of any reserved matters application the Council was restricted to consideration of only those matters which had been reserved for subsequent approval and it could not revisit the overall principle of development which had already been approved at outline stage.

The application complied with the conditions set by the extant Outline permission, including a condition requiring the two ancillary buildings to have a layout broadly in line with the indicative site layout plan. The slide showed the layout approved by the extant outline planning permission and the detailed layout submitted as part of the reserved matters application.

The Head of Planning displayed slides to show the site and surrounds to provide some context for Members. As Members could see from the site layout as part of the reserved matters, it reflected that set out in the extant outline decision notice and was therefore compliant with condition 5 of the outline permission which stated that the ancillary buildings hereby permitted shall have a layout which was broadly in line with the indicative site layout plan.

The application also complied with a condition set at the outline stage restricting the ridge height to above finished floor level to a maximum of 3.5m. The proposed buildings were subordinate to the two and a half storey main dwelling and the design and external materials were both typical of those used in domestic ancillary accommodation and sympathetic to the character of the immediately surrounding area.

(Councillor Kerr entered the meeting – 7.09 pm)

Given the scale of the ancillary buildings, layout in relation to neighbouring properties and the position of windows, there would be no unacceptable adverse harm to residential amenity in terms of loss of light, overlooking or any other disturbance. Conditions 6 & 7 of the outline permission control the use of the building by stipulating that the buildings shall not be used at any time other than for purposes

ancillary to the residential use of No.19 Seaview Terrace. Therefore, the proposal did not result in any intensification of the use of the site or access.

Letters of objection from 9 separate addresses had been received and all material issues raised had been considered in the report. Many of the issues raised related to the principle of development which had been established by the outline planning permission or the scale of the buildings which had been controlled by conditions set at outline stage. In accordance with the outline permission the redline did not extend to the public road as no intensification of use of the access was proposed and that would be controlled by condition.

Objections highlighted on-going disputes regarding the ownership of the access lane and obstructions within the forecourt. Such matters were of a civil nature and lay outside the remit of the planning process and the scope of the reserved matters application. Outline planning permission for ancillary development within the boundary of this private garden has already been granted. Through provision of dedicated parking within the site the scheme has the potential to reduce the number of vehicles parked on the common hardstanding in front of Seaview Terrace.

One letter of support was received in relation to the application, welcoming the development with regards to the visual and aesthetic improvements which would result, in addition to the potential for the subject garage to help to alleviate ongoing parking issues in the immediate vicinity.

Having considered all material planning matters, the Head of Planning advised that it was recommended that the reserved matters be approved.

The Chairman invited questions from Members for the Head of Planning.

Alderman Graham asked if the proposal allowed for car parking apart from that available in the proposed garage. The Head of Planning displayed the concept drawing referring to the space for the car port and garden room. She advised that there would be room available for cars in the car port and garage.

As there were no further questions from Members, the Chairman invited Mr Eamonn Burns to come forward who was speaking in opposition to the application.

Mr Burns advised that none of the current objectors including himself had objected to the application at outline stage which demonstrated the residents were not against the principal of development in the garden of No 19 Seaview Terrace but could not support aspects of the reserved matters application. He felt there had an error in the certificate and residents had been denied the opportunity to participate at outline stage. Concerns had been raised in respect of erroneous and missing information via the planning complaints procedure and the response confirmed that the declaration on the P1 form was taken at face value. Mr Burns referred to fraud risk guidance issued to Councils by the NI Audit Office and questioned if the process was in line with that guidance.

Mr Burns further outlined the design and access matters which he felt gave grounds to the Committee to overturn the recommendation. The design did not comply with

condition 8 with the intention of that condition being to restrict the ridge height to 3.5m to ensure the development integrated into the site and retained neighbouring levels of amenity. Despite him having raised this through his objection there had been no specific levels provided defining the exact relationship between the affected property at 2 Church Hill and the new development. Mr Burns stated that there was going to be a level change at the rear of the development and would exceed the limit. The proposal was being presented with a flat roof which he viewed would create a harsh block wall in particular at the rear boundary. Mr Burns expressed concerns regarding the flat roof which was not seen in the Holywood area in similar style developments which was a unique Victorian front garden setting. He questioned how the proposal's scale and design integrated and ensured neighbouring levels of amenity were retained. Mr Burns referred to the detail within the letters of objection and the loss of amenity to No 2 on the garden and living space which he viewed as truly shocking and he wondered how that could be compliant.

The design included a new extensive entrance, residents were of the view that the garage would be accessed in a similar way to No 15 Seaview Terrace with a shared pedestrian access to the garden and in keeping with the local townscape character. There was no information at outline stage that the home office and gym would require a vehicular access. Mr Burns felt the Committee should not allow for that critical change/addition at this stage and residents strongly opposed the proposed entrance as it created a huge and unnecessary loss of amenity. During the outline process the proposal became described as a domestic garage and ancillary building and that change was never readvertised. Combined with the vehicular access this converted the modest garden room portrayed at outline into a fully independent residential space complete with vehicular access and parking. Mr Burns felt this would set a precedent for future development within the terrace.

In finishing, Mr Burns stated that the application should be rejected. He welcomed the opportunity for the application to be paused to have some discussion and come up with a much better and far less impactful solution.

The Chairman invited questions from Members for Mr Burns.

Councillor Cathcart noted the concern regarding the height of the proposal, and he wondered if a pitched roof would make more an impact. Mr Burns stated that a design proposal with a pitched roof would be in more in keeping with the townscape. He referred to the impact on No 2 Church Hill that would be faced with a high wall which would be well above the sill level at first floor level. Even a softer solution with a pitch at one side would provide a better design and more appropriate solution.

Councillor Cathcart referred to the concerns regarding the height with that being 3.5m at outline stage. Mr Burns stated that the condition related to the loss of neighbouring amenity and the concern was the impact a wall of that size had on neighbouring amenity. The wall would overshadow and be very dominant particularly on No 2 Church Hill. Mr Burns reiterated that there was no clear information to show the exact relationship between the proposal and No 2. The area was a very unique location in Holywood and for the protection of heritage he expressed the view that something different could be done.

Alderman Smith noted that conceptually Mr Burns and residents were content for development on site and the concerns were in relation to the scale, design and massing of the proposal. The Case Officer's report stated that there was no adverse harm to the residential amenity of the area and the density and scale was acceptable and questioned if Mr Burns would disagree in that regard. Mr Burns confirmed that he would disagree with those comments. Without radically changing the proposal he felt there were ways to accommodate what was wanted without the loss of amenity. He referred to the entrance and he felt the Planning Officers did not truly understand just how negative an impact that would have. A hedge had been removed a number of years ago in advance of the application which had provided a lovely greenscape for the terrace. Mr Burns pleaded to the Committee that the entrance would create huge disruption and would like to have the opportunity to explore alternatives. Mr Burns highlighted the legalistic planning process and stated that the residents just wished for the magnificent place to live and respected each other to be enjoyed.

Alderman Smith sensed the frustration expressed by Mr Burns and highlighted the challenge for the Committee in respect of planning process. He referred to parking and that would be a major issue if the proposal was to proceed. The Case Officer's report referred to a negligible impact and asked if Mr Burns disagreed with that. Mr Burns totally disagreed. The applicant had ensured that residents were unable to park at the top of Seaview Terrace. The current neighbourly environment was a challenge and residents were concerned regarding the disruption.

Alderman Graham referred to the extra accommodation that would be provided within the proposal for cars with a garage and car port and asked Mr Burns if he seen that element of the application as positive in alleviating congestion within the small area. Mr Burns did not see that as a positive. He referred to No 15 Seaview Terrace which had a garage nicely set back. The proposal was now capable of being a private living space and that was big concern, there was no protection for residents to allow for the property being rented out separately.

Alderman Graham felt the architect had made considerable effort in the design of ancillary building and he questioned if Mr Burns shared that view. Mr Burns stated that it was not unpleasant and had lots of glazing. He stated that houses at Seaview Terrace had their living space at front first floor level and the proposal would mean that 72sqm of flat roof would be seen when looking out his window and architectural the design did not fit into the area.

As there were no further questions for Mr Burns, the Chairman thanked Mr Burns for his attendance and he returned to the public gallery.

The Chairman invited Mr Donaldson (Agent) and Mr Addis (Applicant) to come forward who were speaking in favour of the proposal.

Mr Donaldson advised that the Applicant welcomed the Officer's comprehensive report and recommendation to approve and commended the report to Members as a fair and objective assessment of the key planning issues. He viewed it as unfortunate that the main objector to this proposal had chosen to expend a great

deal of time and energy in trying to frustrate and delay the Applicant's proposals, both at outline stage and now at this reserved matter stage.

Mr Donaldson summarised 11 key points why the proposal must be granted:

1. This was not a planning application – outline planning permission had already been granted in November 2022. No one sought to legally challenge this decision in the Courts, and it therefore remained a valid permission.
2. The legal scope of 'reserved matters' had a very specific definition in legislation - Article 2 of the Planning (General Development Procedure) Order (NI) 2015. The only matters that could be lawfully considered at this stage related to:
 - a) siting;
 - b) design;
 - c) external appearance;
 - d) means of access; and
 - e) landscaping.
3. This Committee could not reconsider the principle of development. It could only determine whether the aspects specified above were acceptable and whether the proposal complied with the conditions of the outline permission.
4. As the report made clear, issues such as rights of way, parking arrangements, land ownership etc. were not material considerations in the determination of this proposal.
5. In relation to siting, the proposed buildings were located in precisely the same locations as already approved under the outline permission.
6. In relation to size, the proposal was not for a larger amenity building than indicated at outline stage. The outline concept indicated a garden building of approximately 84sqm and the current application was for a building of approximately 72sqm. The garden building took up less than 15% of the garden of which it was situated.
7. The proposed buildings were tucked up against the south-western boundary of the garden and the gables of the houses at Nos 2 and 3 Church Hill. It should also be noted that Seaview Terrace was arranged so that the only useable amenity space for No 19 and No 15 was to the front. The occupants of No 15 were supportive of the proposal. The amenity building could not be located to the rear of the dwelling.
8. On design and appearance, the proposal was for a simple garage and car port, and for a flat roofed amenity building in the garden. As the Officer report noted, the design and appearance were sympathetic to the local character. The building itself in style mimicked the typical style of an orangery building.
9. The existing and proposed levels were indicated on the drawings and the heights complied with the outline conditions which stipulated no more than 3.5m above finished floor level, not above ground level.
10. Access to the application site was via a laneway which was shared by the other houses in the terrace. The objector took issue with how that shared access was used, and where vehicles were parked. However, it would be wholly incorrect to treat that as a material planning consideration, especially at reserved matters stage.
11. It was important that the planning system was not allowed to be used as a pawn in what effectively was a dispute over access and parking rights. In any case, by providing this garage and car port, the Applicant was not adversely

affecting the current arrangements, but was actually helping to take parking pressures off the shared area.

In response to comments made by Mr Burns, Mr Donaldson stated that the certificate submitted at outline stage was entirely correct. In respect of the entrance, Mr Donaldson highlighted that Mr Addis could choose to hard surface that area and that would not require planning permission. With reference to impact on the window of No 2 Church Hill, Mr Donaldson stated that window was at second floor level and the ridge of the proposed building would not come near the sill of that window. In respect of other solutions being available, there were always other solutions available; however, the test was whether the proposal was unacceptable and that was not the case, no harm to local character would be caused and as it was entirely consistent with the outline conditions.

To conclude, Mr Donaldson stated that there was no rational or lawful basis on which approval for this straightforward and compliant reserved matters proposal could possibly be rejected.

The Chairman invited questions from Members for Mr Donaldson and Mr Addis.

In relation to the design and the flat roof proposed, Councillor Cathcart noted the uniqueness of the area and raised a question regarding the visual impact. Mr Donaldson explained that when the outline permission was granted it proposed the condition of the ridge height of no more than 3.5m above the floor level. If a pitched roof had been proposed, that would have been a very low pitched roof and the view was that a low pitched roof in that context would have been out of character whereas the flat roof proposed was in keeping with the character. The other key element was that the site was not open and prominent, it was a well enclosed garden area. The garage and car port would be at the front then the levels dropped for the proposed amenity building. Therefore, the views of the amenity building would be very limited as there was already fencing and hedging around the application site.

Councillor Martin asked Mr Donaldson to recap on points 2 and 3 of his remarks. Mr Donaldson reiterated those points.

Councillor McCollum was not entirely clear whether the access and car port would alleviate some of the existing parking problems in the area which were apparent from the photos and she was familiar with the difficulty parking in that area. Councillor McCollum requested clarity in that regard. Mr Donaldson outlined that the proposal was to build a single car garage and a car port within the garden area. Those would be situated to the left-hand side and to the right there was additional hardstanding. Therefore, creating an additional 4 spaces within Mr Addis's curtilage.

Councillor McCollum asked if it was the Applicant's intention to take the cars which were currently situated outside into the curtilage. Mr Donaldson stated that Mr Addis would have the choice whether to move those existing cars however he believed the logic would be to use the space.

The Chairman referred to the indicative map submitted as part of the outline application and asked if that map showed dimensions similar to that which was on

the reserved matters application. Mr Donaldson stated at outline stage a concept drawing was provided. The outline concept indicated an amenity building of approximately 84sqm and the current application was for a building of approximately 72sqm therefore slightly less. The garage and car port were identical to what was shown. Both were located against the gables of No 2 and No 3 Church Hill.

Referring to the hard standing area, the Chairman noted that planning permission was not required. Mr Donaldson confirmed that planning permission was not needed to open up the front of the garden and create hard standing. The reason the application needed planning was due to it being within the front garden and did not benefit from permitted development rights which may apply to a back garden.

Alderman McIlveen referred to the concern that the objector had raised regarding the use of the garden building which was for an office and gym essentially creating a fifth residential building in a small area. He noted the condition attached that the building was to remain ancillary and questioned if that was sufficient to allay those concerns. Mr Donaldson clarified that the outline permission was described as a domestic garage and ancillary building and the reserved application was described exactly the same. It was ancillary building not a dwelling and the condition prevented that from becoming a dwelling.

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

The Chairman invited questions from Members.

Councillor McCracken referred to the use and the condition attached in that regard. He asked the Planning Officer to outline if that condition was breached what the action would be. The Head of Planning noted that was hypothetical question however explained that the application would be tightly conditioned that the buildings would remain ancillary to the main function of the dwelling house. Therefore, that prevented it being set-up as an independent residential unit, if that was breached and reported an enforcement case would be opened for investigation.

Councillor Martin referred to the remarks made by Mr Donaldson regarding the limitations now available from outline to reserved matters stage. He asked for comment in that regard. The Head of Planning explained that an outline application would come in for an outline proposal without the detail drawings, the parameters were set at that stage within that there was a list of conditions for compliance. At reserved matters stage, the proposal would be assessed against those conditions. In this instance, the proposal was assessed with regards the height, the siting and design, and it was found to be acceptable. She also noted that the period for any potential judicial review for the outline had passed. There were no objections raised at outline stage and this proposal was no different to what had been set. She recognised that objections had now been raised however highlighted the need to be mindful of the planning process and keep planning legislation in mind.

Alderman Smith referred to objections raised regarding integration and access and asked for the Planning Officer's view in that regard. He noted that the scope was limited surrounding the access as that was on private property and DfI Roads was

content. The Head of Planning stated that there had been a lot of issues raised that evening and how the planning application had been assessed. The area was located in a draft area of townscape character of Holywood and therefore needed to be assessed as a whole. There was no embargo on flat roofs within the ATC of Holywood and variation of design could be seen throughout. In terms of the impact on the view, there was no right to a view. With the regards the ATC, it was not the character of the area but the appearance of the proposal from public viewpoints such as streetscapes and in that regard the proposal was within a private garden, tight into a site and views were restricted. The architect was mindful in terms of design and the Case Officer's report was a fair assessment. All the conditions set at outline had been assessed and the proposal was in compliance with those. In respect of access and parking, the Head of Planning stated that the planning application was that outlined in red and there were wider civil issues raised.

Councillor Cathcart referred to Mr Burns concerns regarding the ridge height exceeding 3.5 metres in current levels and asked for comment in that regard. The Head of Planning referred to the visuals which had been displayed which showed the view of the site and the shared boundary with No 2 Church Hill. There were no concerns regarding overlooking or overshadowing. She further referred to the sectional illustration showing the proposed ground levels and development and outlined how those were in compliance.

To clarity, the Chairman questioned if the drawings became part of the permission. The Head of Planning confirmed that the drawings were part of the reserved matters decision notice.

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

Speaking to the proposal, Alderman Graham appreciated that taste and view of any architecture was a matter of opinion. Personally, he felt there had been an effort made to keep the development in keeping with the area and it was positive to have additional car parking in an area which had a confined space.

As seconder, Councillor Cathcart appreciated the concerns that had been expressed regarding the outline application. The focus however was on the reserved matters application which was in compliance with that set out at outline stage with appropriate conditions.

Alderman Smith understood the concerns of the residents and given the comments expressed by Head of Planning he felt there was no choice for the Committee other than to accept the recommendation.

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

4.2 LA06/2020/1220/F - 102 Comber Road, Killinchy - Erection of agricultural shed (proposed) and creation of laneway (retrospective)
(Appendix II)

DEA: Comber

Committee Interest: A Local development application 'called-in' to Planning Committee from the delegated list by a member of that Committee.

Proposal: Erection of an agricultural shed (proposed) and creation of laneway (retrospective)

Site Location: 102 Comber Road, Killinchy

Recommendation: Refusal

The Head of Planning outlined the detail of the application which was for the erection of an agricultural shed (proposed) and creation of laneway (retrospective) at 90m SW of 102 Comber Road, Killinchy. The application was before members due to a call in from Alderman McIlveen. The recommendation was to refuse planning permission. No objections had been raised from 3rd parties.

While there was no material planning history on the site, a previous application in the 80's for a dwelling; application was refused and in 2003 an application for a dwelling adjacent to this application site was made by the applicant for a retirement dwelling X/2003/1465/O which was withdrawn.

The application site was located in the countryside within an AONB. The site consisted of a stone lane which ran parallel to a field boundary which provided access to the application site on the northern section of a field. The site had three natural boundaries with one boundary remaining undefined. The lane appeared to be of relatively recent construction and in sections rose over 0.5m above the adjacent field level. The intervening field rises from the road which served to essentially screen any material views of the site. The wider area was rural in character but there were a number of roadside properties dotted along the main road.

The relevant policy in the consideration of a proposal was CTY12 of PPS 21. The starting point for the assessment of this policy was establishing if there was an active and established business and holding.

For this particular proposal it had been demonstrated and was accepted that the farm was active and established and that an assessment of the policy tests could be considered.

CTY 12 provided for development on an active and established agricultural or forestry holding where it was demonstrated that:

- a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- b) in terms of character and scale it is appropriate to its location;
- c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- d) it will not have an adverse impact on the natural or built heritage; and

- e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

The policy directed new buildings to be sited beside existing farm buildings. The applicant lived approximately 1 mile from the site as the crow flies and the site was 3 miles by road. With regard to the SPPS in relation to the application – it largely echoed the provisions in relation to agricultural development and says that ‘new buildings *must* be sited beside existing farm buildings’an alternative site away from existing buildings will only being acceptable in exceptional circumstances”;

Members were asked to note that the test or bar for exceptional circumstances was set very high.

Further clarification was provided in CTY12 in that consideration may be given to an alternative site provided;

- 1) there are no other sites available at another group of buildings on the holding, and
- 2) where it is essential for the efficient functioning of the business, or there are demonstrable health and safety reasons.

The applicant’s domestic curtilage and associated field were 1.3ha and it would be considered that the site could accommodate the proposed agriculture shed (200sq m) as required by the policy as it would be grouped with existing buildings.

A supporting statement justifying the proposal stated that while there were primary group of buildings at the applicant’s land, they were currently all in operation being operated by the applicant’s son for a vehicle repair business. At a recent site visit however by a planning officer it was observed that there was an agricultural shed on the site not being used for any repair business

The supporting statement also argued that there was a limited width of a lane leading to the applicant’s home – 2.4m and therefore would not be appropriate for agricultural vehicles. The lane was also shared with another two properties so it was suggested a shed at this location would be detrimental to residential amenity.

It was acknowledged that the lane was narrow – but that was not exclusive to this particular farm holding – it had not prevented the applicant from building sheds and the operation of a business from the holding. Clearance of land and areas of hardstanding had been created which presumably would have required the use of heavy machinery.

Two other properties were served by the laneway, again not an uncommon arrangement in the countryside and the impact on residential amenity would not be materially greater using the lane to the applicant’s house than using the proposed lane on the Comber Road.

It would be the opinion that the reasoning provided for the justification of requiring an agricultural shed did not meet the exceptional circumstances test or be due to health and safety reasons.

In summary, whilst acknowledging the particular circumstances of each application, the Council's Planning Department had sought to apply the policy in a consistent manner.

The approval of the proposed development would have the potential to create a precedent for future applications that would undermine the policy. Compliance with planning policy was in the public interest and a matter of acknowledged importance. It was considered that the argument put forward, that of residential amenity for dwelling along the applicant's laneway and a narrow lane were not exceptional circumstances justifying the setting aside of planning policy.

The refusal of planning permission was therefore recommended.

The Chairman invited questions from Members for the Head of Planning.

Councillor Martin referred to the executive summary which stated 'Under Part 7 of the Planning (General Permitted Development) Order (NI) 2015 'Agricultural Buildings and Operations' the proposed access does not constitute permitted development as it is required in connection with development for which an application for planning permission is necessary. The new access is proposed onto a protected route and as the agricultural shed does not meet the criteria for development in the countryside it is also contrary to PPS 3 (Access, Movement and Parking) Policy AMP 3'. Councillor Martin asked if the assessment was contingent on CTY12. The Head of Planning advised that DfI had expressed no objection and had not commented on the fact that the Comber Road was a protected route. She outlined that there was provision granted within the legislation for agricultural laneways. However, the laneway was constructed to lead to the agricultural shed. The Head of Planning outlined the PD legislation in respect of access onto a protected route which stated;

"That permission granted by the Schedule shall not, except in relation to development permitted by Parts 10, 12 and 23, authorise any development which requires or involves the construction, formation, laying out or alteration of a means of access to an existing road which is a special alteration of a means of access to an existing road which is a special, trunk or classified road or which creates an obstruction an obstruction to the view of persons using any road at or near any crest, bend, corner or junction or inter-section so as to be likely to cause danger to such persons".

Also, Part 7 (Class C) further clarifies that agricultural access is not permitted if it is required in connection with development for which a planning application is necessary".

In response to further questions from Councillor Martin, the Head of Planning explained that farmers were afforded some permitted development rights as it was recognised they carried out a range of work. As this proposal was the first structure

on the land it required planning permission and the proposal was viewed as intensification of a laneway onto a protected route. The Head of Planning outlined that the applicant owned the site as well as some surrounding land. She highlighted the need to ensure precedent was not set in the area. Once planning permission was granted for one shed, permitted rights were afforded to others sheds for farmers. The Head of Planning stated that a Planning Officer had recently visited the site and there was a shed that was not being used that could be used for agricultural means and there was room within the holding.

Councillor Martin noted that the key point was there were other sites available. He questioned the implications if such application was accepted. The Head of Planning explained that during the assessment of the application there were no arguments put forward that were considered as exceptional circumstances. It was not uncommon for farmers to have fields in various sites. Three miles was not considered to be far away from a holding. The policy needed to be applied in a consistent manner and such approval would set aside policy which protected the countryside.

Councillor Cathcart referred to the distance from the dwelling and the proposed shed and questioned what was deemed reasonable in terms of the functionality of the farm. The Head of Planning stated that it was not an uncommon arrangement for livestock to be grazed separately from the farm holding. The distance was not deemed unreasonable to transport any livestock. The Case Officer had carried out several site visits and there was no evidence of livestock on the holding. Farmers tended to prefer their sheds to be located close to their farm holding in particular for security reasons.

Councillor Cathcart referred to the third refusal reason in respect of the protected route and that it would prejudice the free flow of traffic and road safety yet DfI had not expressed concerns. The Head of Planning explained in this instance Planning officers had the power to recommend the refusal reason given the legislation described.

Councillor Wray questioned in this situation what would be an exceptional circumstance and asked if the applicant had been asked if there was livestock on the land. The Head of Planning stated that there was capacity at the holding and from the information put forward nothing was deemed to be an exceptional circumstance or matters which were uncommon in farms. She referred to a previous appeal decision which was a material consideration.

Councillor McCollum sought clarity that CTY12 directed new buildings to be sited next to existing farm buildings. In this instance there was a field adjacent to the applicant's dwelling which could house the shed. The Head of Planning confirmed that there was an empty shed or there was enough room at the holding to construct the proposal.

The Chairman sought clarity that no information had been forwarded to state why it was essential to have the shed on the alternative site. The Head of Planning advised that no reference had been made. It was acknowledged that the laneway at the holding was narrow however that was not an exceptional circumstance.

Alderman Graham noted that due to the typography of the site the proposal would be shielded from the main road. In terms of visual integration, the application was deemed acceptable. However, once there was a structure in place that allowed for permitted development. In response to a further question from Alderman Graham, the Head of Planning stated that the report stated that the scheme map showed a holding of 6.81ha across five fields and the fields were grouped around the site.

Alderman Graham felt it was hard to determine what was an unacceptable distance to travel in a tractor. For example, he referred to the transportation of hay bales which would require multiple journeys in a tractor onto a public road. Having such facilities available on site allowed for those journeys not to occur.

The Chairman asked that Mr Conor Cochrane be admitted to the meeting via zoom who was speaking in favour of the application.

Mr Cochrane (Agent) wished to highlight a number of points which provided justification as to why he disagreed with the planners' recommendation of refusal. The first policy test that must be satisfied for agricultural proposals was for applicant to demonstrate a site specific localised need, in light of that the applicant had provided a robust evidence base to prove that the landowner currently operated an active and established farm holding and was currently in receipt of single farm payments. DAERA had been consulted on the application who also confirmed that the farm was active and established which satisfied that provision of the policy. With regards to the CTY12 policy test which required the applicant to demonstrate a need for the proposal - to satisfy that, a suite of information was provided to the Planners which set out details of the size, scale, operations associated with the farm holding. The Planners noted concerns with the need for the proposal to be located away from the main house. In response to that, the applicant lived three miles away from the proposal site and whilst that was relatively close in proximity in general terms it was problematic for the applicant. Following the expansion and purchase of 25 sheep in recent months, the shed was required to be situated at the subject site. Furthermore, the existing access into the main farm holding was not fit for purpose as it was too narrow and did not cater for the machinery and articulated movements required. This site utilised an existing access which was much safer and more efficient for the applicant. While the planners considered that the existing access lane was usable, he would disagree entirely. The applicant's farm was expanding and there was a need to accommodate safe maintenance activity. The applicant was intending to purchase another 50-70 sheep at the end of the year and the shed was needed for the storage of meal, hay and for veterinary purposes. Mr Cochrane outlined a number of items of heavy machinery that would need to be stored at the proposed shed with a lot of equipment being too large to fit down a problematic access at the home address. He considered that the design approach was entirely acceptable and well integrated into the rural setting. All consultees had provided positive responses with DfI considering the access arrangement to be appropriate. To provide clarity in respect of the protected route, Mr Cochrane stated that the protected routes policy test was a planning matter which Planning Officers had the discretion to engage or disengage. The exceptional policy test under PPS21 only engaged that policy test if the exceptional test was not met. The applicant was in great need for the shed at the location, the farm enterprise was expanding and there was a need to cater for his

farm at the proposed location. In finishing, Mr Cochrane contended that the exceptional policy test had been met.

The Chairman invited questions from Members for Mr Cochrane.

Councillor Martin referred to the items of machinery that were listed and asked if that information was provided to planning officers. A lot of the proposal seemed to be contingent on CTY12 and the reasons behind the need. Mr Cochrane stated that the Planning Officers and himself had been back and forth in communication for a number of months. There had been three addendums and countless emails clarifying the operational needs of the applicant. He accepted when the application was submitted that had lacked operational detail however subject to the Planners' concerns further evidence had been provided. He did not disagree in principle in applying the policy test however he felt there was a need to consider the exceptional policy test and what exceptional meant. There could be sites available at the home farm however the applicant owned over 6ha of land further down the Comber Road. The access at the home farm was not fit for purpose and by applying the exceptional policy test that was forcing articulated movements onto a protected route and to the proposal site. That was not a sustainable and he contended that was not a pragmatic approach to address the agricultural uses.

Alderman Graham asked how much land was at the primary group of buildings. Mr Cochrane clarified that there was 6.8ha of land at the new proposed farm shed location and 1.3ha at the home farm. As the applicant's farm was expanding the new location, closer to the Comber Road was going to be extensively more farmed and therefore a shed was required at the location.

Alderman Graham referred to the new stone lane and where it joined the road he questioned if that was a shared exit. Mr Cochrane advised that access lane was entirely for the applicant's own needs and there was no shared access.

Alderman Smith noted that Mr Cochrane comments regarding the unsuitability of the home farm area and highlighted that there was a car mechanic business already operating and he wondered if that made the case that the access was viable as it was being used by a considerable number of vehicles. Mr Cochrane stated that the lands were extensive and reiterated the vehicular requirements and articulated movements required for the sustainable operation of the new farm holding. To have that access with the car business and for domestic purposes was not viable and would require a third access to be constructed onto the protected route. The laneway at the proposed location was maintained to a safe standard.

The Chairman wished for clarity on the existing access noting the application was for a retrospective laneway. He questioned when the access was opened. Mr Cochrane clarified that the application was not retrospective. The application was purely for a new shed to be located and the existing lane was retrospective however any existing maintenance associated was within permitted development rights. The lane existed prior to its maintenance.

As there were no further questions for Mr Cochrane, he was removed from the meeting and re-admitted to the virtual public gallery.

The Chairman invited questions from Members for the Planning Officer.

In response to a question from Alderman Smith regarding the exceptional circumstances, the Head of Planning stated that despite hearing the comments from the Agent she would still be of the view that the proposal did not engage an exceptional circumstance. With regards the points raised, it was clear that the land was being farmed. The machinery listed could not all be accommodated in the size of shed proposed. She contended that the application was listed correctly, the laneway required planning permission. In respect of comments made regarding a third access, the Killinakin Road was not protected. No reference had been made to widening the existing lane rather than creating a new access. The application had been thoroughly assessed and nothing had been put forward to show an exceptional case.

Councillor Martin noted that the application was contingent on the exceptional circumstances. He felt conflicted regarding the application. He asked the implications of the application was overturned for future decisions. The Head of Planning stated that it was important to set out the parameters on what was being assessed. She referred to CTY12 explained the assessment to Members. She contended that the policy had been applied in a consistent matter and been given full consideration.

RECESS

The meeting went into recess 9.07 pm - 9.20 pm.

Councillor McCollum sought clarity that CTY12 directed that new buildings must be sited by existing farm buildings unless there were exceptional circumstances and the applicant had not made a case for exceptional circumstances. The Head of Planning confirmed that was correct.

Councillor Wray recalled reading in the Case Officer's report that the mechanical and vehicle repair business was unauthorised. Without going into the detail, the Head of Planning confirmed that the business operated on the holding appeared unauthorised. An enforcement case had been opened in that regard.

The Chairman questioned if that was for the use or the building. The Head of Planning stated that it was for both. The enforcement case was at an early stage in the process.

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

On proposing the recommendation, Councillor Morgan stated that she could not see an exceptional case had been made and therefore the application should be refused.

Councillor Wray concurred and agreed with the recommendation.

The Chairman stated the difficulty was what the exceptional circumstances might be and that was a subjective test. He was mindful of the representations made and was unsure if he could support the proposal.

Alderman Graham also had reservations with the proposal and did not feel the Committee could second guess what was the efficient running of the farm business.

The proposal was put to the meeting and declared CARRIED with 8 voting FOR, 3 AGAINST, 2 ABSTAINED and 3 ABSENT. The voting resulted as follows:

FOR (8)	AGAINST (3)	ABSTAINED (2)	ABSENT (3)
Aldermen	Aldermen	Councillors	Councillors
McDowell	Graham	Cathcart	McLaren
Smith	McIlveen	Martin	McRandal
Councillors	Councillor		Woods
Creighton	Kerr		
McCracken			
McCollum			
McKee			
Morgan			
Wray			

- 4.3** **LA06/2022/0904/F - Sir Samuel Kelly Lifeboat Shelter, Copelands Marina Car Park, Donaghadee - Retention of temporary curved box steel frame shelter/canopy over a vessel for restoration purposes for a further 5 years. Extension to site area including ancillary mobile unit/exhibition space, disabled access ramp and 2.4m high perimeter fencing**
(Appendix III)

DEA: Bangor East & Donaghadee

Committee Interest: Land in which the Council has an interest.

Site Location: Sir Samuel Kelly Lifeboat Shelter, Copelands Marina Car Park, Donaghadee

Recommendation: Approval

(Councillor Morgan withdrew from the meeting – 9.29 pm)

(Councillor McCollum declared an interest and withdrew from the meeting)

The Principal Planning Officer (C Blair) outlined the detail of the application. The application was before members as it was situated on land leased by the Council. One representation was submitted, which had been fully considered within the case officer report.

Members should note that initially the plans submitted for the exhibition room building were for a grey 'Plastisol' temporary portacabin. The use of those materials was not deemed appropriate for the coastal setting. Consequently, amendments were received to visually enhance the structure incorporating changes to the use of materials with stained timber boarding on the elevations and torch on felt for the roof.

All the statutory consultees were content; with NIEA Water Management Unit recommending a standard condition to ensure that all construction activity shall be confined within the site boundaries.

A further condition had been attached to ensure that restorative works within the site were limited to between the hours of 8am and 8pm. That was to protect the amenity of neighbouring residents.

Members should also note that there was planning history directly associated with the application site under LA06/2018/0290/F which was granted temporary permission for five years on 5 September 2018 for "Temporary Curved Box Steel Frame Shelter/Canopy over a vessel for restoration purposes."

The planning history demonstrated that the temporary shelter/canopy element had previously been accepted in principle by the Council (it was before the Planning Committee on 4 September 2018). The previous approval remained a material planning consideration relevant to the determination of this current planning application.

The Officer referred to the visual displaying the existing structure and fencing as a Google Earth image.

The site was located within the car park Northwest of Copelands Marina. The existing site was located directly adjacent to, and grouped with, other boats that occupy the Southeast quarter of the car park.

Adjacent and east of the site, was the coastal path leading to the Commons. There were a variety of uses in the wider area including residential to the west in particular, as well as community and retail.

Turning now to the policy consideration for the application, the Ards and Down Area Plan 2015 was the current local development plan for the area. The site was located inside the settlement limit where development is looked upon favourably.

The path immediately to the east/northeast of the site falls within the "Commons and Coastline" Local Landscape Policy Area, however the retention of the shelter/canopy and proposed modest additions do not have any adverse impact on the designated area or obstruct access to the coastal walk.

The Planning Officer outlined that Policy TSM1 of PPS 16 stated that planning permission would be granted for tourism development within settlements that was appropriate in nature and respects the site context in terms of scale, size and design.

As could be seen from the visuals, the Planning Officer highlighted that the existing shelter/canopy was to be continually retained as was approved under the 2018 application. It measured approximately 19m long, 7.5m wide and 5.5m high. The proposal would also include the addition of a small exhibition room with disabled ramp access and fencing. The compound area itself needed to be extended further west by 8m into the car park to accommodate the provision of those facilities.

The exhibition room was to be sited adjacent and to the front of the lifeboat shelter and would measure 10m long by 3m wide by 2.86m high to its ridge.

Its layout, scale, size and amended design were in keeping with the context of the area with the adjacent boatyard to the south, car park area to the north and west and the former vacant bus station site further north. The residential properties beyond the car park boundary to the west along Railway Street, Edward Street and William Street were 30m away at their closest point from the exhibition room and 38m from the boat shelter/canopy. The proposal would therefore have no adverse impact on neighbouring residential amenity given those distances and whilst views of the sea may in part be obstructed, that was not a material planning consideration.

The addition of the exhibition room would ensure that visitors could understand and appreciate the history and heritage of the Sir Samuel Kelly Lifeboat whilst it was continuing to be restored at this current location and therefore it was considered that the proposal meets the requirements of policy TSM 1 of PPS 16.

In terms of access, movement and parking there was no impact on the surrounding car park with ample space for vehicle movement and turning, including coaches.

Given that the proposal was located within an existing car park area there was no adverse visual or physical impact on the designated coastal area or the listed Donaghadee Harbour approximately 300m north of the site.

In summary, the Planning Officer detailed that it was considered that this application for temporary permission of five years for the proposed retention of the lifeboat shelter/canopy to carry out ongoing restoration works and new exhibition structure with access ramp and fencing was acceptable in principle, did not cause any adverse impact on the surrounding context of the area or nearby residential amenity, and was considered to be a valuable tourism asset for Donaghadee and the Borough as a whole. Additionally, as that was a temporary approval and not the permanent location for the boat the boat shelter canopy and exhibition room would be permanently removed upon the completion of the restoration works within the next five years.

The recommendation was to grant full planning permission.

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

Councillor Cathcart felt the application sought for a simple retention of what was already in place with the addition of some features which were appropriate for the site. He noted the objection received in respect of visual impact however no-one had the right to a sea view. The attraction was for tourists and he welcomed attraction to the area.

Councillor Wray noted that the permission was for five years with the group looking for a permanent place to display the heritage and restore the boat. The Sir Samuel Kelly Lifeboat was a marine heritage asset and integral heritage and educational

value. It enhanced the location and was of the understanding that the proposal had wide support from the local community.

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

Councillor McCollum returned to the meeting.

5. UPDATE ON PLANNING APPEALS (Appendices IV - VI)

PREVIOUSLY CIRCULATED:- Report from Director of Prosperity attaching 2022/A0075, 2021/E0076 and Commission Cost Decision. The report provided the undernoted detail:-

Appeal Decisions

1. The following appeal was dismissed on 09 August 2023

PAC Ref	2022/A0075
Application ref	LA06/2021/1481/O
Appellant	Mr. Ivan Robinson
Subject of Appeal	Erection of an off-site replacement dwelling with new access to Ravara Road
Location	Approx 185m SW of 25 Ravara Road, Ballygowan

The Council refused planning permission on the 21 June for the following reasons:

- i. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21 Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- ii. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal will be a prominent feature in the landscape and will rely primarily on the use of new landscaping for integration.
- iii. The proposal is contrary to paragraph 6.73 of SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal has an adverse impact on rural character and result in suburban style build-up of development when viewed with existing and approved buildings and creates a ribbon development.

The Commissioner first advised as a preliminary matter that Policies CTY 3 and CTY 8 of PPS 21 should also form part of the appeal consideration. These inadvertently had been omitted by the Council in its refusal reasons on the decision notice. The Commissioner was of the opinion that no prejudice had been caused following the period of time provided for the appellant to comment.

The Commissioner did not dispute the position held by all parties that the building to be replaced exhibited all the essential characteristics of a dwelling and that an off-site location would be appropriate due to the restricted curtilage of the original dwelling. However, the Commissioner agreed with the Council's view that the proposed off-site location of the replacement dwelling would have a significantly greater visual impact than the dwelling to be replaced.

The Commissioner stated that due to the lack of boundary definition the proposal would be a prominent feature in the landscape when approaching the site from the west, which also fails to meet criterion (a) of CTY 14. As such the Commissioner found that the proposal would not integrate into the landscape and was contrary to Policy CTY 3.

In terms of the second reason for refusal under CTY 13, given that the proposal would require significant new landscaping to achieve a suitable degree of enclosure, it was found that the proposal would fail to adequately integrate into the landscape.

The Commissioner found that the proposal failed to comply with criterion (b) of CTY 14. The appeal site provides some visual relief in the rural area and the proposal would contribute to the existing development in general when viewed with the buildings to the south of Ravara Road and would add to the suburban style build-up in the area.

In terms of criterion (d) of CTY 14, this is cross-referenced with policy CTY 8. It was found that the proposal would not be visually linked with the existing commercial-type buildings and farm complex beyond (No.25). The Commission also considered that the siting of the proposed off-site replacement dwelling would not share common frontage to Ravara Road as the plot on which the proposal would stand does not abutt the road. The Commissioner considered that the proposal would not create or add to ribbon development and therefore policies CTY 8 and criterion (d) of CTY 14 are not offended.

Finally, the Commissioner was not provided with any persuasive arguments that the proposal was essential in this location and could not be located in a settlement.

2. The following appeal was allowed and Enforcement Notice quashed on 3 August 2023

PAC Ref	2021/E0076
Application ref	LA06/2016/0326/CA
Appellant	Mr. Robert Busby
Subject of Appeal	The alleged unauthorised change of use from farm building identified as Building A on the Enforcement Notice map to commercial butchers unit; the alleged unauthorised change of use from farm building identified as Building C on the Enforcement Notice map to a retail farm shop; and the alleged unauthorised use of an area of hardstanding hatched green on the Enforcement Notice map as a car park.

Location	Land at 40 Comber Road, Balloo, Killinchy
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The appeal was brought on Grounds (c), (d), (a), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011 (the Act). There is a deemed planning application by virtue of Section 145(5). At the hearing, the appellant withdrew Ground (c), and (f) of appeal. The appellant also withdrew concerns in respect of the Enforcement Notice (the Notice) being a nullity. The appeal on grounds (d), (a) and (g) remained.

At the hearing, the Council stated that planning permission had been granted on 9 March 2023 for the Car Park and the change of use of Building C by application LA06/2022/0137/F. In accordance with Section 148(1) of the Act, the Notice shall cease to have effect so far as inconsistent with that permission. Accordingly, Part 3 (1) and (2) and Part 4 (1) and (2) of the Notice cease to have effect.

Appeal ground (d) is set out to consider immunity – it requires - that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.

Section 132 of the Planning Act sets out time limits for taking enforcement action. In accordance with Section 132 (3), in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach.

As part of the appeal the appellant submitted significant information, that had not been previously provided. The Commissioner was satisfied that the submitted evidence demonstrated that the retail use of Building A is immune from enforcement action and that the use had at no time been abandoned.

As such the Commission found it unnecessary to consider the remaining grounds of appeal or the deemed planning application. The Enforcement Notice was therefore quashed and the Council was moving to close its enforcement case.

New Appeals Lodged

3. No appeals had been lodged since the date of the last report.

Appeals Withdrawn

4. The following appeal was withdrawn on 10 August 2023:

PAC Ref	2021/E0070
Application ref	LA06/2020/1115/F
Appellant	Mr & Mrs Howard Hastings
Subject of Appeal	1) Alleged unauthorised infilling and raising of the land without the benefit of planning permission. 2) Alleged unauthorised construction of a timber retaining structure
Location	Land at 27 Station Road, Craigavad, Holywood

The above appeal was withdrawn following the determination of the planning application LA06/2020/1115/F, which was granted full planning permission on 11 May 2023 for –

“Retention of dwelling approved under W/2014/0177/F, including alterations to fenestration of approved dwelling, revisions to patio/terrace area, landscaping and associated ground retention to include existing timber retaining structure. Also proposed amendment to existing development to include new 'Macwall' block wall to facilitate culverting of existing small watercourse which runs adjacent to boundary with No. 29 Station Road.”

As was outlined above this approval retrospectively granted the changes to the landscaping and associated ground retention and included the existing timber retaining structure.

Section 148 of the Planning Act (Northern Ireland) 2011 deals with this matter to which the Enforcement Notice breaches relate. It states –

“148— (1) Where, after the service of—

(a) a copy of an enforcement notice; or

(b) a breach of condition notice,

planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. (Emphasis added).

This statutory provision is not discretionary but rather mandatory. As such, given the inconsistency between the EN and the retrospective planning permission that the EN ceases to have effect against the unauthorised development the subject of the EN as particularised in paragraph 3 of the EN itself. In so granting the Appellant permission the EN effectiveness fell away by the operation of Section 148(1) of the 2011 Act.

The continued pursuit of planning enforcement against unauthorised development now granted planning permission is considered nugatory.

Given the outcome of the above planning application to grant permission under LA06/2021/1115/F on 11 May 2023 the Council had no option but to withdraw the Enforcement Notice as per section 148 of the Act.

The appellant submitted a Costs Claim to the PAC on 20 June 2023. The Council submitted its response to the claims on 19 July 2023. The PAC issued its decision to deny costs to the appellant on 10 August 2023 and as such the Council had withdrawn its notice and moved to close the enforcement case.

Details of decisions were attached to the report.

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 Director provided an overview of the report for Members.

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

6. NIW FENCE AT SEACOURT PUMPING STATION – UPDATE
(Appendices VII - IX)

PREVIOUSLY CIRCULATED:- Report from Director of Prosperity attaching Item 6a - Letter to DFI, Response from DFI and Letter to NIW. The report detailed that the purpose of that report was to update Members on the responses received to correspondence sent to both the Department for Infrastructure (DFI) and Northern Ireland Water (NIW) in relation to the fence erected around Seacourt Pumping Station, Bangor.

The Council at its meeting of 5 July 2023 resolved the following proposal:

RESOLVED, on the proposal of Councillor Cathcart, seconded by Councillor McRandal, that the Council and the general public remain dismayed at the erection of the fencing around Seacourt Pumping Station, regardless of its lawfulness under permitted development rights. The Council continues to consider that the fencing is detrimental to the coastal environment, and fails to maintain or enhance the quality of this coastal landscape, and urges NI Water to remove it. If NI Water consider that there is a need for health and safety risk mitigation infrastructure at the site then we ask that NI Water engage with Council with a view to identifying and agreeing solutions that are sympathetic to the area and the natural environment and capable of enjoying the support of the general public and elected representatives.

Furthermore Council notes with concern that the permitted development rights afforded to NI Water under Part 14 of the Planning (General Permitted Development) Order (Northern Ireland) 2015 effectively mean that there are no constraints on the size and type of fence structure that NI Water could erect at Seacourt pumping station. Council will therefore write to Department for Infrastructure to highlight this legal loophole and to request urgent review of the law in order to nullify detrimental impacts that developments such as this fence could have on coastal landscapes and other protected landscapes."

Attached to the report were letters written to each DFI and NIW, and the response received to date from DFI. Officers were following up the request to NIW and would report back as appropriate.

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

The Director outlined the content of the report.

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

Councillor Cathcart expressed his disappointment with the response however was not surprised.

Councillor Creighton felt it was regrettable that the DfI were refusing considering looking at the legal loophole and there was no Executive in place to direct DfI on the matter. She noted that a response from NI Water was awaited and she hoped that was because the matter was being given serious consideration.

RESOLVED, on the proposal of Councillor Cathcart, seconded by Councillor Creighton, that the recommendation be adopted.

7. UPDATE ON PLANNING STATISTICS (Appendix X)

PREVIOUSLY CIRCULATED:- Report from Director of Prosperity attaching Annual Statistical Bulletin 2022-23. The report detailed that purpose of this report is to update Members on the publication by DfI of the annual finalised results of Northern Ireland planning statistics April 2022 – March 2023, and to provide an update on Quarter 1 of 2023/24 (unvalidated information).

Members would be aware that statistics for Quarter 3 and 4 of 2022/23 were unable to be provided previously due to issues with extraction of data from the new Planning Portal system which launched in December 2022. Those quarters were included now within the annual figures, and can be viewed within the statistical tables available here <https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-2022-march-2023>.

The commentary alongside the publication notes the following:

'During the last two years there have been some key events that will have impacted on planning activity and processing performance. These were the coronavirus pandemic with varying restrictions in place up until February 2022; the accessibility of the system for some users for a period during January and February 2022, and a significant change in IT planning systems with the development and implementation of two new planning systems in June and December 2022. All these factors should be borne in mind when interpreting these figures and when making comparisons with other time periods.'

There continue to be issues regarding extraction of figures for Enforcement, which the Department advises will be made available in due course.

The following table details the performance for Ards and North Down against the statutory performance indicators.

Majors	Received	Decided	Approved	Average Processing Time (target 30 wks)
Quarter 1	1	2	2	53.6
Quarter 2	1	0	0	-
Quarter 3	2	1	1	132.4
Quarter 4	0	0	0	
Total	4	3	3	62

Majors - Quarter 1

LA06/2020/0823/F was decided for 29no. dwellings on Lands at 160 High Street, Hollywood, a site located within the draft Area of Townscape Character with trees protected by a Tree Preservation Order, some amended plans were required in order to satisfy officers regarding a recommendation of approval.

LA06/2021/1293/F was also determined for a replacement primary school in Crawfordsburn, and processing was delayed due to requirements from DfI Rivers.

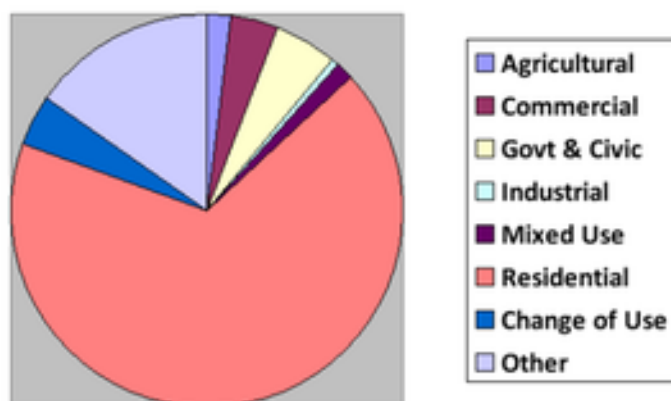
Majors - Quarter 3

LA06/2020/0097/F for redevelopment of Queen's Parade was approved by Members in January 2021, however, had to be notified to the Department for Infrastructure (DfI) as the Council proposed to approve the development contrary to DfI Rivers' advice. The then Minister advised Council in March 2022 that she did not consider the application required to be called in to her Department. Prior to re-determination by the Council the various phasing plans were amended to incorporate required road works and improvements required by DfI Roads and proposed conditions further refined. Due to the need for an accompanying legal agreement, the decision notice could not be issued until the agreement had been executed among the interested parties of the Council, the Department for Communities and the developer, and was issued in Quarter 3. The decision notice was dated 29 September, but system had recorded date of issue as 03 October, therefore placing the determination in Quarter 3 as opposed to Quarter 2.

Locals

Locals	Received	Decided	Approved	Average Processing Time (target 15 wks)
Quarter 1	230	270	256	23.4
Quarter 2	235	300	291	21.3
Quarter 3	228	173	166	15.1
Quarter 4	244	245	239	17.8
Total	937	988	952 (96.4% approval rate)	19.9

Of the application received during this time period, the development types were as follows:



Householder Development

Of the local applications determined above, 81 applications fell within the 'householder development' category of development, i.e. applications for alternations to an existing dwelling such as extensions, conservatories, loft conversions, or outbuildings within the boundary of a dwelling. Planning Service operates an internal target processing time of 8 weeks for householder development applications. In 2022-2023, 37 applications were determined within 8 weeks (46%) whilst of the 81, 65 were determined within the statutory target of 15 weeks (80%). Of the remaining 16 determined outside of 15 weeks, review of the cases indicates submission of amended plans or other information during the course of processing to address either objectors' concerns, consultees (such as HED) or planning policy considerations.

Additional Activity

In addition to the above planning applications, it is important to draw attention to additional work carried out within the Development Management Section which is not reported upon. Additional activity details the "non-application" workload of the Planning Service, and includes Discharge of conditions, Certificates of Lawfulness (Proposed & Existing), Tree Preservation Orders (TPOs)/ Consents to Fell Trees in Conservation Area, Pre-Application Discussions (PADs), Proposals of Application Notice (PANs) and Non Material Changes. Preparation of Statements of Case for appeals and attendance at hearings was not detailed.

Type	Received	Determined
Discharge of Condition	81	60
Certificate of Lawfulness	60	44
Non Material Change	47	39
Pre Application Discussion	40	-
Proposal of Application Notice	6	-
TPO	56	38

For PADs and PANS, only the received cases were included in the table as it was not considered appropriate to report on decided/withdrawn cases or processing times for those types of activity.

2023/2024 Quarter 1 – Unvalidated Information

DfI Analysis, Statistics & Research Branch is working to finalise the data for Q1 2023/24, a publication date was yet to be set; however, information was provided below, which has yet to be validated.

Quarter 1	Received / New Enforcement cases Opened	Decided / Enforcement cases concluded	Average Processing Time (wks)
Majors	0	1	93.4
Locals	198	242	15.2
Enforcement	100	72	Not available

In respect of the one application determined in the major category of development, **LA06/2021/0817/F** pertains to a proposal for 58no. dwellings on land zoned for housing off the Ballygowan Road, Comber.

Further to submission and consideration of a number of amendments and supporting information, the application was presented to Planning Committee in December 2022, when officers explained that a planning agreement was required to ensure that the developer entered into an agreement with NIW under Article 161 of the Water and Sewerage Services (NI) Order 2006. The decision notice was not able to be generated until the legal agreement had been executed, and therefore the decision notice was dated 17 May 2023.

In respect of Householder Development applications, 113 decisions were issued, 74 were issued within 8 weeks (65%) however, 98 were issued within 15 weeks (87%).

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

The Director outlined the detail of the report for Members.

Councillor Cathcart referred to previous discussions regarding the delays in processing planning applications and he asked if Planning Officers had been more rigorous in allowing amendments. The Director stated that she hoped to bring an update to Committee the following month with regards the performance improvement programme, lobbying of DfI had been carried out in respect of the statutory validation list. The bar was set low for having a planning application made valid and delays could commence from early stage. They had asked DfI to allow for legislation to stop the number of amendments and late objections to the process. DfI had advised that it had looked at the matter but did not propose to introduce legislation. Therefore, Planning Officers did not have the legal basis to decline to accept amendments.

Referring to the local processing times, Councillor Cathcart referred to Mid and East Antrim and asked if Planning had looked into what that Council were doing in terms of their quick processing times.

The Director stated that the statistics did not detail the number of staff that were dealing with planning applications and may not provide the same level of detail within Case Officer's reports. In this particular Borough, there were vocal and legal-minded objectors. Council's legal advisors stated that the Case Officer's report must be robust and address all matters. Workshops had been held with Officers to refine the

information however a simple extension or development application could be subject to extreme objection or be called in which caused delay. Officers tried to progress applications to a positive outcome and that could often took time. Officers were mindful of the number of objections they receive and the information that needed to be considered.

Councillor Cathcart asked if Planning had adequate staff and resources to meet the targets. The Head of Planning stated that the processing times were dependent on the types of applications. With the fee increase, she hoped to recruit an additional member of staff to assist with the Tree Officer however she had no firm proposal in that regard.

Councillor McCracken referred to the length of time it took statutory consultees to respond and asked if there were any steps that could be taken to build relationships and speed up those response times. The Director stated that generally there was a good relationship with statutory consultees. She explained that under the voluntary redundancy scheme DfI Roads and Rivers had lost a number of experienced staff and the Department did not have the money to replace those staff. Therefore, there were considerable vacancies and skills gaps. The planning improvement programme was being addressed but not quickly. The Director reassured members that those matters had been raised.

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

8. REVIEW OF COUNCIL DECISIONS

(Appendix XI)

PREVIOUSLY CIRCULATED:- Report from Director of Prosperity attaching details of previous decisions. The purpose of the report was to provide an overview of decisions made by Council on planning applications since the transfer of planning powers in April 2015.

Members would be aware that the majority of planning powers transferred to local authorities in April 2015. The Council's Scheme of Delegation set out those categories of application which would be considered by the Planning Committee in addition to the mandatory categories, with all other decisions being delegated to authorised officers.

The Protocol for the Operation of the Planning Committee sets out at paragraph 90 that Members of Planning Committee should on an annual basis inspect a sample of implemented planning decisions in order to assess the quality of decision-making. The sample should include decisions delegated to officers to provide assurance that the Scheme of Delegation was operating effectively and in line with the Council's views.

To date no such review had taken place.

Recommendation 7 from the Northern Ireland Audit Office's Report on Planning in Northern Ireland, published February 2022, was as follows:

Planning committees should ensure that they regularly review a sample of their previously determined applications, to allow them to understand the real-world outcomes, impacts and quality of the completed project. Councils should ensure that they review a range of applications, to ensure that it is not only focused on those applications that tell a good news story about how the system is working. Lessons learned from this process should be shared across all councils.

This recommendation was further endorsed by the Public Accounts Committee in its report dated March 2022 with the following commentary:

"Without any review of past decisions, it is hard for those who make decisions to properly understand how the outcomes of those decisions impact on the communities around them. A key means of improving the quality of future decisions must be to reflect on the consequences of planning decisions."

The attached report provided a range of detail on past decisions, both delegated and Planning Committee, implemented and unimplemented, and includes applications which were called in to Committee on basis of number of objections, or whereby the Council received complaints from objectors as to the decisions made.

As part of the Planning Improvement Programme, which had evolved from the outcome and recommendations of the above reports, the Council would be providing the attached report to the Department for Infrastructure as appropriate.

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

The Director spoke to the report highlighting the salient points.

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

9. DAERA CALL FOR EVIDENCE ON IMPACTS OF AIR POLLUTION ON THE NATURAL ENVIRONMENT (Appendix XII)

PREVIOUSLY CIRCULATED:- Report from Director of Prosperity attaching Response to DAERA. The report detailed that the Department for Agriculture, Environment and Rural Affairs (DAERA) had launched an eight-week Call for Evidence on its Future Operational Protocol to assess the impacts of air pollutants, such as ammonia, on the natural environment. More information on the Call for Evidence was available at <https://www.daera-ni.gov.uk/future-operational-protocol-a-call-for-evidence>. The call for evidence closed on the 15 September 2023.

Detail

DAERA operated as the appropriate nature conservation body in Northern Ireland and had a duty to provide advice to planning authorities and other competent authorities on the potential impacts of air pollution, including ammonia, from plans and projects on designated sites and protected habitats. The Northern Ireland Environment Agency (NIEA) performs this function for terrestrial/freshwater

environments, on behalf of DAERA. That advice was provided through the use of an Operational Protocol, currently under review.

A recent consultation on the draft Ammonia Strategy was part of a programme of work to ensure DAERA were in a position to advise ministers on their return to Government that was informed by up to date and robust evidence. The responses to the consultation were currently being considered by DAERA and the Call for Evidence was the next step in this programme of work.

As DAERA recognised that they may not have access to all evidence of relevance in the development of the future Operational Protocol, they have invited stakeholders to submit additional evidence that will contribute to the development and delivery of a scientifically robust, evidence-informed, Operational Protocol to protect our natural environment and ensure sustainable development of our agriculture sector.

Members should note that no planning applications within Ards and North Down Borough to date have been identified by DAERA as potentially having an adverse impact on air pollution and consequently there was limited evidence available that could be provided as part of the call for evidence. Officers had considered the questions posed in the call for evidence and had responded to that effect.

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

The Director spoke to the report seeking the Committee's approval for the response.

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

10. QUARTERLY UPDATE ON TREES

(Appendix XIII)

PREVIOUSLY CIRCULATED:- Report from Director of Prosperity attaching table setting out the figures from the last report to Committee.

The 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. The update provided information from 05 June (date of previous report) to 21 August 2023.

RECOMMENDED that the Council notes the content of this report.

The Director outlined the detail of the report.

Councillor McCracken stated that quite often TPO's were issued and then forgotten and referred to another Council having done research and found that many TPO's were no longer relevant, and he asked if Council had done anything similar.

The Director advised that when Planning transferred to Council, it had received approximately 154 TPO's from DOE and Officers were working through those to see if they were still valid/appropriate in the context of intervening development which

superseded the Order, and assessing health and condition. Monies had been expended to work through a programme. Unfortunately there was only one Tree Officer who was also dealing with a range of other issues.

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

11. QUARTER 1 BUDGETARY CONTROL REPORT – JUNE 2023 (FILE FIN45)

PREVIOUSLY CIRCULATED:- Report from Director of Prosperity covering the 3-month period 1 April to 30 June 2023. The net cost of the Service was showing an overspend of £12k (3.3%) – box A.

Explanation of Variance

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

Report	Type	Variance	Page
Report 2	Payroll Expenditure	£60k favourable	2
Report 3	Goods & Services Expenditure	£6k favourable	2
Report 4	Income	£78k adverse	2

Explanation of Variance

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

Type	Variance £'000	Comment
Payroll	(60)	Vacant posts within Planning include Manager's post and Administration posts. Vacant posts are expected to be filled over the next few months.
Goods & Services	(6)	Number of small service underspends.
Income	78	Planning application fees. No major applications received. General slowdown in applications in NI. .

REPORT 1 BUDGETARY CONTROL REPORT						
Period 3 - June 2023						
	Year to Date Actual	Year to Date Budget	Variance	Annual Budget	Variance	
	£	£	£	£	%	
Planning						
730 Planning	384,683	372,250	12,433	1,541,500	3.3	
Total	384,683	372,250	A 12,433	1,541,500	3.3	
REPORT 2 PAYROLL REPORT						
	£	£	£	£	%	
Planning - Payroll						
730 Planning	536,148	595,700	(59,552)	2,383,000	(10.0)	
Total	536,148	595,700	(59,552)	2,383,000	(10.0)	
REPORT 3 GOODS & SERVICES REPORT						
	£	£	£	£	%	
Planning - Goods & Services						
730 Planning	42,480	48,950	(6,470)	308,100	(13.2)	
Total	42,480	48,950	(6,470)	308,100	(13.2)	
REPORT 4 INCOME REPORT						
	£	£	£	£	%	
Planning - Income						
730 Planning	(193,945)	(272,400)	78,455	(1,149,600)	28.8	
Totals	(193,945)	(272,400)	78,455	(1,149,600)	28.8	

RECOMMENDED that the Council notes this report.

Alderman Graham asked if the downturn in planning fee income was occurring across other Councils in Northern Ireland. The Director confirmed that other Councils in Northern Ireland appeared to be experiencing the same.

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

EXCLUSION OF PUBLIC/PRESS

AGREED, on the proposal of Councillor Cathcart, seconded by Councillor Martin, that the public/press be excluded during the discussion of the undernoted item of confidential business.

12. QUARTERLY UPDATE ON ENFORCEMENT

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

*****NOT FOR PUBLICATION*****

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.

The report was noted.

RE-ADMITTANCE OF PUBLIC/PRESS

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

TERMINATION OF MEETING


The meeting terminated at 10.20 pm.

ITEM 4.1

Ards and North Down Borough Council

Application Ref	LA06/2018/0673/O
Proposal	Proposed dwelling and garage
Location	Lands approx. 51m east of 1 Cardy Road East and approx. 11m south of 10 Cardy Road East, Greyabbey DEA: Ards Peninsula
Committee Interest	<p>A Local development application 'called-in' to Planning Committee from the delegated list by a member of that Committee:</p> <p><i>Cllr Cathcart to consider Policy CTY8 of PPS 21 – I wish to call in the above application for the Committee to consider whether the neighbouring properties namely the gospel hall, former gospel hall and 7 Cardy Road East ensures that the site falls within a substantial and continuous frontage and therefore does constitute a gap site under Policy CTY8. Furthermore, for the Committee to consider whether the proposal is located in a cluster of development which appears as a visual entity in the landscape in compliance with CTY2A.</i></p>
Validated	17/11/21
	<ul style="list-style-type: none"> • Application previously on delegated list as refusal and <u>not called in</u> from that list - issued as a refusal on 25 February 2020. • Refusal was appealed, however Planning Appeals Commission determined on 30/09/21 that there was no valid appeal, as the address used to describe the application site was incorrect. It had read "70m south west of No.1 Cardy Road East, Newtownards, BT22 2LR" however the site is located 70m South East of No.1 Cardy Road East, Newtownards. • The application has subsequently been reassessed. The Planning Service has not changed its opinion and considers that the proposal <u>fails to comply with PPS 21</u>. • PPS 21, Policy CTY 8 directs that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is that a proposal must

	<p>constitute a small gap site sufficient only to accommodate up to a maximum of two dwellings within an otherwise substantial and continuously built up frontage.</p> <ul style="list-style-type: none"> • The proposal is contrary to policies CTY 8 and CTY 14(d) as the proposal does not constitute a small gap site, would result in the creation of a ribbon of development, which further erodes the rural character and results in a build-up of development. • PPS 21, Policy CTY 2a directs that a proposal should be located within an existing cluster of development which appears as a visual entity in the local landscape. • The proposal is contrary to policies CTY 2a and CTY 13 as the proposal is not located within an existing cluster, fails to provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster. It therefore does not integrate into the surrounding countryside. • The proposal is also contrary to PPS 2 'Natural Heritage' policy NH2 as there has been insufficient evidence submitted to demonstrate that the proposal would not be likely to harm protected species – see NIEA response. • As this is an outline planning application, no details have been submitted regarding the siting, scale or design of the proposal. • Letters of support have been received in relation to the application however these have been assessed in the Addendum to the Case Officer Report dated 04/09/2023.
<p>Recommendation</p>	<p>Refusal</p>
<p>Attachments</p>	<p>Item – Case Officer Report – 4.1a Item – Addendum to Case Officer Report – 4.1b</p>

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2018/0673/O	DEA: Ards Peninsula	
Proposal:	Proposed dwelling and garage		
Location:	Lands approx 51m east of 1 Cardy Road East and approx 11m south of 10 Cardy Road East, Greyabbey		
Applicant:	Laburnumhill Properties Ltd		
Date valid:	17/11/2021	EIA Screening Required:	No
Date last advertised:	18/11/2021	Date last neighbour notified:	22/11/2021
Letters of Support: 0	Letters of Objection: 2	Petitions: 0	
Consultations – synopsis of responses:			
DfI Roads		No objections.	
NI Water		No objections.	
Environmental Health		No objections.	
Shared Environmental Services		No objections.	
DAERA– Water Management Unit		No objections.	
DAERA – Natural Environment Division		No objections.	
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Integration and impact on rural character 			
Recommendation: Refuse Planning Permission			
Report Agreed by Authorised Officer			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Northern Ireland Public Register (planningsystemni.gov.uk)			

1. Site and Surrounding Area

The site is located on the southern side of Cardy Road East within the rural area outside of any settlement limits. The site consists of part of a field located between Cardy Gospel Hall and its associated car park to the west of the site and a dwelling

to the immediate south of the site at 7 Cardy Road East. The site is relatively flat. The boundary to the road is open with the exception of a couple of small trees. The southeastern and southwestern boundaries of the site are undefined while the northwestern boundary with the Gospel Hall is defined by a fence along with some remaining trees.

The area is within the countryside as defined within the Ards and Down Area Plan 2015. The area is rural in character with agricultural fields, dispersed dwellings and agricultural buildings. The majority of existing dwellings in the area are single storey or 1.5 storey.

2. Site Location Plan



Figure 1 Site location plan

3. Relevant Planning History

No relevant planning history for this site and lands adjacent.

4. Planning Assessment

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

- Ards and Down Area Plan 2015 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Guidance:

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

Current application LA06/2018/0673/O

It is important to set out the progress of this current application (LA06/2018/0673/O) given it has been in the system since June 2018.

The original proposal as per the P1 Form received on 20 June 2018 for this application involved a larger site for two infill dwellings under policy CTY8. The applicant's agent argued that the proposal would comply with policy CTY8 in that the site represents a small gap site within an otherwise substantial and continuously built up frontage. Having considered this original proposal, the Council advised the applicant's agent that it would not meet the requirements of policy CTY8 as an infill site. The applicant's agent then submitted a revised proposal for a smaller site, arguing that this proposal would meet the requirements of policy CTY2a as a dwelling within an existing cluster of buildings. An amended P1 Form with a proposal description for a single dwelling and garage was received on 31 October 2019.

The proposed development subject of this application (LA06/2018/0673/O) has previously been considered and determined as a refusal of permission with a decision notice issued on 25th February 2020. The reasons for refusal for the proposed single dwelling and garage are as follows:

1. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage, and would, if permitted, result in the creation of ribbon development along Cardy Road East.
3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY2A of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal is not located within an existing cluster of development which appears as a visual entity in the local landscape, the site fails to provide a suitable degree of enclosure, it is not bounded on at least two sides with other development in the cluster and development of the site could not be absorbed into an existing cluster through rounding off and consolidation and would visually intrude into the open countryside.
4. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and criteria (b) and (c) of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, fail to be visually integrated into the surrounding landscape as the site lacks long established natural boundaries, is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and would rely primarily on the use of new landscaping for integration.

5. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would, if permitted, further erode the rural character of the area due to a build-up of development and the creation of a ribbon of development along Cardy Road East.
6. The proposal is contrary to Policy NH2 of Planning Policy Statement 2: Natural Heritage in that insufficient information has been submitted to demonstrate that the proposal would not be likely to harm protected species.

The decision was appealed under ref 2020/A0026 and a decision issued on 4th October 2021. The Planning Appeals Commission (PAC) declared the Council's decision invalid which resulted in there being no valid appeal due to an incorrect description of the location of the site as south-west of No.1 Cardy Road East was referred to in the original application rather than south east of No.1 Cardy Road East.

The Council agreed to remove the decision to allow the application to be processed with the correct description of the site. An amended P1 Form and a revised site location plan (Drawing 01B) were received on 17 November 2021.

The application was re-advertised in the local press on 18th November 2021 and re-neighbour notification letters were issued on 22nd November 2021.

One objection was received on 9th November 2021 from the occupiers of 12 Cardy Road East.

This is in addition to the previous objection received on 18th July 2018 from the occupiers of 10 Cardy Road East.

A re-consultation was sent to NIEA's NED on 23rd November 2021 regarding additional supporting information submitted by the applicant to overcome the sixth reason for refusal relating to Policy NH2 of PPS 2. NED responded to the consultation stating it had no concerns subject to conditions. The sixth reason for refusal is therefore no longer required.

No other additional processing has taken place with this application following the decision made by the PAC on 4th October 2021.

Ards and Down Area Plan 2015

The site is located in the countryside outside of any of the designated settlement limits. The site is not within an AONB designation. The plan is silent in respect of proposals of the subject nature.

Strategic Planning Policy Statement

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.

Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. For example, where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications.

However, where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

Principle of Development

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 21. Policy CTY1 of PPS 21 lists a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

For the purposes of completeness, the current proposal for a single dwelling and garage will be assessed against both policies CTY8 and CTY2a. If the proposal fails to meet the requirements of either of the above policies, it will be considered contrary to policy CTY1 which states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.

Policy CTY8 Ribbon Development

Planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

In order to assess whether an infill opportunity exists it is necessary to ascertain whether a substantially and continuously built up frontage exists. Policy CTY8 defines a substantial and built up frontage to include a line of three (3) or more buildings along a road frontage without accompanying development to the rear.

A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with that road. It has been established through a number of Planning Appeal decisions (e.g. PAC References: 2016/A0146 and 2017/A0053) that it is the building's curtilage that has to extend to the road rather than merely its access.

In this case, there are two buildings located to the immediate north west of the site. Both belong to Cardy Gospel Hall and both have a frontage to the road. Then to the immediate south east of the site is the dwelling at 7 Cardy Road East. As demonstrated in figure 1 above, the plot belonging to No. 7 is set back from the road and only its access adjoins the road. It is therefore not considered that this dwelling has a frontage

to the road and therefore in this case there is not a substantial and continuously built up frontage of 3 or more buildings and the site cannot be considered as a gap site for the purposes of policy CTY8.

In addition, the erection of a dwelling on the site would also be contrary to policy CTY8 in that it would result in the creation of a ribbon of development along this side of the road. A dwelling on the site would be clearly read with the two existing gospel hall buildings from the public road, particularly now that the majority of vegetation on the site has been cleared and has opened up views right to the back of the site.

Policy CTY2a New Dwellings in Existing Clusters

This policy states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings*

Figure 3 below shows the area surrounding the site which the agent considers to be an existing cluster of development. While the proposed cluster would include four or more buildings and three of these are dwellings, it would appear that some of the land and dwellings included within the identified cluster lies within a farm, namely Nos. 8a, 6 and possibly No. 10.



Figure 3 – Cluster identified by agent

- *The cluster appears as a visual entity in the local landscape*



Figure 4 – Site shown in context of existing development

The cluster identified by the agent does not appear as a visual entity in the local landscape. It is not considered that there is an existing cluster of development as defined by the policy, rather there exists a scattering of dispersed development in the area around the junction of Cardy Road and Cardy Road East with considerable gaps between buildings. This is evident in the aerial shot above which clearly shows that the pattern of development in the locality is dispersed rather than forming a defined cluster. Whilst it is acknowledged that there is some ribbon development on the opposite side of the road from the site, the development in this area does not appear as a cluster or as a visual entity in the landscape.

Figure 5 below shows the view from the entrance to 7 Cardy Road East looking towards the cluster identified by the agent and the application site. It is evident that from this view approaching from the east, there is no perception of a cluster of development appearing as a visual entity in the landscape.



Figure 5 – View towards site from entrance to 7 Cardy Road East.

Figure 6 below shows the site and the existing dwelling at No. 10 opposite. Again, from this view there is no perception of a cluster of development. Neither the gospel hall nor the dwellings on the opposite side of the road further to the west are visible from this viewpoint. It is acknowledged that since the clearance of some vegetation on the site, views towards the gospel hall have become more apparent from this viewpoint however there is still no perception of a cluster of development.

Figure 7 below also shows that at the gospel hall there is still no sense of being within a cluster of development as there is no built development immediately opposite or to either side of it due to the dispersed pattern of settlement and generous spacing between buildings.



Figure 6 – View of site and existing dwelling at No. 10 Cardy Road East



Figure 7 – View of gospel hall within identified cluster.

Figure 8 below shows the view of the identified cluster from its western end at the junction of Cardy Road/Cardy Road East. Again, from this viewpoint, there is no perception of a cluster of development that appears as a visual entity in the landscape. Rather, there is a row of ribbon development consisting of 4 dwellings along the northern road frontage along with the gospel hall on the opposite side of the road.



Figure 8 – View of ribbon development on northern side of Cardy Road East

- *The cluster is associated with a focal point such as a social/community building/facility or is located at a cross-roads*

The existing gospel hall would represent a focal point given that it would constitute a community building. However, as outlined above, it is not considered that this is located within an existing cluster of development for the purposes of this policy.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster*

The site fails to provide a suitable degree of enclosure. A large amount of vegetation and scrub has recently been cleared from the site leaving it very open to views from the public road. While there is a degree of enclosure along the north western boundary of the site by way of a few remaining trees, the larger of the two gospel hall buildings positioned closest to the site provide little benefit by way of enclosure given its set back from the site. The smaller of the two gospel hall buildings also does not provide a suitable degree of enclosure given its distance from the site. The south eastern boundary of the site is undefined and given the recent vast clearance of vegetation, there is also not a suitable degree of enclosure along this boundary.

The site is only bounded on its north western side by other development (gospel hall buildings and associated car park). The south western and south eastern boundaries

of the site do not abut any existing development and the dwelling on the opposite side of the road from the roadside boundary of the site cannot be counted as development bounding the site as it is separated from the site by the public road. This interpretation has been applied by the Planning Appeals Commission, one example being appeal 2012/A0275 for a dwelling at Castle Espie Road/Quarry Road Comber. In this appeal it was considered that as buildings on the Castle Espie Road and Quarry Roads are located on the opposite sides of the road from the appeal site they did not bound it.



Figure 9 – View of site from east



Figure 10 – View of site from Gospel Hall

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character or visually intrude into the open countryside*

As already outlined, it is considered that there is no existing cluster of development at this location as the character of the area is that of a dispersed pattern of development with the exception of the ribbon of development on the opposite side of the road. The site would not be easily absorbed given its lack of enclosure and very open views from the public road. It is considered that a dwelling on this site would intrude into the open countryside resulting in an urbanising effect through the creation of a ribbon of development when read with the existing gospel hall buildings and contributing to the general build up of development within this locality when also read with the dwelling opposite at No. 10. While the existing dwelling at No. 7 is located further to the east of the site, it is well set back from the road and is extremely well screened from public views, therefore does not visually intrude or alter the character of the area.

- *Development would not adversely impact on residential amenity*

The development would not adversely impact on residential amenity.

Policy CTY13 – Integration and Design of Buildings in the Countryside

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape. A new building will be unacceptable where:

- (a) It is a prominent feature in the landscape*

The site sits at road level and therefore is not located on prominent ground. As this application is for outline permission, there are no details of the size or scale of the dwelling.

- (b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape*

As outlined above, the site lacks long established boundaries and a suitable degree of enclosure. The south eastern and south western boundaries of the site are open and undefined. The roadside boundary of the site also lacks any natural boundary since the clearance of vegetation from the site. Views of the site are extremely open from the public road.

- (c) It relies primarily on the use of new landscaping for integration*

A new dwelling on the site would rely primarily on new landscaping for integration

- (d) Ancillary works do not integrate with their surroundings*

No details of ancillary works have been provided as the application is for outline permission

- (e) The design of the building is inappropriate for the site and its locality*

No details of design have been submitted as the application is for outline planning permission

- (f) It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.*

A dwelling on the site would not fail to blend with the landform

- (g) In the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on the farm*

N/A

Policy CTY14 – Rural Character

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. A new building will be unacceptable where:

- (a) It is unduly prominent in the landscape*

Due to the relatively low lying and level nature of the site, a dwelling would not appear unduly prominent in the landscape

- (b) It results in a suburban style build up of development when viewed with existing and approved buildings*

A dwelling on this site would result in a suburban style build up development when viewed from Cardy Road East. It would be inter-visible with the two gospel hall buildings to the west, No. 7 to the east and No. 10 opposite.

(c) It does not respect the traditional pattern of settlement exhibited in that area

A dwelling on the proposed site would not offend any particular traditional pattern of settlement exhibited in the area. There are already buildings set back from the road on either side of the site.

(d) It creates or adds to a ribbon of development

As already established above, the erection of a dwelling on this site would create a ribbon of development as it would be visually linked with the gospel hall buildings and No. 7.

(e) The impact of ancillary works would damage rural character

The application is for outline permission so no details of ancillary works have been submitted at this time.

Access and road safety

Policy AMP 2 Access to Public Roads of PPS 3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

Following consultation with DFI Roads no objections have been raised. Visibility splays of 2.4m x 100m are to be provided for any new access.

Designated Sites and Natural Heritage

Policy NH 1 European and Ramsar Sites, International of PPS 2 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 –

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

The site does not contain or is not adjacent to any watercourse which could potentially be hydrologically linked with any of the above designated sites.

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Ards and North Down Borough Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. The proposed development site is not adjacent to or hydrologically connected to Belfast Lough SPA/Ramsar, Belfast Lough Open Water SPA and East Coast Marine (Proposed) SPA. The proposal would therefore not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Policy NH 2 Species Protected by Law of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to harm a European protected species. As part of the initial assessment of the proposal, Natural Environment Division (NED) advised that it would have concerns with the proposal in that the development would be likely to have an unacceptable adverse impact on priority habitats and priority species worthy of protection and insufficient information has been submitted to establish otherwise. The site was dominated by scrub habitat with a number of mature trees and while a large area of scrub had been recently cleared, the two small ponds and some mature trees still remained. NED has advised that a Preliminary Ecological Appraisal (PEA) would be required with particular reference to bats, badgers, birds and newts. Following the decision made by the PAC on 4th October 2021 the applicant submitted a biodiversity checklist and a PEA. Following re-consultation with NED, it has stated it has no concerns with the proposed development.

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

5. Representations

Two representations were received from the occupants of 10 and 12 Cardy Road East raising road safety concerns, particularly in relation to:

1. The position of the access opposite an existing access and a bad bend
2. The brow of the hill at this location
3. The volume and speed of traffic on the road.

DFI Roads was consulted on the application and has advised that it had no objections to the proposal subject to the provision of visibility splays of 2.4 x 100m.

6. Conclusion

The proposal has been considered having regard to all the material considerations, the development plan, relevant planning policies and comments from statutory consultees and third parties.

It is my professional planning judgement that the proposal should be refused. A dwelling on the application site would be contrary to the SPPS and policies CTY1, CTY8,

CTY2A, CTY13 and CTY14 of Planning Policy Statement 21. The proposal would fail to meet the requirements of either policy CTY8 as an infill site or policy CTY2A as a dwelling within an existing cluster for the reasons set out above. Furthermore, a dwelling on the site would result in the creation of a ribbon of development and a suburban style build up of development as well as lacking long established boundaries to provide a suitable degree of enclosure.

There is no change in opinion since the previous recommendation was made. The only difference is that the sixth refusal reason is no longer applicable. The first five reasons are still applicable.

7. Recommendation

Refuse planning permission

8. Refusal Reasons

1. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage, and would, if permitted, result in the creation of ribbon development along Cardy Road East.
3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY2A of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal is not located within an existing cluster of development which appears as a visual entity in the local landscape, the site fails to provide a suitable degree of enclosure, it is not bounded on at least two sides with other development in the cluster and development of the site could not be absorbed into an existing cluster through rounding off and consolidation and would visually intrude into the open countryside.
4. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and criteria (b) and (c) of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, fail to be visually integrated into the surrounding landscape as the site lacks long established natural boundaries, is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and would rely primarily on the use of new landscaping for integration.

5. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would, if permitted, further erode the rural character of the area due to a build-up of development and the creation of a ribbon of development along Cardy Road East.

Case Officer Signature:		Date:	
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Addendum to Case Officer Report LA06/2018/0673/O

Further to this application being included on the delegated list on Monday 4th September 2023 with a recommendation to refuse, this addendum deals with the additional letters of support that were received on the same day (4th September 2023).

14 additional letters of support have been received.

All letters of support have been signed by each individual however only one address has been given and the rest have been submitted without giving a home address.

5 of the letters are individually worded letters and the rest consist of a signed template, giving a total of 6 letters of support (as the multiple templates only count as one).

The contents of all the additional letters of support have been read and fully considered.

Issues raised include the following:

- The site is within a development of many houses and even a church.
- The site is within a cluster of buildings including a focal point of Cardy Gospel Hall.
- The site benefits from significant vegetation cover and is enclosed by mature hedgerows and trees to the south and east.
- Additional landscaping can be introduced.

The Council considers that the site is not located within a defined cluster as per Policy CTY 2a and that it does not benefit from significant vegetation cover. The assessment has been set out in the main case officer's report.

Recommendation

There is no change in opinion and all issues raised in the additional letters of support have been adequately assessed in the case officer report. It is recommended that planning permission is refused.

1. **Good evening Chair and members, thank you for your time.**
2. **The case officer's report has described the history of this application but I will summarise...**
3. **In short, the applicant previously disagreed with the Council's decision to refuse this application and lodged an appeal on 8th June 2020.**
4. **That appeal was found to be invalid and despite now being several years on, the Council's position has not changed nor has the applicants.**
5. **Whilst the entirety of the Cardy cluster is identified within the development plan as countryside, the site is surrounded by other development on all sides, is bound on at least two sides with other development in the cluster and avails of a suitable degree of enclosure. It is clear that the site does not therefore intrude into the open countryside.**
6. **The cluster appears as a visual entity in the landscape.**
7. **This is evident when rounding the bend on Cardy Road East adjacent to the junction with Cardy Road. This is also evident when viewed from Cardy Road looking in a north easterly direction with development on both sides of the public road. While the cluster has intervening vegetation (which is typical in a rural environment) this is not fatal to the policy tests. This same vegetation assists to adequately integrate the site.**
8. **Notwithstanding, this is an outline application and any additional landscaping deemed necessary can be proposed at Reserved Matters stage. This issue is not fatal to the current application.**
9. **The Council consider that *"at the gospel hall there is still no sense of being within a cluster of development as there is no built development immediately opposite or to either side"*.**


10. This is incorrect. No. 4 Cardy Road is located immediately opposite the gospel hall and No. 7 is within the cluster to the side. The Council consider No. 7 Cardy Road East to be *“extremely well screened”* however, whilst No. 7 is set back further from the public road than other buildings in the cluster and avails of screening, it clearly appears as part of the cluster when viewed from Cardy Road East.
11. The proposed development meets the requirements of Policy CTY 2A the thrust of which is to round off and consolidate clusters without changing the character of an area and therefore does not offend policy CTY 14 of PPS 21 as the planning department assert.
12. Given the representations submitted, it is clear that there is far more support for the proposal than there is objection.
13. In light of the points discussed today, we would respectfully request that the committee vote to overturn the officer’s recommendation and approve planning permission.
14. If you remain uncertain, we would suggest that it would be of benefit for members to visit the site to better understand it and its surrounding context before making a final decision.
15. Thank you.

ITEM 4.2

Ards and North Down Borough Council

Application Ref	LA06/2021/1168/O
Proposal	Dwelling and garage on farm
Location	Land approx. 70m SE of 15 Newcastle Road, Portaferry DEA: Ards Peninsula
Committee Interest	<p>A Local development application 'called-in' to Planning Committee from the delegated list by a member of that Committee</p> <p><i>Cllr Wray to consider Policies CTY8, CTY13 and CTY14 of PPS 21 on whether – Established active farm business. Site is visually linked to established farm buildings. It has to be argued that the site complies with Policy CTY13 as the site is set against existing vegetation and farm buildings. Regarding Policy CTY14 rather than being prominent the site sits against the established farmyard and dwelling. It is argued that the site will not lead to creation of Ribbon Development. No detriment to existing dwellings. The applicant should be able to present his case to the Committee as there are no acceptable alternatives that meet the policy constraints of CTY10.</i></p>
Validated	14/09/2021
Summary	<ul style="list-style-type: none"> • Planning officers are content that the proposal meets the requirement of PPS 21, Policy CTY 10 in that the farm is active and has been established for at least six years and that no development opportunities have been sold off within the last 10 years; • PPS 21, policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is that a proposal must constitute a small gap site sufficient only to accommodate up to a maximum of two dwellings within an otherwise substantial and continuously built up frontage. • The proposal <u>is contrary to policies CTY 8 and CTY 14(d)</u> as the proposal does not constitute a small gap site,

	<p>would result in the creation of a ribbon of development, further eroding the rural character and resulting in a build-up of development.</p> <ul style="list-style-type: none"> • The proposal is <u>contrary to policies CTY 13 and CTY 14(a)</u> of PPS 21 as the site is prominent in the landscape (site is in an elevated position), which would result in a suburban form of build-up, lacks long established boundaries and is unable to provide a suitable degree of enclosure. • The planning agent was advised that it would be preferable to see the proposed farm dwelling and garage sited in an alternative location (Figure 8) where it would be set-back from Newcastle Road and thus better utilise the sloping topography and existing farm buildings for integration. This was only a suggested alternative site and other acceptable sites may exist. However, this was not accepted by the agent or applicant. This was based on the fact that it is accepted that the proposal complies with Policy CTY 10 (outlined above) however not at this site, which fails to meet the other policies of PPS 21. • The site located within Strangford and Lecale Area of Outstanding Natural Beauty (AONB). The proposal is contrary to PPS 2 'Natural Heritage' NH 6 as the site is unsympathetic to the special character of the AONB in general and of the particular locality. • The site contains an Archaeological Site and Monument (Unscheduled). The proposal is contrary to paragraph 6.9 of the SPPS and policies BH 2 and BH 3 of PPS 6 as <u>insufficient information</u> has been provided to demonstrate that there is no adverse effect on the archaeological site/monument. • This is an outline planning application, no details have been submitted regarding the siting, scale or design of the proposal as this assessment is undertaken at reserved matters stage.
<p>Recommendation</p>	<p>Refusal</p>
<p>Attachment</p>	<p>Item 4.2a – Case Officer Report</p>

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2021/1168/O	DEA:	Ards Peninsula
Proposal:	Dwelling and garage on farm.		
Location:	Land Approx 70m Southeast of 15 Newcastle Road, Portaferry.		
Applicant:	Brendan Watson		
Date valid:	14.09.2021	EIA Screening Required:	n/a
Date last advertised:	06.10.2021	Date last neighbour notified:	Not required.
Letters of Support: 0	Letters of Objection: 0	Petitions: 0	
Consultations – synopsis of responses:			
DfC Historic Environment Division (Historic Monuments):	Requested an archaeological evaluation of the application site.		
NIE	No objection.		
NIEA: Water Management Unit	No objection.		
NI Water	No objection with conditions.		
DfI Roads	No objection with condition.		
Ards and North Down Borough Council Environmental Health Officer	No objection with informatives.		
DAERA	Confirmed farm business has been established for more than 6 years with application land part of the farm holding.		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Visual Impact on the countryside • Impact on residential amenity • Impact on an Area of Outstanding Natural Beauty • Impact on the historic environment • Access, road safety and car parking • Water supply and foul sewerage • Impact on the environment and biodiversity 			
Recommendation: Refuse 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)			

1. Site and Surrounding Area

The application site is located roadside, approximately 70m southeast of 15 Newcastle Road, Portaferry, and is part of an agricultural field (Figure 1). An agricultural gate is located on the southwest boundary and leads to the respective field/application site. The applicant's farm holding/current dwelling lies immediately northwest of the application site. The western side of the application site is elevated above road level with the topography then declining in an easterly direction (Figure 1).

Figure 1: Photo of Application Site



The application site has road frontage for approximately 44m (Figure 2) with its southwest roadside boundary defined by a stone wall, backed by post and wire fencing.

Figure 2: Application Site abutting Newcastle Road

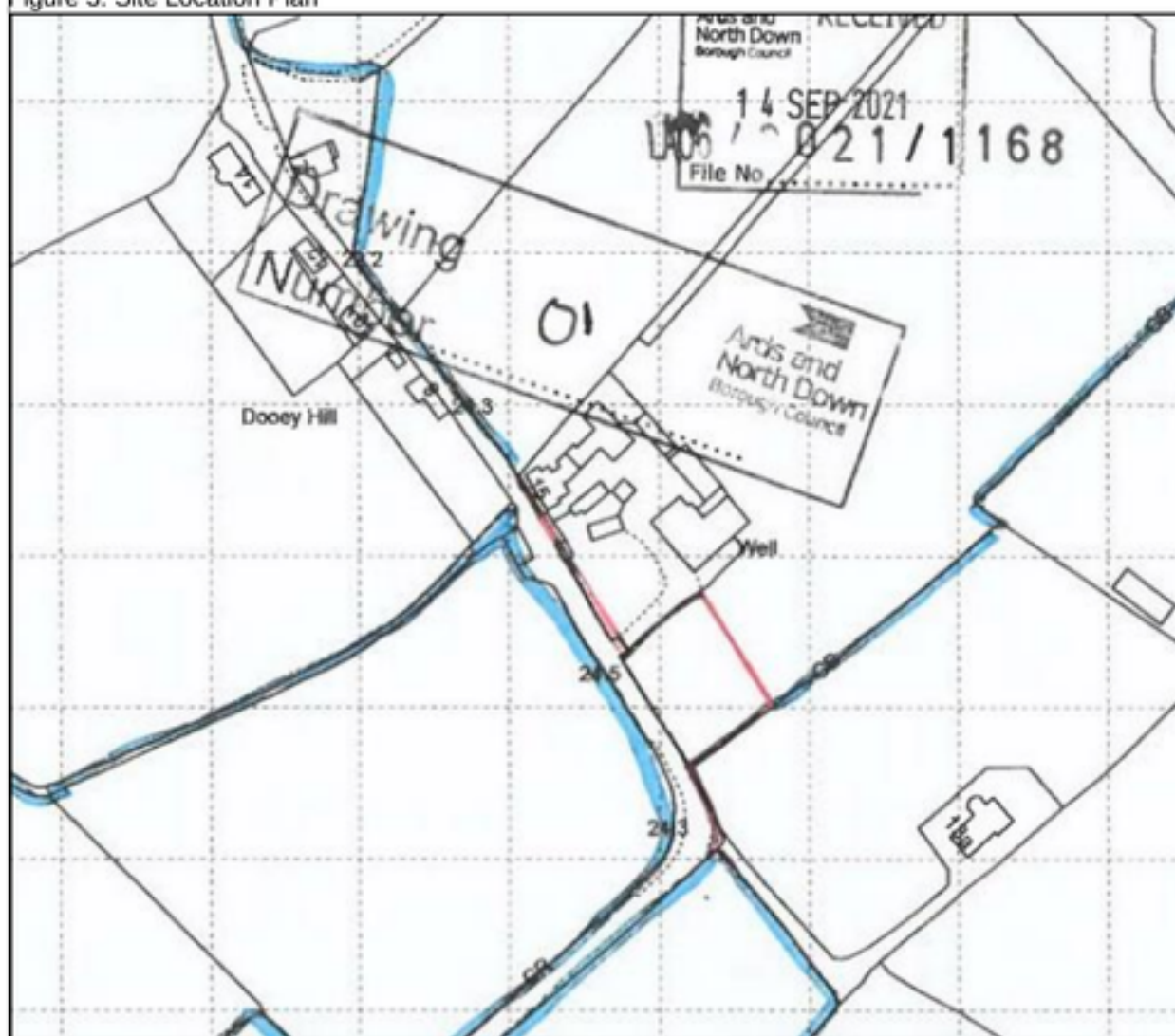


The northern boundary is defined by post and wire fencing and vegetation. The southeast boundary is defined by a hedgerow and post and wire fencing. The northeast boundary is undefined as the application site forms part of a large agricultural field.

A number of residential properties are located in the immediate surrounding area however, only No. 15 Newcastle Road (the applicant's farm dwelling) and No. 17 Newcastle Road have road frontage on the eastern side of Newcastle Road. A row of detached dwellings is located north of the application site on the western/opposite side of Newcastle Road with construction works observed at the time of site inspection. The surrounding area presents as rural and isolated.

2. Site Location

Figure 3: Site Location Plan



3. Relevant Planning History

There is no relevant planning history associated with this application.

4. Planning Assessment

4.1 Planning Policy Framework

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

- Ards and Down Area Plan 2015 (ADAP)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Planning Policy Statement 21: Sustainable Development in the Countryside
- Building on Tradition: A Sustainable Design Guide for the NI Countryside (BoT)
- Creating Places

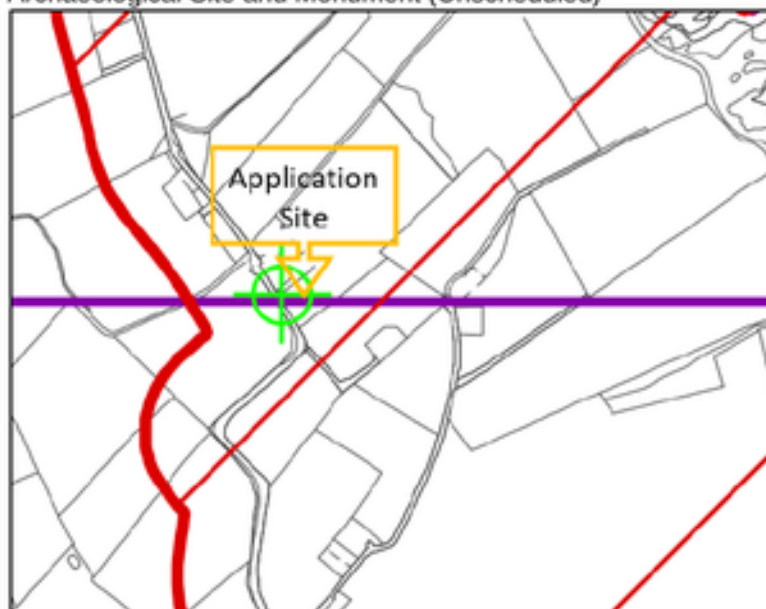
4.2 Principle of Development

Outline planning permission is sought for developing a farm dwelling and garage.

ADAP currently acts as the LDP for this area and designates the application site as:

- Outside of any Settlement Limit in the countryside,
- In Strangford and Lecale Area of Outstanding Beauty and,
- Containing an Archaeological Site and Monument (Unscheduled) (Figure 4).

Figure 4: Extract from Map No. 2/001b -Ard Borough (South) showing application site and Archaeological Site and Monument (Unscheduled)



No further special designations pertain to the application site. The proposal is in general conformity with the plan, subject to the relevant policy considerations.

Regional planning policies of relevance are set out in the SPPS and other retained planning 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.

With regard to farm dwellings, the SPPS specifies that provision should be made for a dwelling house on a farm whereby the farm business is currently active and has been established for a minimum of six years. The applicant submitted a PIC form on which DAERA was consulted along with farm business maps. DAERA confirmed that the farm business has been established for more than 6 years with the application site forming part of the farm holding. The farm business has claimed agricultural payments with the application site included in the land claiming payments. These agricultural payments have been claimed for the last 6 years consecutively. I am therefore content that the farm is active and established in accordance with the SPPS articulation of an 'active' and 'established' farm business.

The SPPS continues to stipulate a second criteria for a proposed farm dwelling which is that no dwellings or development opportunities shall have been sold off or transferred from the farm holding within 10 years of the date of the application. I have reviewed the planning history associated with the farm business and am content that no dwellings or development opportunities have been sold off or transferred from the farm holding within the last 10 years. I am therefore content that policy requirement is satisfied.

The third criteria states that the proposed dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding. The application site lies immediately adjacent to the farm holding at 15 Newcastle Road and appears visually linked. I am therefore content that this policy requirement is satisfied.

The SPPS continues to explain that in addition to the criteria applied above, the farm dwelling must comply with policies regarding integration and rural character in order for it to be considered acceptable. This policy requirement is reiterated in Policy CTY 10 in PPS 21 whereby Policy CTY 10 also requires development proposals to meet the requirements of policies CTY 13 (a-f) - Integration and the Design of Buildings, CTY 14 – Rural Character and, CTY 16 -Development Relying on Non-Mains Sewerage.

With regard to Policy CTY 13, criteria (a) states that a new building is unacceptable where it is a prominent feature in the landscape or where the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape (criteria (b)). The application site occupies a prominent roadside position (Figure 2) on elevated land that is visible when travelling in either direction on Newcastle Road. The application site also provides an insufficient degree of enclosure with only the with only the applicants' farm holding along with sparse intervening vegetation (Figure 3) providing somewhat of a backdrop on the northwest side of the application site. I am therefore not satisfied that criterion (a) and (b) of Policy CTY 13 have been satisfied.

As the application site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, it will rely primarily on the use of new landscaping for integration. Criteria (c) of Policy

CTY 13 states that a building is unacceptable where it relies primarily on the use of new landscaping for integration. I therefore do not consider that the proposal satisfies criteria c) of Policy CTY 13.

Figure 2: Application Site - Roadside Frontage



Figure 3: Views from the Application Site



As this is an outline planning application, no details have been submitted regarding the siting, scale or design of the proposal as this assessment is undertaken at reserved matters stage. I therefore cannot assess whether ancillary works or the proposed design of the buildings would integrate with the surrounding (criteria (d) and (e) of Policy CTY 13.

With regard to criteria (f) of Policy CTY 13, the application site is located at a visible roadside position with its southwest boundary/road frontage measuring 44m. While the topography declines to the northeast/east, the roadside position of the application site means the site is unable to avail of the sloping land which would assist with integration. Moreover, while the proposal has been sited to visually link with the farm holding, I do not consider the farm holding sufficient in and of itself in providing a visual backdrop to assist with integration as the outbuildings are set back from the road on lower ground than the application site with No. 15 Newcastle Road located 55m away (Figure 4).

Figure 4: View from Application Site facing Northwest



Views of the application site are achievable from Newcastle Road as it occupies roadside position for approx. 44m on land which is elevated in the landscape. The proposed roadside siting and lack of established natural boundaries mean that the proposal will be visible intermittently to those travelling north on Newcastle Road for approximately 380m (Figure 5).

Figure 5: Intermittent View of Application Site travelling North on Newcastle Road



As the application site is located on elevated land, Newcastle Road inclines steeply for a duration which permits those travelling on Newcastle Road uninterrupted views of the application site for approximately 135m (Figure 6). While the adjacent field hedgerow provides some screening, aside from being outside of the application site, it is low level so unlikely to be capable of screening buildings.

Figure 6: Interrupted Views of Application Site travelling North on Newcastle Road



The application site is screened by the existing farm holding when travelling south on Newcastle Road (Figure 6) until passing the application site where views of the proposal will be achievable (Figure 7).

Figure 6: View on travelling south on Newcastle Road



Figure 7: View of Application Site Travelling South on Newcastle Road



The application sites elevated position in the landscape, visible roadside location and lack of sufficient natural enclosure means that the proposal will not be able to integrate with the rural environment to a satisfactory degree and so fails to satisfy criteria (f) of Policy CTY 13. It is my professional planning judgement that the proposal fails to satisfy criteria a, b, c and f of Policy CTY 13.

With regard to Policy CTY 14 – Rural Character, I consider that the proposal fails to comply with criteria (a) as it would be unduly prominent in the landscape as determined earlier in this report. At the proposed roadside location, the proposed dwelling and garage would result in a suburban style build-up of development when viewed with the existing and approved buildings; this offends criteria (b) of Policy CTY 14.

A number of roadside dwellings exist on Newcastle Road, most of which are historical properties which have been replaced with the exception No. 8 Newcastle Road which was granted as an infill dwelling and No. 13A Newcastle Road which is set-back from the Newcastle Road on lower ground level. I do not consider that the proposal would respect the traditional pattern of settlement exhibited in the area as the proposed roadside siting would, when considered cumulatively with existing development, result in a build-up of development considered detrimental to the rural character of the area. I therefore do not consider that the proposal satisfies criteria c) of Policy CTY 14. Moreover, it is also considered that the proposal will extend the ribbon of development on Newcastle Road. The proposal therefore offends criteria d) of Policy CTY 14.

As this is an outline planning application, no details have been submitted regarding the siting, scale or design of the proposal as this assessment is undertaken at reserved matters stage. I therefore cannot assess whether the impact of ancillary works would damage rural character which is criteria (e) CTY 14. It is my professional judgement that the proposal fails to satisfy criteria a, b, c and d of Policy CTY 13.

As the proposal constitutes ribbon development, Policy CTY 8– Ribbon Development is applicable. Policy CTY 8 explains that '*Planning permission will be refused for a building which adds or creates to a ribbon of development*'. Policy CTY 8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

The proposal is not considered an exception to Policy CTY 8 as the application site is not a small gap site which could accommodate appropriate infill development. Rather, the application site represents roadside development which would extend built development along Newcastle Road.

While it is accepted that the proposal is for a genuine farm dwelling sited to visually link with the existing farm business with no dwellings or development opportunities having been sold off or transferred from the farm holding within 10 years of the date of the application, the application site's prominent roadside position would extend the ribbon of development on Newcastle Road which is contrary to planning policy. Given that the proposal is considered ribbon development incapable of integrating or respecting the rural character of the area, I am not accepting of the principle of developing a farm dwelling and garage at this proposed location. It is my professional opinion that the

proposal fails to satisfy paragraph 6.73 (Dwellings on Farms) in the SPPS as well as policies CTY 8, CTY10, CTY 13 and CTY 14 of PPS 21.

The planning agent was advised that the Planning Department would prefer to see the proposed farm dwelling and garage sited in an alternative location (Figure 8) where it would be set-back from Newcastle Road and thus better utilise the sloping topography and existing farm buildings for integration. The Planning Department advised that this was only a suggested alternative site and other acceptable sites may exist. I also discussed suggested site with the applicant, Mr Watson, who informed me that it was not suitable as he was intending on erecting a barn at this location, however no evidence of verifiable plans to expand the farm business on this site were produced by the applicant.

Figure 8: Suggested Alternative Site for Farm Dwelling



Regardless of the discussion about potential alternative application sites, the current proposal fails to satisfy paragraph 6.73 (Dwellings on Farms) in the SPPS as well as policies CTY 8, CTY 13 and CTY 14 of PPS 21 as it constitutes ribbon development, incapable of integrating or respecting the rural character of the area. I am therefore not accepting the principle of developing a farm dwelling and detached garage at the proposed location.

4.3 Impact on Residential Amenity

As this is an outline planning application, details of the siting, design and scale of the proposed dwelling and garage have not been submitted. Nevertheless, it is not considered that the proposal is capable of adversely impacting the residential amenity enjoyed by the neighbouring resident at No. 13A Newcastle Road as this neighbouring dwelling is located approximately 70m away from the application site. The proposal does not hold the potential to impact any further neighbouring dwellings. I therefore do not consider the proposal capable of detrimentally impacting residential amenity.

4.4 Water supply and Foul Sewerage Arrangements

The proposal seeks to connect with the mains water supply and a Bio-dis has been proposed for the disposal of foul sewerage. NI Water was consulted and responded with no objection subject to conditions relating to obtaining the necessary permissions from NI Water.

4.5 Access, Parking and Road Safety

As this is an outline planning application no detail regarding the proposed access or parking arrangement have been submitted. DfI Road were consulted and responded with no objection subject to the submission of 1:500 scaled plan as part of a reserved matters application in accordance with the RS1 form. I am therefore content that adequate provision can be made for access and parking without adversely impacting on road safety.

4.6 Designated Sites and Natural Heritage

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

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

With regard to Policy NH 6 - Areas of Outstanding Natural Beauty in PPS 2, the proposal will not sensitively integrate with the rural landscape/Strangford and Lecale Area of Outstanding Natural Beauty as it occupies a prominent roadside position on elevated land, lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to blend into the rural landscape. The prominent position of the application site in the landscape and the fact it would constitute ribbon development, will adversely impact the visual appeal of the AONB rural character of the locality. It is my professional judgement that the proposal fails to satisfy criteria a) of Policy NH 6.

As the site forms part of an agricultural field with no features of conservational value observed, I am content that the proposal satisfies criteria (b) of Policy NH 6. As this is an outline planning application, I am unable to determine whether the proposals design, size and scale will be respectful of local architectural styles/patterns, traditional boundary details and local materials/designs/colors as this information is considered at the Reserved Matters stage.

4.7 Impact on the Historic Environment

The application site is located immediately adjacent to a platform rath (DOW 032:022). This is a form of early medieval defensive farmstead but may have also been utilised during the Medieval Period as a motte or earthwork castle site. The mound was later used to site a windmill, which is a feature of industrial archaeology interest recorded on

the Industrial Heritage Record (IHR 03268). These are archaeological sites of local importance to which Policy BH 2 of PPS 6 and paragraph 6.9 of the SPPS apply. The 1st Edition of the Ordnance Survey Map (1830s) also shows a house – now demolished – within the application area, which may itself be of archaeological interest.

DfC Historic Environment Division (HED) were consulted given the potential historical significance of the application site. HED: Historic Monuments responded:

Due to the substantial archaeological potential of this application site and that the remains of historic monument DOW 032:022 may extend into the proposed development area, Historic Environment Division (Historic Monuments) would require additional information from the developer to permit an informed and reasonable planning decision to be taken. An archaeological evaluation of the site is therefore requested as per Policy BH 3 of PPS 6 and paragraph 6.10 of the SPPS.

This information is required at this stage, in advance of a planning decision, to be able to assess whether development in this application site is, or can be made, satisfactory to policies BH 2 of PPS 6 and section 6.9 of the SPPS. These matters cannot be addressed via planning conditions.

The Planning Department has not requested the submission of archaeological evaluation deemed necessary by HED as it is not accepting the principle of development at the application site and does not want to put the applicant to unnecessary cost.

5. Representations

No representations were received.

6. Recommendation

Refuse Planning Permission

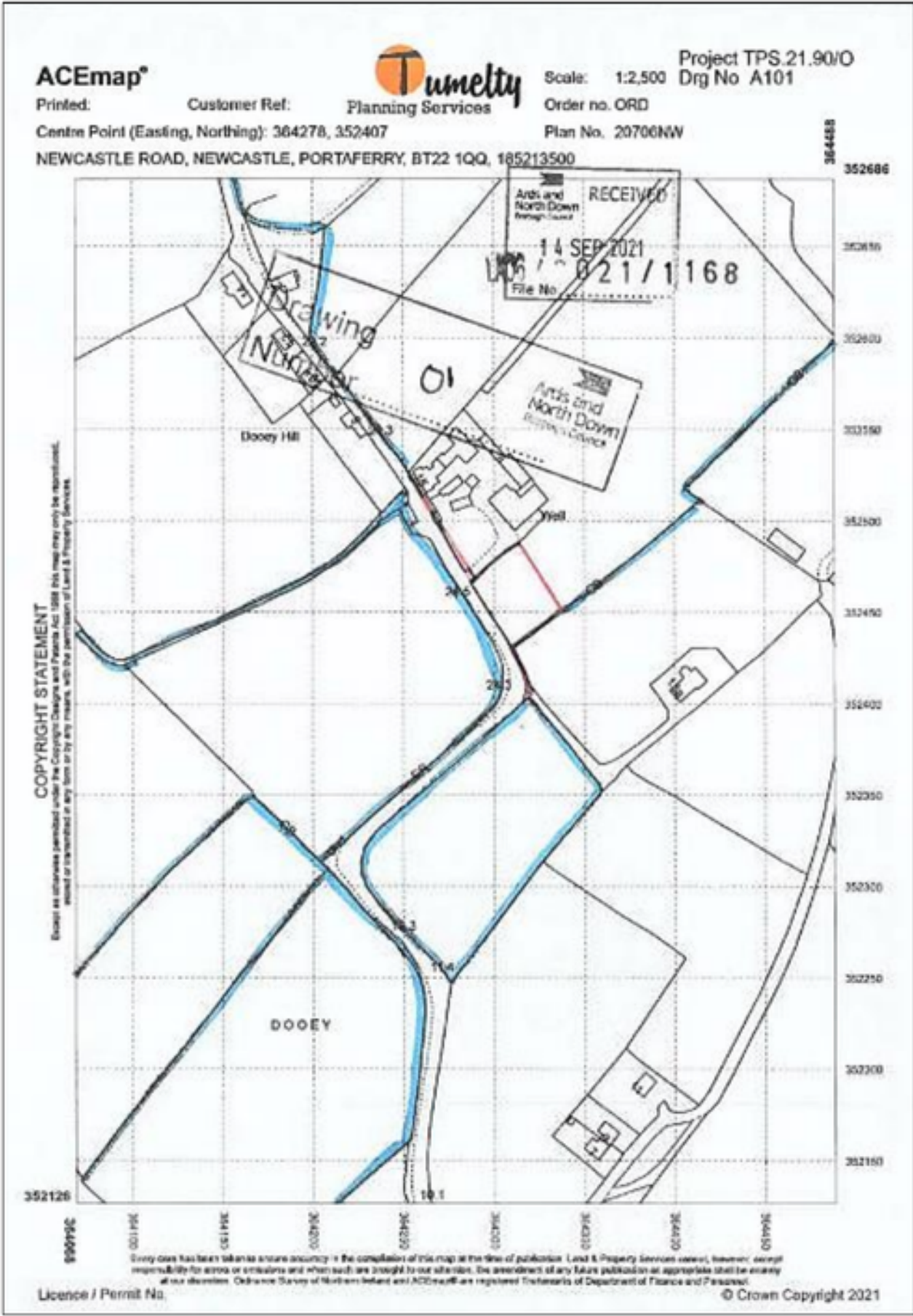
7. Refusal Reasons

1. The proposal is contrary to paragraph 6.73 of The Strategic Planning Policy Statement for Northern Ireland and Policies CTY8 and CTY14 (d) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal, if permitted, will add to an existing ribbon of development along Newcastle Road resulting in a detrimental change to the rural character of the countryside.
2. The proposal is contrary to criteria a), b), c) and f) of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings will be prominent features in the landscape; the proposed site lacks long established natural boundaries and is unable to provide a suitable

degree of enclosure for the buildings to integrate into the landscape; the proposed buildings would rely primarily on the use of new landscaping for integration; the proposed buildings would fail to blend with the landform; and therefore would not integrate into this area of the countryside.

3. The proposal is contrary to criteria a) and d) of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the buildings would, if permitted, be unduly prominent in the landscape; result in a suburban style build-up of development when viewed with existing and approved buildings; not respect the traditional pattern of settlement exhibited in that area; add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to criteria a) of Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the siting is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.
5. The proposal is contrary to paragraph 6.9 of the SPPS and Policies BH 2 and BH3 of Planning Policy Statement 6, Natural Heritage, as insufficient information has been submitted to demonstrate that the proposal is not likely to adversely affect archaeological sites or monuments which are of local importance or their settings.

Appendix One: Site Location Plan



Appendix Two: Site Inspection Photographs (11 May 2022)

Figure 1: Front/roadside Boundary (on the right)



Figure 2: View of Application Site from Newcastle Road facing Southeast.



Figure 3: Application Site from Newcastle Road.



Figure 4: View of Newcastle Road from within the Application Site.



Figure 5: Existing agricultural Access in Northwest corner of Application Site.



Figure 6: Existing Agricultural Lane within Application Site.



Figure 7: View Southwest from Lower Ground/Agricultural Lane within Application Site.



Figure 8: Northwest Boundary/adjacent Farm Holding.



Figure 9: View from within Application Site - Northwest to Southeast.



Figure 10: View from within Application Site - Southeast towards No. 13A Newcastle Road.



Figure 11: View from within Application Site - Southeast to Northwest



Figure 12: View from within Application Site facing North.



Figure 13: View from within application site - topography inclines to the Southwest



Figure 14: View from within Application Site facing Southeast to Northwest - Applicants Farm Holding in Background.



Figure 15: View from Southeast Boundary towards No. 13A Newcastle Road.



Figure 16: Access into Applicants Farm Holding.



Figure 17: No. 15 Newcastle Road and Access into farm Holding.



Figure 18: Residential Development on Newcastle Road on the Opposite side of the road to the application Site - Replacement dwelling.



Figure 19: Further Residential Development on Newcastle Road on the Opposite side of the Road to the Application Site - Replacement dwelling.




ITEM 4.3

Ards and North Down Borough Council

Application Ref	LA06/2021/0061/F
Proposal	Proposed residential development comprising the erection of 188 No. dwellings, open space (including designation NS 43) landscaping, children's play area, next phase of the distributor road, internal road network, SuDs pond and all associated site and access works and proposed amendment of the section 76 planning agreement
Location	Lands to West of Nos. 110 & 110A-110D Movilla Road; North of Nos. 6-10 (evens) Cloverhill Park, Nos 1, 3 & 10 Cloverhill Crescent, Nos 5, 7 & 8 Deanswood Crescent, Nos 12-26 (evens) Edenvale Crescent, Nos 5, and Nos 2, 2A & 4 Earlswood Drive, East of Nos 15-27 (odds) Cronstown Cottage Avenue, South of No 8 Cronstown Lane and North of Phase 2 of "Rivenwood", Newtownards
Committee Interest	Application in the Major category of development
Validated	02/03/2021
Summary	<ul style="list-style-type: none"> • Site forms part of the larger site zoned for housing in the Ards and Down Area Plan as NS20. • Proposal for development of Phases 3a & 3b of NS20 zoning and part of NS43 (zoned open space). Phases 1 & 2 granted planning permission (completed and nearing completion respectively). • Proposed Concept Masterplan is broadly reflective of that previously agreed at the time of approval of Phase 2 in terms of the Development Plan's key site requirements including the route of the eastern distributor road (EDR), future roundabouts at Movilla Road and Donaghadee Road, provision of local neighbourhood centre and reservation of a site for educational purposes. • Phase 2 approval was subject to a Planning Agreement prepared under Section 76 of the Planning Act (NI) 2011. • As part of this application Council is requested to agree to an amendment of the existing Section 76 Agreement, in

	<p>particular in relation to trigger points associated with the delivery of the NS20 portion of the EDR.</p> <ul style="list-style-type: none"> • The proposed amendment introduces end dates by which the EDR must be provided through the Applicant's NS20 landholding and in the event of non-compliance with the amended trigger points, the Applicant has agreed to additional safeguards to guarantee the road is delivered through Phase 3 lands. • The amended trigger points and additional safeguards will together ensure comprehensive development of the zoning, prevent a ransom situation occurring and ensure Development Plan and planning policy compliance. • Site is affected by ongoing NI Water infrastructure capacity issues in the area. To prevent any environmental harm arising, the s76 Agreement will place a restriction on development of these lands to ensure requisite agreement with NI Water permitting connection to its infrastructure is provided at the appropriate stage. • Officers are satisfied that the proposed design and layout respects the character of the wider area, the overall layout makes adequate provision for public open space and that the proposal will result in no unacceptable impacts on residential amenity. • DFI Roads - no objections and there will be no change to the obligation in the original s76 agreement restricting occupation of dwellings in Phase 3 to 119 dwellings before the EDR meets the roundabout on Donaghadee Road. • 8 objections have been received and matters raised are considered in detail in the Case Officer's Report.
<p>Recommendation</p>	<p>Grant Planning Permission</p>
<p>Attachment</p>	<p>Item 4.3a – Case Officer Report</p>

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2021/0061/F	DEA: Ards Peninsula	
Proposal:	Proposed residential development comprising the erection of 188 No. dwellings, open space (including NS 43), landscaping, children's play area, next phase of the distributor road, internal road network, SuDS Pond, and all associated site and access works and proposed amendment of the section 76 planning agreement		
Location:	Lands to West of Nos. 110 & 110A-110D Movilla Road, North of Nos. 6-10 (evens) Cloverhill Park, Nos 1, 3 & 10 Cloverhill Crescent, Nos 5 7 & 8 Deanswood Crescent, Nos 12-26 (evens) Edenvale Crescent, Nos 58 & 87 Stratheden Heights, Nos 7, 8, 10 & 12 Kensington Park & Nos 2, 2A & 4 Earlswood Drive, East of Nos 15-27 (odds) Cronstown Cottage Avenue, South of No 8 Cronstown Lane & North of Phase Two of "Rivenwood" Newtownards		
Applicant:	Fraser Houses (NI) Ltd		
Date valid:	02.03.2021	EIA Screening Required:	Yes
Date last advertised:	04.08.2023	Date last neighbour notified:	04.08.2023
Letters of Support: 0		Letters of Objections: 8	Petitions: 0
Consultations – synopsis of responses:			
DFI Roads	No objection subject to conditions		
Natural Environment Division	No objection subject to condition		
Water Management Unit	No objection subject to condition		
Land and Groundwater Team	No objection subject to conditions		
Shared Environmental Service	HRA carried out - provided suitable mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.		
Environmental Health	No objection subject to condition		
DFI Rivers/DFI Storm Water Management Group SuDS Sub-Group	No objection subject to condition		
NI Water	No mains sewer capacity to accommodate development		
Historic Monuments Unit	No objection subject to condition		

Summary of main issues considered:

- Principle of development and comprehensive development of NS20 zoning
- Design, visual impact and impact on character and appearance of the area
- Public open space and private amenity space
- Impact on existing and proposed residential amenity
- Access, roads safety and parking
- Archaeology and the built heritage
- Designated sites and other natural heritage interests
- Flood risk and drainage

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://planningregister.planningsystemni.gov.uk/simple-search>

1. Site and Surrounding Area

The application site is situated at the eastern edge of the settlement of Newtownards, as shown in the Ards and Down Area Plan 2015. The site comprises of a series of agricultural fields and is not protected by any nature conservation designations. The eastern portion of the site contains land zoned as open space (NS43). The remainder of the site forms part of a much larger site zoned for housing in the Development Plan (NS20). The topography varies throughout the application site, rising above the 60m contour line, at its highest point, in the area zoned as open space.

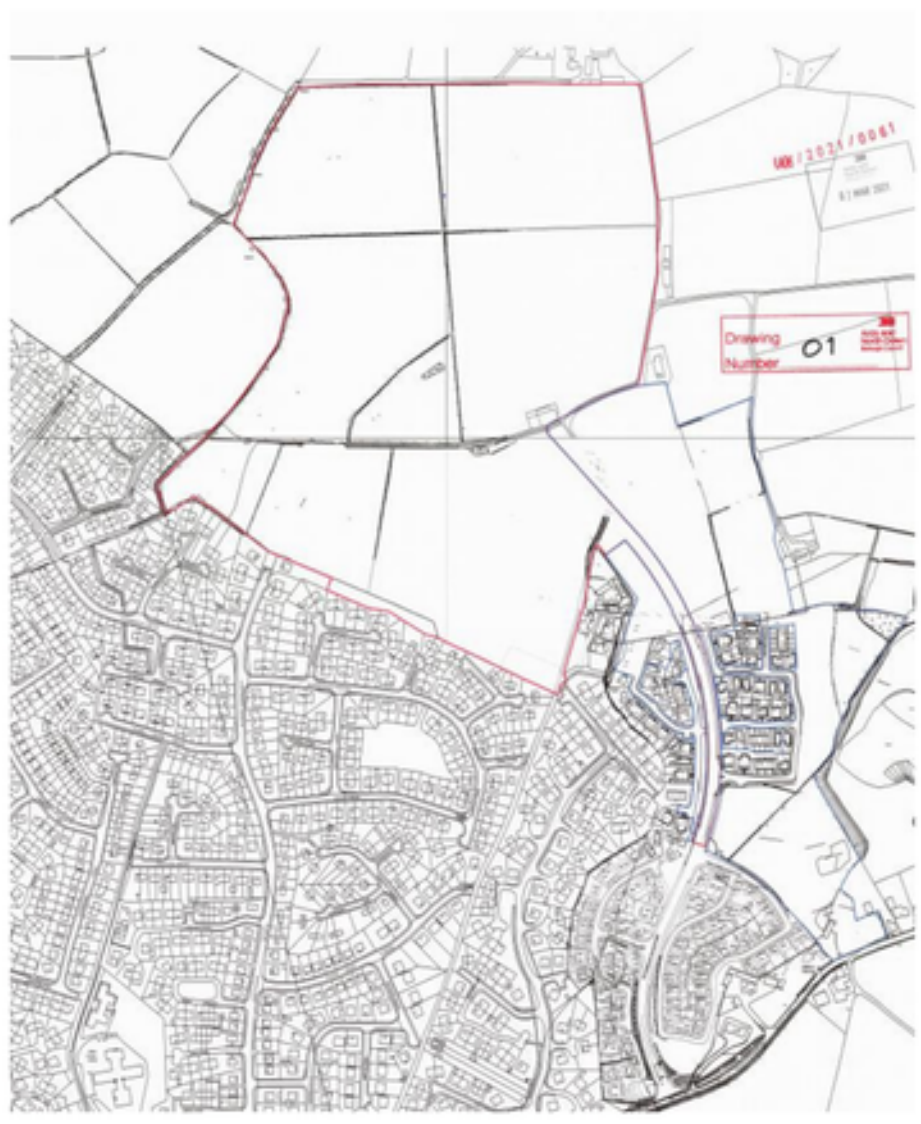
The current application seeks the development of phases 3a and 3b of the NS20 zoning as delineated on the proposed Concept Masterplan (CMP). Full planning permission for 100 houses (phase 1) of the NS20 housing zoning was granted on 15 February 2016 under ref: X/2014/0370/F, and subsequently reduced to 94 dwellings through approval of changes of house types. This initial phase of development has been constructed and the houses are now occupied.

Full planning permission for 185 houses (phase 2) was granted on 16 April 2019. The second phase of development remains under construction. A temporary signalised junction has been installed on the Movilla Road, and a portion of the NS20 Eastern Distributor Road (EDR) has been constructed to facilitate access to the first and second phases of the NS20 development.

A cluster of 1 ½ - 2 storey dwellings (110 and 110b-d Movilla Road) is located to the south-east of the application site. A large established residential area, comprising detached and semi-detached 1 and 2 storey dwellings, is located beyond the south-west boundary of the site. Lands immediately to the north and east of the site are

outside the development limit and comprise agricultural farmland and dispersed dwellings/outbuildings. A farmhouse known as No. 8 Crownstown Lane, and associated outbuildings are located immediately beyond the site's northern boundary. A farm dwelling, known as No.110a Movilla Road, and a group of outbuildings are located directly to the east of the application site adjacent to the NS43 zoning. A waste processing business and former quarry site are located beyond the south-east boundary of the wider NS20 site.

2. Site Location Plan



3. Relevant Planning History

The applications listed in the table below comprise the first and second phases of the NS20 zoning and relate to the portion of land immediately south of the application site. These applications are directly relevant to the determination of the current application and will be taken into account when assessing the proposal against the development plan objectives for the entire zoned NS20 site. The current proposal seeks to utilise the existing access that currently serves the existing NS20 development. Adjacent approved and existing developments will also be considered in the assessment of additional planning matters, including impact on character and appearance of the area, density and residential amenity.

Phase 1

Reference	LA06/2017/0398/F
Proposal	17 detached dwellings with the inclusion of garages - to replace previously approved dwellings at sites 58-74 and 95-100 (Amendment of approval X/2014/0370/F - Phase 1 of 100 houses, with part of the Eastern Distributor Road, a separate access from Movilla Road between Millford Manor and 118 Movilla Road and a 2 hectare site set aside for a future school)
Status	Permission Granted
Date	05.07.2017
Reference	LA06/2017/0340/F
Proposal	4 no. two-bedroom bungalows (House Type P) at sites 22, 23, 28 and 29 with the inclusion of garages to sites 22, 23 and 28. Change of house type from 4 no. three-bedroom semis (House Type Q) and change of plot boundaries for sites 21, 24, 31 and 32 as approved under X/2014/0370/F.
Decision	Permission Granted
Date	07.09.2017
Reference	X/2014/0370/F
Proposal	Phase one of 100 houses, with part of an Eastern Distributor Road and a separate access from the Movilla Road between Millford Manor and 118 Movilla Road Newtownards and a 2 hectare site set aside for future school, temporarily landscaped as open space
Decision	Permission Granted
Date	15.02.2016

Phase 2

Reference	LA06/2022/0836/F
Proposal	185 mixed townhouses, semi-detached and detached houses, with garages, housing roads and extension to Rivenwood Boulevard, with associated open spaces including an equipped play park, and including 12 apartments in a three-storey building - Section 54 Application for variation of conditions of the previously approved application LA06/2017/0533/F for a residential development. Develop land without complying with conditions 2 (hard and soft landscaping); 5 (open space); 6 (play park); 8 (open space management); 9 (planting); and 10 (trees) (seeking change to stamped approved drawing references following amendments to SuDS pond design).
Status	Under Consideration
Reference	LA06/2022/0839/F
Proposal	11 dwellings - Section 54 Application for variation of condition 2 (hard and soft landscaping) of approved application LA06/2020/0682/F for an updated layout in respect of the SuDS Pond.
Status	Under Consideration
Reference	LA06/2020/0867/F
Proposal	Erection of 4 dwellings - Amendment of previously approved application LA06/2017/0533/F to change house type on sites 260, 261, 264 and 265.
Status	Permission Granted
Date	12.02.2021
Reference	LA06/2020/0682/F
Proposal	11 dwellings (Change of house type from 13 dwellings previously approved under LA06/2017/0533/F - net reduction of 2 dwellings - omitting those dwellings previously approved as sites 207 and 208). Change of house types to approved sites 200, 202, 204, 206, 209, 219, 220, 223, 224, 279 & 280. Also including the creation of gated and fenced access lane (including low retaining wall) between sites 196 and 200 for the maintenance of open space and SUDS drainage facility
Status	Permission Granted
Date	07.10.2021
Reference	LA06/2019/0460/F
Proposal	8 no. dwellings - 4 no. dwellings at sites formerly numbered as 235 and 238 to become sites nos. 233, 234, 235 and 236; and change of house types to 3 no. dwellings at site nos. 174, 175 and 233 and retrospective permission for a change of house type to site 155. Amendment to previously approved application LA06/2017/0533/F

Decision	Permission Granted
Date	07.11.2019
Reference	LA06/2017/0533/F
Proposal	185 mixed townhouses, semi-detached and detached houses, with garages, housing roads and extension to Rivenwood Boulevard, with associated open spaces including an equipped play park, and including 12 apartments in a three-storey building
Decision	Permission Granted
Date	12.04.2019

The following current planning application is for the provision of a new roundabout on the Movilla Road to replace the existing signalised junction which currently serves the development in the NS20 zoning.

Reference	LA06/2022/0681/F
Proposal	Junction improvement works consisting of provision of new roundabout (40 metre diameter); amendments to lane positions and footways, including provision of a combined foot/cycleway and associated landscaping to replace existing traffic light junction (to serve existing and proposed development in NS20 housing zoning to the north (Rivenwood) and the future development of the NS19 housing zoning to the south of Movilla Road (Ref: LA06/2019/1046/O))
Status	Under consideration

The following application is relevant in that it comprises land partially within the NS20 zoning and involves an amendment to the boundary of the lands set aside for the school as shown on the CMP for the wider zoning (agreed at the time of the Phase 2 application) and secured through the section 76 agreement.

Reference	LA06/2022/0324/F
Proposal	8 houses on former compound site
Status	Under consideration

The NS21 housing zoning to the north of the NS20 zoning benefits from an extant planning permission under ref: LA06/2020/0333/F (which amended planning permission LA06/2017/0205/F which had in turn amended the original outline planning X/2011/0247/O) and reserved matters consents X/2014/0280/RM (Phase 1B) and LA06/2015/0935/RM (Phase 2) granted thereunder. A Certificate of Proposed Lawful Development (CLOPUD) demonstrates that this development can be completed in accordance with the planning permission (LA06/2020/0795/LDP). This planning permission includes details of the roundabout to be constructed to the north of the NS20 zoning at the Donaghadee Road.

An application for outline planning permission to develop the NS19 housing zoning and remainder of the NS 43 open space zoning is currently under consideration by the Council (LA06/2019/1046/O). The application also includes details of the future

roundabout at the Movilla Road which will replace the existing signalised junction that currently serves the existing NS20 development.

The following current and approved applications for single houses on land to the south and east of the application site, and outside the NS20 zoning, are material to the determination of this application, and they will be taken into account when assessing the residential amenity impacts of the proposed development.

Reference	LA06/2021/1121/O
Location	Lands north of 110d Movilla Road, Newtownards
Proposal	Single detached dwelling
Decision	Permission Granted
Date	26 July 2023
Reference	LA06/2019/1006/F
Location	Adjacent and 110m north of 110a Movilla Road, Newtownards
Proposal	Replacement dwelling (permitted under LA06/2018/0371/O) and garage
Decision	Permission Granted
Date	19.02.2020
Reference	LA06/2018/0371/O
Location	Adjacent and 110m north of 110A Movilla Road, Newtownards
Proposal	Proposed replacement dwelling
Decision	Permission Granted
Date	03.09.2019
Reference	LA06/2021/0378/F
Location	Land approximately 50m SE of 110A Movilla Road, Newtownards
Proposal	Dwelling and Shed (Change of house type and change of siting to approval LA06/2020/0379/F)
Decision	Permission Granted
Date	04.11.2021
Reference	LA06/2020/0379/F
Location	Land approximately 50 Metres SE of 110A Movilla Road, Newtownards
Proposal	New dwelling and garage and associated hard and soft landscaping (in substitute of outline planning permission ref: LA06/2017/1088/O)
Decision	Permission Granted
Date	30.07.2020
Reference	LA06/2017/1088/O
Location	Site immediately East of 110A Movilla Road, Newtownards

Proposal	Proposed dwelling on a farm
Decision	Permission Granted
Date	24.11.2017

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 6: Planning, Archaeology & the Built Heritage
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 7: Addendum – Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 8: Open Space, Sport & Outdoor Recreation
- Planning Policy Statement 12: Housing in Settlements
- Planning Policy Statement 13: Transportation and Land Use
- Planning Policy Statement 15: Revised – Planning and Flood Risk

Planning Guidance:

- Living Places
- Creating Places
- DCAN 8: Housing in Existing Urban Areas

Proposal Description

The current application is for the development of phases 3a and 3b of the NS20 zoning as delineated on the Concept Masterplan (CMP). The redline boundary of the application site includes the entirety of the Applicant's phase 3 lands (phases 3a-3d). Details of a SuDS pond and open space located in the wider phase 3 site (phase 3d) have been included as part of the current application; however, only illustrative details of built development for the remainder of phase 3 have been provided. It is anticipated that a separate planning application for the remainder of phase 3 will be submitted in the future.

Pre-Community Consultation

The proposal is for a major housing development consisting of 188 dwelling units. The Applicant was therefore required to carry out a pre-community consultation (PACC) process in accordance with Section 27 of the 2011 Planning Act. The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations 2020 (as amended) temporarily suspended the requirement for a PACC public event. In accordance with temporary statutory provisions during the emergency period the Applicant put in place alternative arrangements to engage

with the public at pre-application stage. A bespoke website was created for interested parties to view the proposals. Advertisements were published in both the Newtownards Chronicle and County Down Spectator on Thursday 8th October 2020 inviting members of the public to visit the website and contact the Applicant's design team. Having reviewed the Pre-Community Consultation Report, I am satisfied that all statutory pre-application requirements have been fulfilled.

Principle of Development and Comprehensive Development of NS20 Zoning

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

The 27.21 hectare application site forms part of a larger 57.97 hectare site zoned for housing in the Ards and Down Area Plan (NS20). As detailed in the planning history section of this report, full planning permission to develop phases 1 and 2 of the zoning have previously been granted.

Key Design Considerations (KDC) for the NS20 zoning listed in the Development Plan include:

- a) A minimum of 20 and a maximum of 25 dwellings per hectare.
- b) Provision of a road, built to distributor road standards, to run from a roundabout on the Movilla Road, which will also incorporate the Ballyreagh Road upgrade or realignment. The road will terminate at a roundabout on the Donaghadee Road, which will also incorporate the Donaghadee Road/Bangor Road link.
- c) Phasing of housing development in relation to infrastructural works.
- d) Provision of a 2 hectare site to be reserved for a new primary school.
- e) A local neighbourhood centre on approximately 1.5 hectare site.
- f) Retention of trees along the countryside perimeter of the zoning and enhancement with an 8-10m belt of trees to provide screening for the development and help integrate it with the countryside.
- g) Landscape survey to identify trees for retention and enhancement.
- h) No built development above the 60m contour line to the north-eastern boundary of the site.
- i) Provision of pedestrian and cycleway links to Movilla Road and neighbouring residential areas.
- j) Layout designed to provide maximum permeability by bus services.

PPS7 Policy QD2 requires the submission of a concept master plan to demonstrate how the comprehensive development of the entire zoned area can be achieved. Policy QD2 states that any proposal for housing that would result in unsatisfactory piecemeal development will not be permitted.

Further, the Development Plan states that development of the NS20 site will only be permitted in accordance with an agreed comprehensive scheme that will incorporate the neighbouring amenity open space (NS 43) and provide the necessary public infrastructure, including, inter alia, the roads required to serve these lands.

In addition, Policy TRAN 2 of the Development Plan states that development proposals reliant on the construction of roads schemes will not be permitted in advance of the road scheme being completed to an appropriate stage.

Phase 3 Concept Master Plan

A Concept Master Plan (CMP) to illustrate how the comprehensive development of the wider NS20 zoning would be undertaken was agreed at the time of the phase 2 planning application. An amended CMP has been submitted as part of the current phase 3 application.

The proposed phase 3 CMP is broadly reflective of that previously agreed in terms of the key Development Plan requirements including the route of the eastern distributor road, location of future roundabouts access points on the Movilla Road and Donaghadee Road, and the provision of the local neighbourhood centre. Whilst the boundary of the land set aside for the school shown on the proposed CMP has been amended from that previously agreed, I am satisfied that the quantity of land remains 2ha in compliance with the relevant KDC.

In accordance with Development Plan requirements, the proposed NS20 portion of the EDR will allow for bus permeability. Cycleways and pedestrian footpaths will be provided to promote a shift to a more sustainable form of transport. A pedestrian link between the NS20 site and Old Forge Drive is proposed as part of the current application. The CMP also indicates a potential pedestrian/cycle link from the wider NS20 site to Cronstown Cottage Park for a future phase of development.

A further KDC listed in the plan is for the entire zoned site to deliver a minimum of 20 and a maximum of 25 dwellings per hectare. The current application (phases 3a & 3b) will deliver 188 units. The combined density for the previously approved first and second phases of development and the current proposal is approximately 16.1 units per hectare and below the minimum threshold specified in the plan. The agent contends that development of the wider phase 3 site, which is in the ownership and control of the Applicant, will deliver an additional approximately 300 units including 20 'living over the shop' units. This would raise the density provision across the entirety of the Applicant's lands to approximately 18.5 dwellings per hectare. The minimum densities for phases 3c and 3d can be secured via an obligation in the planning agreement. Whilst the overall density for the Applicant's lands remains slightly below the minimum threshold specified in the Development Plan, this only represents part of the overall NS 20 zoning. In addition, this individual developer has delivered all of the other land use requirements contained within the KSR's within the NS20 zoning. Thus, on balance in my professional planning opinion this is acceptable in a context whereby a large portion, phases 4 and 5 of the overall zoning remains to come forward for development. Those applications will in turn be determined on their own merits in accordance with statutory requirements under the Act.

The proposed CMP includes an approximately 8 metre buffer zone of planting along the rural edges of NS20, as required by the Development Plan. Existing mature trees are to be retained in the proposed area of open space to the west of the distributor road. The current application proposes a loss of 2,791.45 sqm of land designated as open space along the boundaries of NS43; however, no built development is proposed above the 60m contour line in accordance with a KDC for NS20. This loss of open space will be considered against the provisions of Planning Policy Statement 8 Open Space and Outdoor Recreation in a later section of this report.

Original Section 76 Planning Agreement

Section 76 of the 2011 Planning Act enables the relevant authority, that is either a council or, the case may be, the Department, to enter into a planning agreement with any person who has an estate in land. A planning agreement is a legally binding agreement between a council and person(s) with an estate in the land. A planning agreement can play a meaningful role in the development management process as a valuable mechanism for securing planning matters arising from a development proposal. Both Development Management Practice Note 21: Section 76 Planning Agreements and Planning Policy Statement 7: Quality Residential Environments, support the use of a planning agreement in such circumstances, where it is necessary to secure any local facilities and infrastructure needed as a result of the development.

The SPPS details that planning authorities can use planning agreements to overcome obstacles to the grant of planning permission where these cannot be addressed through the use of conditions. A planning agreement may, inter alia, facilitate or restrict the development or use of the land in any specified way, require operations or activities to be carried out, or require the land to be used in any specified way.

The SPPS sets out the policy tests for the use of planning agreements as follows:

A planning agreement may be considered appropriate where what is required cannot be adequately addressed by the imposition of conditions and:

- is needed to enable the development to go ahead;
- will contribute to meeting the costs of providing necessary facilities in the near future;
- is otherwise so directly related to the proposed development and to the use of the land after its completion, that the development ought not to be permitted without it;
- is designed to secure an acceptable balance of uses;
- is designed to secure implementation of development plan policies in respect of a particular area or type of development; or
- is intended to offset the loss of, or impact on, any amenity or resource present on the site prior to development.

A developer will be expected to pay for, or contribute to, the cost of any infrastructure what would not have been necessary but for the development.

DFI's Development Management Practice Note 21 on Planning Agreements advises as follows:

"When considering the use of a planning agreement, it is fundamental to assess if the agreement sought or offered is necessary in planning terms, directly related to development with a functional or geographical link and related in scale and kind to the development."

Furthermore, in relation to comprehensive development of a site which is owned by several parties, it states that "it may be appropriate to ensure that the development of the site is achieved at one time. This may be where a single access road serves the site or is to be constructed and failure of one of the owners to implement their part, or the emergence of a ransom situation could prejudice the whole development."

The planning permission for phase 2 of the NS20 zoning was subject to the execution of a Section 76 planning agreement to secure the orderly development of land within the NS20 zoning in accordance with the provisions of the Development Plan, including Policy Trans 2, and Policy QD2 of PPS7.

Whilst the majority of NS20 lands are in the sole ownership and control of the Applicant 'Fraser Houses' (phases 1, 2 and 3), the wider area of zoned land, over which the Council must consider the policy requirement of comprehensive development, is in multiple ownership.

The extant NS20 planning agreement was entered into by the Applicant only and relates to phases 1, 2 and 3 of the CMP which is all under control of the Applicant and represents the largest land holding in the NS20 zoning.

The inability to have all NS20 landowners execute the extant planning agreement, was not considered to result in piecemeal development, as (1) the Applicant's lands comprise almost 80% of the lands within the NS20 zoning, and (2) the Applicant agreed to covenant to provide the major key elements of the Development Plan in a phased manner and importantly linked to the delivery of key infrastructure for the entire zoning and not just the Applicant's land holding within the zoning.

The original Planning Agreement secured the delivery of land for a school, NS43 area of open space and the development of a Local Neighbourhood Centre. A key component of the original planning agreement is the phased delivery of a distributor road through the Applicant's entire land holdings at various trigger points linked to the quantum of dwellings permitted to be occupied. This would ensure unfettered access to adjacent land holdings and would prevent piecemeal development or the creation of ransom strips of land contrary to planning policy.

In relation to the delivery of the distributor road, the original planning agreement requires that:

- No more than 66 dwellings are to be occupied until the distributor road is completed to the edge of phase 2 lands where it meets and abuts phase 3 lands;

- No more than 150 dwellings in phase 2 (of the 185 permitted) to be occupied until the distributor road is completed to the edge of phase 3 lands where it meets phase 5 lands;
- No dwellings in phase 3 can be occupied until the distributor road is constructed through the entirety of phase 3 lands; and
- No more than 119 dwellings in phase 3 can be occupied until the distributor road has been constructed in full, from the Movilla Road to the Donaghadee Road including the provision of a roundabout where the distributor road joins the Donaghadee Road.

Full details of the covenants for the original planning agreement have been appended to this report for the Committee's information (**ANNEX 1**).

Proposed Amendments to the Extant Planning Agreement

The Applicant has requested that the Council agree to an amendment of the existing Section 76 planning agreement in relation to the delivery of the distributor road and the trigger points associated with same. A supporting statement, prepared on behalf of the Applicant, outlines that this request is a consequence of on-going NI Water infrastructure capacity issues affecting eastern Newtownards. Whilst the entirety of the phase 2 development has received approval to connect to existing drainage infrastructure, NI Water has advised that there is currently no infrastructure capacity to serve the remainder of the NS20 housing zoning.

NI Water informed the Council's Planning Department that a strategic solution is required to address infrastructure capacity issues in eastern Newtownards and that this is to be developer led and funded. NI Water recommend that the occupation of dwellings proposed as part of the current phase 3 application be restricted until the sewage infrastructure is upgraded to deliver sufficient capacity.

The original Planning Agreement requires the Developer to complete the section of the distributor road that will run through phase 3 lands before the remaining 35 houses in phase 2 can be occupied. The Applicant contends that if the planning agreement remains unaltered, they will be unable to construct and have occupied the last 35 dwellings of their phase 2 planning approval due to the financial implications of delivering a solution to the NI Water capacity issue in addition to the cost of constructing the distributor road through the entirety of phase 3 lands.

The Applicant has asked if they could delay the delivery of the distributor road through the phase 3 lands, building it instead at trigger points within the development of the phase 3 lands, and in the meantime be permitted to construct and have occupied the remaining 35 houses in phase 2, despite the fact the phase 3 section of road would not be complete.

The Council's Planning Department was concerned that this approach would lead to delay in the overall delivery of the road. It would also mean decoupling completion of the road from the build of the remaining houses in phase 2, meaning the Developer could potentially complete the housing development in phase 2 and move to another site free of any requirement to complete the road.

To ensure the zoning is developed in the public interest and planning policy is satisfied, the Council's Planning Department has worked in close liaison with the Applicant to agree an alternative solution as summarised below. A draft copy of the proposed covenants, the associated Phasing Plan and Road Transfer Maps is appended to this report (**ANNEX 2**).

- (1) Prior to the occupation of the 171 Dwelling within the phase 2 lands/any dwelling on phase 3 lands, and no later than the 31st December 2025, whichever is sooner, the Distributor Road as delineated on the Concept Master Plan shall be constructed in full (to the point marked Y) to the requisite standard for a Preliminary Certificate of Adoption to issue in accordance with Article 7 (2) of the Private Streets (NI) Order 1980.
- (2) Prior to the occupation of the 41st dwelling on phase 3 lands and no later than 31st December 2027, whichever is sooner, the Distributor Road shall be constructed in full up to and touching the boundary of the Phase 5 Lands (between Point Y and Point Z) as delineated on the Phasing Plan, to the requisite standard for a Preliminary Certificate for Adoption to issue in accordance with Article 7(2) of the Private Streets (NI) Order 1980.

As a further safeguard the Applicant has agreed to execute a Transfer in favour of the Council of the lands required for the construction of the Distributor Road from the edge of phase 2 to the phase 5 boundary which shall be held in escrow but shall be released from escrow and delivered to the Council if the Developer is in breach of its obligation to deliver the road by the agreed trigger points.

In order to secure and guarantee the delivery of the Distributor Road from the edge of phase 2 lands up to and touching the boundary of the phase 5 lands as delineated on the Phasing Plan (phase 5 boundary) in the event of non-compliance with (1) and/or (2) above, the Developers agree to provide a secured guarantee in favour of the Council to be prepared by the Solicitors acting for the Council which will, in the event the Distributor Road not being completed to the boundary of phase 5 lands in the requisite period, pay to the Council the cost of the construction of the remaining portion of the Distributor Road up to that point. The costs shall include the laying of appropriate sewage and utility infrastructure to serve the remainder of the NS 20 zoning to the North (phases 4 and 5).

As considered in a subsequent section of this report, off-site infrastructure required to address the NI Water network capacity issues affecting eastern Newtownards can only be secured via an obligation within the Section 76 planning agreement. Such an obligation would restrict development within phase 3 to no more than 31 dwellings until the Developer has submitted to the Council the requisite agreements with Northern Ireland Water permitting the discharge of foul sewage into the sewer network and the Council in consultation with Northern Ireland Water has approved in writing the agreements.

Obligations in the original planning agreement in relation to the following matters will remain unchanged but will relate to the updated CMP submitted as part of the current phase 3 planning application.

- 2ha site set aside for a future school,
- delivery on the roundabouts on the Movilla and Donaghadee Road, local neighbourhood centre and open space (NS43),
- no more than 119 dwellings within phase 3 will be occupied until the road is constructed in its entirety running the full extent from the Movilla Road to the south to the Donaghadee Road to the north.

The Planning Agreement, as amended, will include additional safeguards to secure delivery of the road within the Applicant's NS20 lands by a defined date. The build out of the remainder of phase 2 lands, and all of phase 3 lands will be phased in accordance with amended trigger points to ensure the orderly and phased development of those lands. Should the agreement be breached, the Council will have access to the bed and soil of the distributor road and will be able to call upon the secure guarantee to complete the phase 3 portion of the distributor road providing certainty in relation to the delivery of same. The Planning Department is satisfied that these measures together will prevent piecemeal development of the zoning and ransoming occurring which could prejudice the overall delivery of the eastern distributor road. Given it is a developer led scheme, DFI Roads have no role in the funding or construction of the NS20 distributor road itself.

The Planning Department remains content that the agreement, as proposed to be amended, meets the policy tests set out in the SPPS. The distributor road is solely required to facilitate the quantum of housing proposed on the eastern side of Newtownards. The delivery of each of the other Development Plan requirements will be secured, and the trigger points for delivery of the Local Neighbourhood Centre and open space will remain unchanged from the original planning agreement signed under the phase 2 planning application.

It is considered on balance, having weighed the material considerations, that in the Planning Department's professional judgement the proposed amended planning agreement will prevent a future ransom situation occurring, and will ensure that the development of the NS20 zoning is policy and plan compliant, avoids piecemeal development and delivers the key features of the development plan. The Planning Agreement, as amended, will put in place covenants on the land which restrict the development of the Applicant's site and wider land holding within NS20 to facilitate the comprehensive development of the entire zoning and avoid piecemeal development. A copy of the proposed covenants is appended to this report in draft form subject to final agreement (**Annex2**).

The Planning Department is content that the amendments to the extant planning agreement are plan and policy compliant and are appropriate in the legal context. The Council's Corporate Services Committee, at its meeting on 10 May 2022, agreed, in principle, to the acquisition of the phase 3 distributor road land. This was agreed without prejudice to the outcome of current planning application.

In entering into such a revised planning agreement, the Applicant will agree to restrict any forthcoming development of its lands in accordance with the updated CMP. Consistent with the extant planning agreement, the revised agreement will contain a clause stating that it in no way grants planning permission, and does not fetter the Council's discretion, regarding the determination of any subsequent

planning applications relating to the remainder of phase 3, or phases 4 and 5 which will each be dealt with on their own merits in accordance with Section 45 of the Planning Act.

If the Committee resolves to approve the planning application in the context of the revised CMP and subject to the amended planning agreement, the Planning Department seeks delegated authority to negotiate and execute the agreement as a deed prior to the issuance of any planning permission – an approach consistent with the phase 2 planning application. As noted above, a draft of the proposed covenants subject to final agreement with the Council's solicitor is provided at **ANNEX 2** for the Committee's information. The planning agreement will then be placed on the Statutory Charges Register as per the requirement in Section 245 of the 2011 Act. This will make the agreement a matter of public record and ensure that the provisions of the agreement are enforceable against successive owners of the land the subject of the agreement.

Design, Visual Impact and Impact on Character of the Area

Policy QD1 states that the development should respect the surrounding context and be appropriate to the character and topography of the site, in terms of layout, scale, proportions, massing and soft and hard landscaped areas.

The site context is primarily characterised by medium density one and two-storey detached and semi-detached properties, with private gardens to the rear and in-curtilage parking to the front. The proposed development includes one and two-storey detached and semi-detached dwellings. The proposed layout respects the pattern of development previously approved in the NS20 zoning and that contained in wider area. The layout has been informed by the topography of the land and it is proposed to retain land above the 60m contour line, to the northeast of the site, as open space.

The overall design, scale, height and massing of the proposed dwellings are largely in keeping with the first and second phases of Rivenwood and will respect the character of the wider area. The finishes (white brick and grey timber cladding) whilst similar to those used in the in the initial phases of Rivenwood (buff brick and white timber cladding) will create a variety of design to enhance visual interest. The design and finishes will also respect the character of the wider residential area, where a mix of finishes and building designs are present.

Planting is proposed throughout the site and along site boundaries to soften the visual impact of the development and assist integration. Proposed extra heavy tree planting will line both sides of the distributor road and will contribute to an attractive street scene. In accordance with Policy QD1 landscape proposals also identify existing hedgerows and trees that will be retained and integrated into the overall design and layout of the development. Existing mature hedgerows and trees along the eastern and western perimeters of the zoning, opposite open countryside, will be retained and enhanced with a substantial belt of native species trees, to provide screening for the development and help integrate it into the surrounding countryside. Existing Ash trees within the location of the proposed area of open space and play

park to the centre of the site are to be felled due to the presence of Ash dieback disease as recommended following a tree survey conducted by a qualified Arboriculturalist (Tree Survey Report, 19 May 2022). Compensatory planting within this proposed area of space will nevertheless be provided to create a pleasant and attractive landscaped communal area.

The Addendum to PPS 7 states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites to accommodate new housing where the proposed density is not significantly higher than that found in the locality.

The application site is not a vacant infill site surrounded by an established residential area; rather it forms part of a larger area of zoned housing land (NS20) on the edge of the settlement of Newtownards. The 2011 Act established a plan-led system for decision making. In this context, it is important to note that the Area Plan seeks a minimum of 20 and a maximum of 25 dwellings per hectare for the entire NS20 zoning.

The applicant's lands comprise approximately 41.39ha. Under the current phase 3a & 3b application 188 residential units are proposed. The planning agent has indicated that the remainder of phase 3 lands will deliver an additional 300 units (including 20 living over the shop units). Consequently, the combined density for phase 1, 2 & 3 lands would equate to approximately 18.5 dwellings per hectare. The density of the adjacent Old Forge development is approximately 17 dwellings per hectare. I am therefore satisfied that the proposed density would not be significantly higher than that found within the wider area. Whilst apartments and townhouses are not proposed under the current application such house types were approved under the phase 2 planning application. The Applicant has indicated that a variety of house types will also be including in future applications to develop the wider phase 3 lands. I am therefore satisfied that the development of the NS20 housing zoning will offer a range of housing opportunities and choices to meet local housing needs.

The proposed dwellings meet the space standards set out within the Addendum to PPS7.

Public Open Space/Private Amenity Space

Under PPS8 Policy OS1, there is a presumption against the loss of land zoned for the provision of open space. However, the policy goes on to state that an exception will be permitted in certain circumstances.

The proposed layout shows a loss of 2,791.45 sqm of land allocated for open space (NS43) in phase 3. No built development is proposed on land above the 60m contour line in the NS43 designated site. In accordance with Policy OS1, it is considered that the loss of this open space will have no significant detrimental impact on the amenity, character, or biodiversity of the area.

The application includes alternative provision of accessible useable open space that is equivalent in terms of size, usefulness, attractiveness, safety, and quality. The main areas of open space include a formal central landscaped play area and a

landscaped entrance to phase 3a. A SuDS Pond/landscaped area is proposed to the west of the site (phase 3d). The CMP for the wider NS20 lands indicates additional open space along the western boundary of the site phase 3c) that will be subject to a future planning application.

The preliminary design of the SuDS Pond indicates that the access path to the rear will be for maintenance purposes only. The SuDS Pond will be open to the front with substantial native tree and shrub planting to enhance safety, soften the engineering form, and increase habitat for wildlife (detailed design and landscaping to be controlled via negative condition). The preliminary plans indicate that the area comprising the SuDS Pond will be reasonably accessible, and it is considered that it has the potential to provide a valuable visual amenity to those using the adjacent landscaped area, internal road network and for the occupants of dwellings fronting onto this space.

Policy QD1 of PPS 7 states that adequate provision should be made for public and private open space. For residential developments of 300 units or more, or for development sites of 15 hectares or more, a normal expectation will be around 15% of the total site area. The current phase 3a and 3b application proposes approximately 27,656.24 sqm of public open space. In addition, the CMP identifies opportunities for further open space (approximately 6945.05sqm) in remaining phase 3 lands beyond that proposed as part of the current application. The previously approved first and second phases of the NS20 housing zoning includes useable public open space provision of approximately 19,105sqm. This would equate to overall open space provision of 13.69% across the entirety of the Applicant's housing lands which is below the recommended provision detailed in Policy OS2 of PPS8 that will be required for the entire zoned area.

Phase 2 includes a 6843 sqm wetland area. In accordance with the details of the phase 2 approval, the wetland area would not be accessible to future residents. The Applicant has submitted a Section 54 planning application to amend the Phase 2 approval to enable access to this portion of the zoned site to be developed as useable public open space. This proposal would significantly increase the level of public open space provided across the Applicant's lands to approximately 15.4% which is in accordance with policy requirements.

It is considered that the proposed open space and landscaped areas will break up the overall built form of the development. The layout arrangement ensures that there are no isolated areas of communal space within the site which are not overlooked and that could give rise to anti-social behaviour. Given the orientation of the proposed dwellings relative to the NS43 area of open space, and to prevent the obstruction of views towards the zoned area of open space in the future, I recommend that any approval of the application should be subject to a condition to remove the potential for future extensions or structures to be erected adjacent to the zoned open space, under permitted development.

An equipped children's play area will be provided as an integral part of the scheme. This accords with the requirement in Policy OS2 to provide safe opportunities for children's play for residential schemes of 100 units or more. Any potential approval of this application will be subject to conditions requiring that the open space and

play park are made available and subsequently retained, managed and maintained in perpetuity as public amenity space.

The proposal provides a variety of garden sizes to promote choice for future residents. In accordance with Creating Places, an average of at least 70sqm of private amenity space behind the building line has been provided, with no less than 40sqm for any individual house.

Impact on Residential Amenity

PPS 7 Policy QD1 states that the design and layout should not create conflict with adjacent land uses and there should be no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise, or other disturbance.

The proposed dwellings on sites 158-161 back onto land to the north of No.110d Movilla Road. There is at least 10m separation between the rear elevation of the proposed dwellings and centre of the adjoining boundary in accordance with Creating Places standards. This separation distance together with the orientation of the proposed dwellings relative to that of existing dwelling will prevent any unacceptable adverse residential amenity impacts.

Outline planning permission for a single dwelling on land to the north of No.110d Movilla Road was recently granted on 26 July 2023 (LA06/2021/1121/O). The closest proposed dwellings on sites 158 & 159 are at least 10m from the proposed intervening boundary. I have reviewed the approved concept layout for the single dwelling, and I am satisfied that the separation distance and orientation of the dwelling in relation to the proposed NS20 site will ensure the residential amenity of all future occupants will not be unduly harmed.

Sites 154 – 157 are located immediately adjacent to the proposed new boundary with No.110 and No.110D Movilla Road. One and a half storey dwellings are located along this portion of the site (House Type T13). The only first floor openings to the rear (facing the existing dwellings) are roof lights and therefore I am satisfied that the proposal will not adversely impact the residential amenity of the existing dwellings. The separation distances between the proposed dwellings and the new intervening boundary (at least 13m) will further minimise any potential impact on residential amenity.

The single storey nature of the proposed dwelling on site 152 (House Type T12), together with the ample separation distance (in excess of 30m) to the nearest existing dwellings, and the proposed intervening boundary vegetation, will prevent any unacceptable adverse impacts on residential amenity.

A two-storey dwelling (House Type T14B) is proposed on site 151. Ample separation distance is provided between this proposed dwelling and the existing dwellings at Nos.10 & 11 Old Forge Avenue (32m & 28m respectively). The proposed dwelling on site 151 backs onto the most private amenity space associated with No.10 Clover Hill Park; however, the rear elevation of the proposed dwelling does not contain

windows at ground or first floor level and therefore adverse overlooking will not occur. Given the difference in Finished Floor Levels (FFL) between No.10 Clover Hill Park and the proposed dwelling, and in the interest of protecting existing residential amenity, I recommend that an approval of this application is subject to a condition which will remove the potential for future alterations to the rear elevation under permitted development without the benefit of an application for planning permission.

The gable elevation of No. 10 Clover Hill Park facing the application site contains high level windows. The high-level nature of the existing windows, in combination with the position and orientation of the existing property relative to the proposed new dwellings, would ensure there is no unacceptable impact on residential amenity. In addition, I am satisfied that the separation distance between the proposed dwellings at sites 149-150 and the adjoining boundary is in accordance with Creating Places standards (approximately 10m) and therefore any overlooking towards amenity space to the side of No.10 Clover Hill Park would not be unacceptably adverse. I am also satisfied views from the proposed dwelling at sites 149-150 towards No. 8 Clover Hill Park could only be achieved at an oblique angle and that any potential for overlooking would be further minimised by the separation distance, and the intervening boundary.

The proposed dwellings on sites 147-148 will back on to 6-8 Clover Hill Park. The Site Layout Plan (SLP) indicates that the FFL of the existing dwellings is slightly higher than that of the proposed dwellings. The separation distance between the proposed dwellings and the existing properties satisfies Creating Places standards and therefore I am satisfied that unacceptable adverse overlooking will not occur.

No.110a Movilla Road is positioned adjacent to land zoned as open space in the area plan (NS43) and is sufficiently separate from proposed new dwellings to prevent any adverse impact on residential amenity. I am also satisfied that the intervening area of open space will prevent any adverse residential amenity impacts between the proposed development and the future replacement dwelling to the north of No.110a Movilla Road (approved under ref: LA06/2019/1006/F).

Land to the east of No.110a Movillia Road benefits from extant planning permission for a farm dwelling (most recent application ref: LA06/2021/0378/F). It is considered that the proposed separation of approximately 20m between the approved farm dwelling and the closest proposed dwelling will protect the residential amenity of the approved and proposed properties to a reasonable degree. Any potential overlooking will be further reduced by substantial proposed intervening planting.

In addition, it is my professional planning judgement that the separation distances provided are sufficient to ensure the proposal would not result in any unacceptable adverse impact on existing neighbouring properties in terms of loss of light, overshadowing, dominance, or other disturbance.

The proposed internal residential layout has been designed to help safeguard the residential amenity of the proposed dwellings and the dwellings previously approved in the NS20 zoning. It is considered that the proposed separation distances between new dwellings, the location and orientation of windows, and the proposed

intervening boundary features, will together ensure that there will be no unacceptable adverse impact on the residential amenity of proposed or approved dwellings in terms of overlooking, loss of light, overshadowing, or dominance.

The Council's Environmental Health Department reviewed a Construction Noise Management Plan submitted in support of the application which has predicted the worst-case potential noise impact resulting from construction activities including rock breaking at the nearest noise sensitive receptors. Attenuated noise levels have then been calculated with the proposed Heras acoustic fencing. The report concludes that the implementation of mitigation and control measures will ensure that all construction noise levels are within BS5228 noise threshold noise limit of 65 dB. Whilst it is acknowledged that noise is an unavoidable feature of any construction, the developer will be expected to take all reasonable steps to minimise disturbance. Therefore, any approval of this application should be subject to a planning condition to ensure compliance with the mitigation measures outlined in the Construction Noise Management Plan.

Access, Roads Safety and Car Parking

The proposal has been assessed against PPS7 Quality Residential Environments, Policy AMP7 of PPS3 Access Movement and Parking and PPS13 Transportation and Land Use.

The previously approved first and second phase of the NS20 zoning is accessed from a signalised junction on the Movilla Road via a road built to distributor road standards. The current application proposes the extension of the NS20 portion of the EDR through the remainder of the Applicant's lands to the boundary between Phase 3 and Phase 5.

A phasing briefing note submitted in support of the phase 2 application recognises that the full development of phase 3 would not be possible from the single access junction from Movilla Road. The briefing note makes reference to Creating Places guidance which indicates that a local distributor road is required at the point at which more than around 400 dwellings are served. As previously highlighted in this report, the s76 planning agreement, as amended, would ensure that there is no change to the current provision of the S76 Agreement restricting the occupation of dwellings in phase 3 to 119 dwellings before the distributor road meets the roundabout on Donaghadee Road. In addition, the planning agreement would secure the phased construction of a distributor road through the Applicant's entire land holdings.

The proposed eastern distributor road will allow for bus permeability, and cycleways and pedestrian footpaths will be provided to promote a shift to a more sustainable form of transport. DfI Roads has been consulted and provides no objection to the proposal. Conditions will be attached to any potential approval of this application to promote roads safety and assist the progression of traffic.

Each of the detached and semi-detached dwellings and townhouses have been provided with two in-curtilage parking spaces. Submitted plans show capacity for 151 additional on-street visitor parking spaces throughout the development. The

proposed site is close to the Movilla Road, which is a highly accessible location well served by public transport. It is therefore considered that parking provision is fully compatible with policy requirements.

Archaeology and Built Heritage

HED (Historic Monuments) provided no objection subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation *in situ*, as per Policy BH 4 of PPS 6.

Security from Crime

The layout has been designed to deter crime as the dwellings front onto the new internal road layout and there will be no isolated areas of open space that are not overlooked. As previously stated, permitted development rights for the dwellings immediately adjacent to the zoned area of open space will be removed to ensure visibility towards this area can be maintained in the future.

Local Neighbourhood Facilities

The current application does not include details of community facilities. However, the concept master plan for the entire zoning shows a 2-hectare site reserved for a new primary school (phase 1) and an approximately 1.5-hectare site identified for local community facilities (phase 3d) on land within the ownership of the Applicant. As detailed previously in this report, delivery of local community facilities will be secured via the planning agreement.

Designated Sites/Other Natural Heritage Interests

The planning application was considered in light of the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of Ards and North Down Borough Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. Having considered the nature, scale, timing, duration and location of the project SES concluded that, provided suitable mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

A Primary Ecological Assessment (PEA) and Bat Activity Report were submitted with the application. NED reviewed this supporting information and provided no objection in relation to the potential impact on designated sites and other natural heritage interests subject to a condition requiring the development to be carried out in accordance with an agreed Construction Environmental Management Plan.

The site largely comprises improved agricultural grassland and hedgerows. The Bat Activity Report states that there are no buildings or trees with bat roost potential within the site. Whilst four species of bat foraging and commuting over the site was recorded, the overall bat activity is considered to be low. Detailed planting plans

indicate a substantial amount of new planting is proposed throughout the site including native woodland planting along the boundaries. NED is content this planting will provide sufficient compensation for the loss of existing foraging and commuting habitat within the site.

The PEA states that no badger setts were recorded within the site; however, there was evidence of badgers using the site. Badgers and their places of refuge are protected at all times under the Wildlife (Northern Ireland) Order 1985 (as amended). NED recommends that details of all mitigation measures to protect badgers are included in the final CEMP.

Tree and hedgerows on site have the potential to support breeding birds. All wild birds and their nests are protected under the Wildlife (Northern Ireland) Order 1985 (as amended) outside of the planning regime. NED is satisfied that the proposal is unlikely to have a significant impact on breeding birds provided any vegetation removal is carried out outside the bird breeding season or following a check for active nests by a competent ecologist (as recommended in the PEA) and the proposed compensatory planting is implemented.

Flood Risk and Drainage

Presumption against Development in the Floodplain

DFI Rivers Flood Maps (NI) does not indicate a floodplain associated with the undesignated watercourse along the western boundary of phase 3 and those minor watercourses within the proposed new SuDS ponds on an existing area of marsh land to the west of the site. This is due to the fact that these minor watercourses fall below the threshold for river modelling.

River modelling, carried out on behalf of the Applicant as part of the Flood Risk Assessment (FRA) has established that the proposed built development is not within either the Present Day or Climate Change 1 in 100 year fluvial flood plain.

The FRA recommends that the levels (finished floor, garden and path levels) for the proposed development located outside of the established Floodplain should be set a minimum of 600m above the Q100 Floodplain.

A bunded SuDS Pond is proposed in the marsh land area to the west of the site. At the request of Rivers Agency, design details for the proposed SuDS Pond were submitted to facilitate assessment of flood risk.

Surface Water Drainage

The applicant is proposing to attenuate surface water by using a combination of the bunded SuDS Pond including two purpose built underground cells with an attenuation storage capacity of 1028 cubic metres and 812 cubic metres of surface water.

The design of the SuDS basin and swale has been undertaken by O'Connor Sutton Cronin (Engineer) and Mcilwaine Landscape Architects.

Schedule 6 Consent to discharge surface water has been issued by DfI Rivers Area Office dated 25/11/2021 reference IN1-21-9167.

DFI Rivers has advised that the proposed attenuation basin design is outside DfI River's area of knowledge and expertise. DfI Rivers recommended a peer review be conducted of the proposed Attenuation Basin Design for phase 3 by an independent Consulting Hydrologist Engineer with experience in this field to provide a functionality assessment of the proposed new bunded SuDS Pond.

Consequently, a peer review of the design of the SuDS system has been completed by McCloy Consulting and subsequently appraised by a sub-group of the Department for Infrastructure's Water Drainage and Policy Division (WDPD), Storm Water Management Group. WDPD previously facilitated an appraisal of the SuDS system for Phase 2 of the NS20 zoning. The peer review focuses on the swale and basin at the end of the pipe collection and conveyance system. Consideration is given to wider site drainage only in the context of exceedance flows being able to reach the final storage location (basin).

Storm Water Management Group SuDS Sub-Group has confirmed that it is content with the findings of the SuDS review and stated that *"The review of the swale and basin finds that the details (drawings and calculations) provided are acceptable in meeting outline design status and that the SuDS features would be deliverable in the context shown"*. Given the drainage design is at a preliminary stage and to safeguard against surface water flood risk, the Sub-Group has recommended that any approval of the application be subject to a negative condition requiring all recommendations and findings in the McCloy Consulting SuDS Review to be addressed in full in a Detailed Design Review, which would be subject to a 3rd Party Peer Review and subsequently be appraised by, and meet the satisfaction of, the Storm Water Management Group SuDS Sub-Group.

I am satisfied that the design and viability of the SuDS Pond is acceptable in principle at this initial design stage. It is considered, in line with the recommendations of the Storm Water Management Group that a carefully worded negative condition will protect against any residual flood risk. Such a condition will require detailed review and agreement of the SuDS Pond design and simulation calculations prior to commencement of development to confirm that the new bunded SuDS Pond, including both underground attenuation tanks and drainage network will have sufficient attenuation capacity. The condition will be worded to ensure SuDS is developed in accordance with the approved design. Furthermore, I consider that the condition should require the submission, agreement and implementation of a detailed SuDS management and maintenance plan to ensure its ongoing effectiveness.

DfI Rivers has provided no other objection in terms of storm water drainage.

Maintenance of Watercourses

There are undesignated watercourses along the western boundary of the application site and within the vicinity of the proposed SuDS ponds. The proposed indicative layout for the SuDS Pond and open space includes the provision of a 5m working strip to facilitate future maintenance by the riparian landowner in accordance with the requirements of Policy FLD2.

Artificial Modulation of Watercourses

PPS15 Policy FLD4 states "The planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:

- Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;
- Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.

It is proposed to culvert the watercourse for a short distance along the western boundary of phase 3 at the point where the proposed new distributor road would cross it. The proposed culverting is therefore in accordance with one of the exceptional circumstances outlined in Policy FLD4. DfI Rivers recommend that approval of any culvert should have the consent of DfI Rivers Local Area Office Engineers prior to the Council permitting the proposed culverting. The Applicant's representative has advised that the stream (at the point where it will intersect the proposed distributor road) is beyond the redline boundary of the application site and is located on phase 5 land which is outside the ownership and control of the Applicant. Delivery of the culvert will therefore be the responsibility of the developer of phase 5 lands. The FRA clarifies that at the proposed phase 3 SuDS Pond any modification of the watercourse would be limited to the clearance of debris or heavy vegetation that might disrupt flow.

Foul Drainage

NI Water LTD was consulted on the proposal and confirmed to the Council that whilst the Wastewater Treatment Works (WwTW) has available capacity to accept the additional load, there is no capacity in the existing NI Water sewer network. Given the risk of sewer flows spilling from combined sewerage outfalls into the environment, NI Water recommend that no foul sewer connections should be made to this network. The Applicant subsequently submitted, to the Council, correspondence from NI Water confirming that it agrees to the connection of 25 additional units to existing NI Water infrastructure at the Movilla Road. The Applicant has further pointed out that the reduction from 100 units to 94 units in phase 1 creates an additional 6 unused connections to the NI Water network. On this basis 31 dwellings in phase 3 would be unaffected by the existing NI Water capacity issues.

The Council's Planning Department is aware that sewer network capacity is a wider issue impacting future development in eastern Newtownards including the NS19 zoning (to the south of the NS20 zoning) which is subject to a current application for outline planning permission. NI Water has advised that a strategic solution to this issue is required and that this should be developer led, funded and delivered.

A Foul Sewer Drainage Strategy (FSDS) submitted in support of the application confirms that the Applicant has been working in collaboration with the Applicant for the NS19 zoning to develop a solution which involves delivering foul flows from the NS20 lands to the NS19 lands, and from the Bowtown Road to the Portaferry Road Wastewater Pumping Station (WwPS).

NI Water has reviewed the FSDS and has advised the Council that until a proposed solution, or suitable alternative, is delivered by the developer, NI Water cannot permit additional connections to the sewer network.

Having regard to advice provided by NI Water and to the options proposed in the FSDS, I am satisfied that a solution to address the sewer network capacity issues affecting eastern Newtownards can be achieved. It is considered that an obligation within the Section 76 planning agreement will prevent environmental harm arising as a result of the on-going capacity issues. Such an obligation would restrict occupation of dwellings within phase 3 to no more than 31 dwellings until the Developer has submitted to the Council the requisite agreements with Northern Ireland Water permitting the discharge of foul sewage into the sewer network and the Council, in consultation with Northern Ireland Water, has approved in writing the agreements.

Contaminated Land

A Preliminary Risk Assessment (PEA) has been submitted in support of the application. The report concludes that no significant source-pathway-receptor linkages have been identified, and the development poses a low risk to future site users and environmental receptors. The Council's Environmental Health Department and NIEA Regulation Unit reviewed the PEA and provided no objection to the development subject to conditions.

Representations

Issues raised in submitted representations are summarised below.

- Loss of privacy for neighbouring property given existing rural setting
- Impact on local character.
- Congestion and impact of additional traffic.
- Impact on traffic prior to delivery of the link road.
- Uncertainty regarding future access to 8 Cronstown Lane. Request consideration to be given to alternative access to property and alternative connection to mains and sewer services. Concern that proposal could increase flooding of existing access lane.

- Safety and security of proposed SUDS pond.
- Flood risk associated with proposed drainage and SUDS pond.
- Position of proposed trees and consequential impact on views.
- Loss of hedges and impact on wildlife.
- Need for additional school – current schools in town under subscribed.
- Access to online plans.

Matters relating to impacts on existing residential amenity, local character, and impact on natural heritage interests have been considered in detail in the main body of this report.

It is important to note that NS20 is zoned as housing land in the Ards and Down Area Plan 2015 and that the 2011 Planning Act established a plan-led system for decision making. DfI Roads has provided no objection to the proposal in relation to traffic or roads safety.

In response to an objector concern regarding security of the SuDS Pond, the Applicant has agreed to reinforce the boundary between the SuDS Pond and the back gardens of existing residential properties. The provision and retention of this secure boundary will be conditioned as part of any potential approval of the application. The preliminary design of the SuDS Pond shows an access track that extends to the rear of the existing properties in Cronstown Cottage Avenue and Kensington Park. This will be accessible for maintenance purposes only and therefore will act as a buffer between the existing properties and the adjacent area of open space/SuDS Pond.

As previously stated, I am satisfied that the design and viability of the SuDS Pond is acceptable in principle at this initial design stage. In line with the recommendation of DfI's Storm Water Management Group a negative condition will be added to any potential approval of the application to protect against any residual flood risk associated with the detailed design stage. Such a condition will require review and agreement of the detailed SuDS design and simulation calculations. The condition will ensure that the new bunded SuDS Pond, including both underground attenuation tanks and drainage network will have sufficient attenuation capacity to accommodate the storm water run-off associated with the proposed development. As a further safeguard, I recommend that the condition should also require the submission, agreement and implementation of a detailed SuDS management and maintenance plan to ensure its on-going effectiveness in managing storm water drainage. DfI Rivers has provided no other objection in terms of surface water drainage. Therefore, I am satisfied that the proposed negative condition will ensure that there will be no unacceptable flood risk to existing properties as a result of the proposed development.

Access to 8 Cronstown Lane will not be affected by the current application or by future applications to develop the remainder of phase 3 lands. The existing access connecting 8 Cronstown Lane with Cronstown Cottage Park is situated on phase 5 lands which is not within the ownership or control of the Applicant. Any future application associated with phase 5 lands or for the remainder of phase 3 lands will be subject to further detailed assessment of storm water drainage proposals. A request for an alternative connection to main and sewer services for an existing

neighbouring property, is not a material planning matter relevant to the determination of the current application. No objection to the storm water drainage proposals has been provided from DFI Rivers or from DFI Storm Water Management Group; therefore, I am content that the development will not exacerbate any existing surface water flooding issues in the area.

Individual properties do not have a right to a view, and this is not a material planning consideration relevant to the determination of the application. Rather the Planning Department is concerned with matters of amenity. Having reviewed the proposed planting plan, I am satisfied that the proposed landscaping will not cause an unacceptable adverse impact on the amenity of adjacent residents. A condition will be included as part of any potential approval of the application to ensure that details of the final SuDS Pond design (including landscaping) will be submitted to the Council for approval prior to commencement of development.

An objector has indicated that all primary schools in Newtownards are undersubscribed and that an additional school will place further strain on budgets. The land set aside for a future school in the NS20 zoning lies outside the red-line boundary of the current application site but delivery of the land for educational purposes is secured via an obligation in the section 76 Planning Agreement. A key design consideration for the NS20 zoning included in the Development Plan requires the reservation of a 2-hectare site for a school. Whilst currently there may be sufficient capacity in local schools, given that vast areas of zoned housing land in eastern Newtownards remain undeveloped, capacity issues may arise in the future.

A member of the public has informed the Council that they were unable to view the plans associated with the planning application online. I can confirm that drawings associated with the planning application are available to view online via the public access portal and a guide to using the portal is available on the NI Direct Website. Furthermore, the Council's Planning Department has contacted this member of the public to offer additional guidance and assistance in relation to this matter.

Recommendation

Grant Planning Permission

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. All hard and soft landscape works shall be carried out in accordance with details shown on Drawing No.06C; the approved planting plans Drawings No.28B and No.29B, and the approved planting schedule (except in so far as they relate to the proposed SuDS Pond which shall be carried out in accordance with details to be subsequently approved under condition no. 17) 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 all hard and soft landscaping works must be submitted to and agreed in writing by the Council. The hard and soft landscaping works shall be implemented in accordance with the details and timings agreed in the approved phasing plan. All hard landscape works shall be permanently retained in accordance with the approved details.

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

3. The boundary between the proposed SuDS Pond and the existing dwellings shall be in accordance with the details shown on Drawing No. 06C and shall be provided prior to the commencement of any works associated with the development of the SUDs Pond hereby approved.

Reason: In the interests of safety and amenity of existing residential dwellings.

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

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

5. No more than 100 of the dwellings hereby approved shall be occupied on site until the communal open space as indicated on Drawing No.06C has been provided in accordance with the details shown on the approved planting plan Drawing No. 28B and Drawing No. 29B the approved planting schedule. 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.

6. No dwelling shall be occupied until final details of the equipment to be provided in the play park shown on Drawing No. 06C are submitted to and agreed in writing by the Council. No more than 100 of the dwellings hereby approved shall be occupied on the site until the proposed play park has been provided in accordance with the approved details. The play park shall be permanently retained thereafter and shall not be used for any purpose other than a play park.

Reason: To ensure the provision of a play park within the site.

7. A final landscape and play park management and maintenance plan for the development, including long term design objectives, performance indicators, management responsibilities and maintenance schedules for all landscaped areas including the play park, other than small, privately owned domestic gardens, (except for trees or other vegetation retained in the public interest) shall be submitted to and approved by the Council in writing prior to the commencement of development. The landscape and play park management plan shall be carried out as approved in perpetuity.

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

8. The long-term management and maintenance of the open space and play park, as indicated on Drawing No. 06C, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing with the Council prior to the occupation of any dwelling hereby approved.

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

9. A final Construction Environmental Management Plan (CEMP) shall be submitted to and agreed by the Council prior to any development activity including ground preparation or vegetation clearance. The final CEMP must identify the perceived risks to the aquatic environment, potential pollution pathways and mitigation measures to negate such risks. The final CEMP must, as a minimum, include the mitigation measures included within the outline CEMP as well as:
 - a) Construction Method Statement(s) - including details of construction and excavation and timing of works;

- b) Pollution Prevention Plan – including details of a suitable buffer of 10m between the location all construction works, refuelling, storage of excavated spoil/oil/fuel/substrate/construction materials/machinery, concrete mixing and washing areas and any watercourses or any surface drains present on or adjacent to the site.
- c) Site Drainage Plan; including details of Sustainable Drainage Systems (SuDS), foul waste disposal, surface water disposal/treatment and silt management measures;
- d) Spoil Management Plan; including location of spoil storage areas outwith the 10m buffer zone, management and handling of spoil and details of the reinstatement of excavated spoil;
- e) Environmental Emergency Plan; including details of emergency spill procedures and regular inspections of machinery onsite;
- f) Water Quality Monitoring Plan;
- g) Details of mitigation measures to protect badgers;
- h) Details of the appointment of an Ecological Clerk of Works and their roles and responsibilities.

The final approved CEMP shall be fully implemented and adhered to during the construction phase to the reasonable satisfaction of the Council.

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

10. No site works of any nature or development shall take place until a programme of archaeological work has been prepared by a qualified archaeologist, submitted by the Applicant and approved in writing by the Council in consultation with Historic Environment Division, Department for Communities. The programme shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.

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

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

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

12. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive

shall be undertaken in accordance with the programme of archaeological work approved under condition 10. These measures shall be implemented, and an archaeological report shall be submitted to the Council within 6 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

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

13. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

14. If during the development works, new contamination or risks to the water environment 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 agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of public health and environmental receptors to ensure the site is suitable for use

15. After completing the remediation works under Condition 14; and prior to occupation of the development, a verification report must be submitted to and agreed in writing by Council. This report shall be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). 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 public health and environmental receptors to ensure the site is suitable for use.

16. Prior to the commencement of any development, the following information must be submitted to and approved in writing by the Council, in consultation with DFI Storm Water Management Group SuDS Sub-Group and DFI Rivers.

- A Detailed Drainage Design, in which all recommendations and findings in the McCloy Consulting SuDS Review, dated July 2022, are addressed in full.
- A Detailed Landscaping Plan for the area of open space containing the SuDS Pond.
- A Detailed SuDS Management and Maintenance Plan.
- A third-party peer review of the detailed design, and Management and Maintenance Plan carried out by a competent expert in SuDS design.
- An updated Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, which demonstrates the safe management of any out-of-sewer flooding, emanating from the surface water drainage network, and is the subject of an authorised Article 161, in a 1 in 100 year event"

The agreed SuDS design, landscaping and mitigation measures shall be fully implemented as approved to the satisfaction of the Council prior to the operation of the SuDS and associated drainage network and shall be retained in perpetuity thereafter. The agreed SuDS Management and Maintenance Plan shall be carried out as approved to the satisfaction of the Council in perpetuity.

Reason: To safeguard against surface water flood risk

17. 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 32B, 33B, 34B, 35B & 36B.

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

18. No dwelling shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied prior to occupation of the last dwelling unit hereby approved.

Reason: To ensure there is a safe and convenient road system within the development

19. 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. Hard surfaced parking areas shall be retained thereafter in perpetuity 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

20. 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.

21. No more than 100 houses hereby approved shall be occupied prior to the construction of the pedestrian and cycle connection to Old Forge Avenue in accordance with Drawing No. 06C. The pedestrian and cycle connection shall be retained in perpetuity.

Reason: To ensure a movement pattern that supports walking and cycling is provided.

22. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015 (or any order revoking and/or re-enacting that order with or without modification), no extension, garage, shed, outbuilding, wall, fence or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected on site numbers 11, 12, 22,23, 43,68 and 69 without express planning permission.

Reason: Any further extension or alteration requires further consideration to safeguard the amenities of the area.

23. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015 (or any order revoking and/or re-enacting that order with or without modification), no additional windows, doors and openings shall be formed in the rear elevation of the dwelling hereby approved on site 151 nor shall rear extensions to this dwelling be constructed without express planning permission.

Reason: Any further openings or rear extensions require detailed consideration to safeguard the privacy of adjacent properties.

24. This planning permission relates solely to the land shaded blue within the red line shown on Drawing No.6C.

Reason: In order not to prejudice the outcome of any future planning application to develop the remaining lands.

Informatives

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

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

Appendices

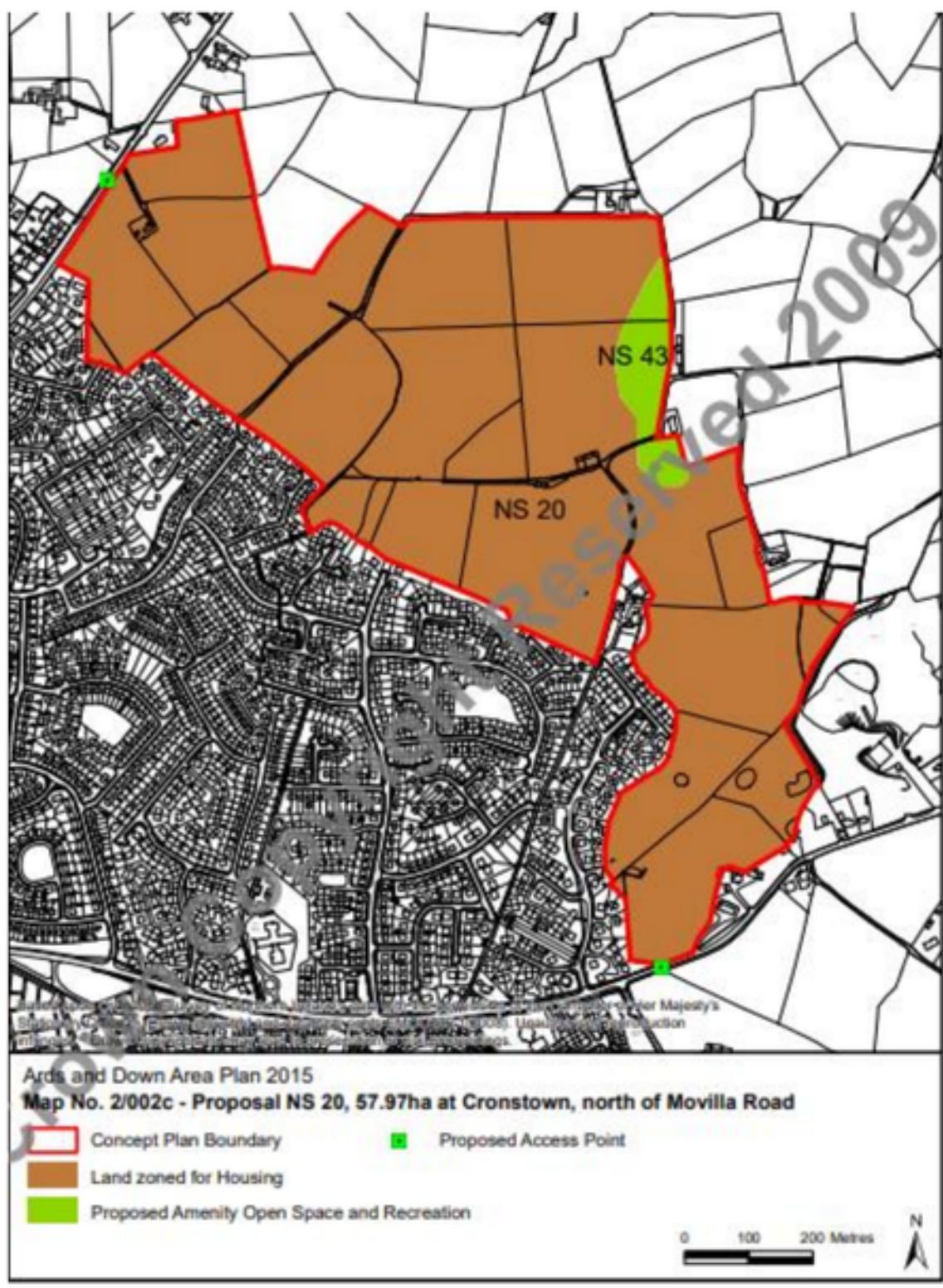
Annex 1: Original Section 76 Planning Agreement

Annex 2: Proposed Covenants and Associated Phasing Plan and Road Transfer Maps

Annex 3: Proposed NS20 CMP

Annex 4: Site Layout Plan (Drawing No.6C)

Development Plan Extract – Ards and Down Area Plan 2015 NS20 Zoning



Proposed Concept Master Plan – see Annex 3



Site Layout Plan – See Annex 4



NS43 Open space

NS43 Open Space Eastern Boundary - Site Proposals

<p>Paths:</p> <ul style="list-style-type: none"> - Formal: Asphalt concrete with precast concrete pin kerbs - Informal: Closely mown grass paths 	
<p>Existing Boundary Hedge:</p> <ul style="list-style-type: none"> - Retained and 'gapped' up where required with native tree and shrub species 	
<p>Shrub Planting, Ref: SP</p> <ul style="list-style-type: none"> - Deterrent planting to maintain space between private curtilage & park visitors - Mixed ornamental, deciduous & evergreen shrub planting to provide year round interest - To be maintained at maximum height of 1.0m to allow natural surveillance of park 	
<p>Specimen Tree Planting:</p> <ul style="list-style-type: none"> - Native and non native extra heavy standard tree planting - Mixed deciduous / coniferous tree planting - Species: Acer, Birch, Pine Etc. 	
<p>Species Rich Grass Seeded Areas:</p> <ul style="list-style-type: none"> - Containing a mix of grass and flowering meadow species suited to locality / soil type - Requires less frequent mowing regime and provides biodiversity value - Network of closely mown paths provides interesting walking routes for residents 	
<p>Woodland Buffer to Countryside Edge:</p> <ul style="list-style-type: none"> - 8-10m wide planting strip - Containing a mix of native shrub and tree species, planted as whips at close centres to ensure quick establishment 	
<p>Existing Boundary Hedge:</p> <ul style="list-style-type: none"> - Retained and 'gapped' up where required with native tree and shrub species 	

NS43 Open Space Eastern Boundary - Site Proposals



Preliminary Playpark Design Proposals (final details to be agreed with the Council post decision)



Existing marsh land area to west of site in location of proposed SuDS Pond



Final SuDS design and landscaping to be agreed post decision.

Example House Types

House Type 9
Semi-Detached/3 Bed



FRONT ELEVATION



House Type 11
Semi-detached/3Bed



FRONT ELEVATION



House Type 12
Single Storey Detached/3 Bed



FRONT ELEVATION



REAR ELEVATION



House Type 14 Detached/4 Bed



TS Speaking Note

Planning application ref: LA06/2021/0061/F

Chairman, members, I would like to thank you for the opportunity to address the Committee this evening. With me is James Fraser, from Fraser Partners.

The application represents phase three of the hugely popular Rivenwood development on zoned housing lands 'NS 20'.

Subject to approval this evening, this phase will provide 188 no. high quality homes for the local community and builds upon the success of the first two phases. The development comprises a mix of detached, semi-detached and bungalow dwellings which will all incorporate eco friendly components as standard, such as

- Inset solar roof panels
- Cabling for EV charging point
- Double height glass elevations & enlarged window openings (designed to maximise solar gain and maintain higher temperatures in colder months)

The proposals represent a high-quality and spacious residential layout which provides for various areas of open space. In Phase 3A, the zoned open space NS43 is incorporated and there is a central area within Phase 3B with an equipped children's play area. There is also a SuDS pond area, which in Phase 2 has proven popular amenity space and biodiversity area with new residents, and was one of the first of its kind in NI.

The proposals are in general conformity with the approved Concept Masterplan and retain a 1.5 hectare site for a future Neighbourhood Centre.

The Phase 3 layout also includes for the next Phase of the NS 20 Distributor Road. The Applicant has already delivered a substantial section of Distributor Road from Movilla Road into their lands.

The delivery of the Distributor Road is secured by a Section 76 Legal Agreement, however, due to the current unavailability of NI Water connections for most of Phase 3 of the Rivenwood development, we have made a request to vary the triggers within the Section 76.

This request has been subject to careful discussion between the Applicant and the Planning Officers since the application was lodged, to balance supporting ongoing housing with the comprehensive delivery of the distributor road.

During the course of the application, it has been agreed that no housing in Phase 3 could be occupied until a 200 m section of the road between 2 defined points was constructed and completed to the standard for preliminary adoption, and in any event this initial section must be completed no later than 31 December 2025.

Furthermore, no more than 40 dwellings in the Phase 3 lands could then be occupied until the road was continued to the boundary of the Applicant's lands and in any event no later than 31 December 2027.

These commitments to deliver the Distributor Road through the Applicant's lands in 2 stages now have specific dates attached by which those sections must be completed. This, together with a land transfer, and a guarantee to provide funding in the event of default, are all significant assurances that the Distributor Road will continue in advance of occupation of dwellings within the Applicant's lands and are an improvement on the existing Planning Agreement, as there are now agreed firm dates by which the road must be delivered by and in place.

There are no objections from any statutory consultees and the application is recommended for approval.

Finally, we would like to thank you officers for all their input over the last number of years working through the next phase of this exciting development, which the applicant is keen to continue to deliver.

The scheme represents an investment of around £25m and will sustain around 60 construction jobs and support local suppliers.

We would respectfully request the committee endorses this recommendation.

Thank you for your time, myself and James are happy to answer any questions.