



April 2nd, 2025

Chairman : Alderman M Gregg

Vice Chairman : Councillor S Burns

Aldermen : O Gawith and J Tinsley

Councillors : D Bassett, P Catney, D J Craig, U Mackin, A Martin, G Thompson and N Trimble

**Notice of Meeting**

A meeting of the Planning Committee will be held on **Monday, 7th April 2025** at **10:00 am**, in the **Council Chamber & Remote Locations** for the transaction of business on the undernoted Agenda.

**David Burns**  
**Chief Executive**

# Agenda

## 1.0 Apologies

## 2.0 Declaration of Interests

(i) Conflict of Interest on any matter before the meeting (Members to confirm the specific item)

(ii) Pecuniary and non-pecuniary interest (Member to complete the Disclosure of Interest form)

📎 *Disclosure of Interests form Sept 24.pdf*

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## 3.0 Minutes of the Planning Committee Meeting held on 3 March, 2025

*For Approval*

📎 *PC 03.03.2025 - Draft Minutes for Adoption.pdf*

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## 4.0 Report from the Head of Planning and Capital Development

### 4.1 Schedule of Applications to be Determined:

📎 *Item 1 - Schedule of Applications.pdf*

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- (i) LA05/2022/1167/F -Proposed warehouse including chilled store, cold store (Use Class B4) all fixed plant/machinery and ancillary offices/welfare facilities. Proposed floor manufacturing facility (Use Class B2). Replacement HGV workshop including vehicle storage unit. Replacement commercial units with ancillary trade counters. Proposed HGV washing bay/fuel bay and bunded underground fuel storage tank, landscaping and all associated HGV parking/car parking/floodlights, site works with servicing via the existin

📎 *Appendix 1.1 LA05 2022 1167F Burnhouse Final.pdf*

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- (ii) LA05/2024/0775/F – Subdivision of Unit 5 and elevational changes at Unit 5 Drumkeen Retail Park, Upper Galwally, Belfast

📎 *Appendix 1.2 LA05 2024 0775 F Drumkeen.pdf*

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- (iii) LA05/2021/0360/F – Proposed infill dwelling and garage on lands between 11 and 13 Crossan Road, Lisburn

📎 *Appendix 1.3a Crossan Road Addendum.pdf*

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📎 *Appendix 1.3b Report of Site Meeting LA05-2021-0360-F - 21.03.2025.pdf*

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📎 *Appendix 1.3c DM Officers report LA05.2021.0360.F Crossan Rd.pdf*

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(iv)	<b>LA05/2020/0991/O – Site for a replacement dwelling, garage and associated siteworks on lands 120 metre west of St Patricks RC Church, 23a Barnfield Road, Lisburn</b>	
	□ <i>Appendix 1.4a Barnfield Road Addendum LA05-2020-0991.pdf</i>	Page 107
	□ <i>Appendix 1.4b Report of Site Meeting LA05-2020-0991-O - 21.03.2025.pdf</i>	Page 109
	□ <i>Appendix 1.4c DM Officers report LA05.2020.0991.O Barnfield Rd.pdf</i>	Page 110
(v)	<b>LA05/2023/0623/F – Proposed housing development consisting of thirteen dwellings (five detached and eight semi-detached) with detached garages and associated site work plus pumping station. Existing dwelling 39a Gravelhill Road to be demolished at 39a Gravelhill Road, Lisburn</b>	
	□ <i>Appendix 1.5 LA05.2023.0623.F - Gravelhill Road - 13 dwellings.pdf</i>	Page 132
(vi)	<b>f) LA05/2024/0513/F - Proposed residential development comprising nine dwellings (one detached and eight semi-detached) including all other associated site works (change of house type to plots 39-45 of Planning approval reference: LA05/2023/0292/F) on Lands south of Mealough Road, west of Saintfield Road, approximately 65 metres north east of 9 Mealough Rise and 65 metres north east of 32 Mealough Drive, Carryduff</b>	
	□ <i>Appendix 1.6 DM Officers report LA05 2024 0513 F Mealough Road.pdf</i>	Page 158
<b>4.2</b>	<b>Statutory Performance Indicators - February 2025</b>	
	□ <i>Item 2 - Statutory Performance Indicators - February 2025 -.pdf</i>	Page 188
	□ <i>Appendix 2 Lisburn_Castlereagh_February_Monthly_MI (1).pdf</i>	Page 190
<b>4.3</b>	<b>Appeal Decision – LA05/2018/0862/F</b>	
	□ <i>Item 3 - Appeal Decision -LA05 2018 0862f.pdf</i>	Page 191
	□ <i>Appendix 3 Appeal decision LA05 2018 0862F.pdf</i>	Page 194
<b>4.4</b>	<b>Appeal Decision – LA05/2019/1077/F</b>	
	□ <i>Item 4 - Appeal Decision -LA05 2019 1077f.pdf</i>	Page 211
	□ <i>Appendix 4 Appeal decision LA05 2019 1077F.pdf</i>	Page 214
<b>4.5</b>	<b>Appeal Decision – LA05/2022/0980/O</b>	
	□ <i>Item 5 - Appeal Decision - LA05 2022 0980o.pdf</i>	Page 226
	□ <i>Appendix 5 Appeal decision LA05 2022 0980 o.pdf</i>	Page 228

<b>4.6</b>	<b>Appeal Decision – LA05/2022/1103/F</b>	
	▢ <i>Item 6 - Appeal Decision - LA05 2022 1103f.pdf</i>	<i>Page 235</i>
	▢ <i>Appendix 6 Appeal decision LA05 2022 1103F.pdf</i>	<i>Page 237</i>
<b>4.7</b>	<b>Appeal Decision – LA05/2023/0087/O</b>	
	▢ <i>Item 7 - Appeal Decision - LA05 2023 0087o.pdf</i>	<i>Page 246</i>
	▢ <i>Appendix 7 Appeal decision LA05 2023 0087o.pdf</i>	<i>Page 248</i>
<b>4.8</b>	<b>Pre-application Notice (PAN) for a proposed mixed use development comprising retail units, 67 residential units, with access arrangements, car parking, amenity space, landscaping and all other associated site works at 24 Antrim Street, Lisburn</b>	
	▢ <i>Item 8 - LA05 2025 0140PAN.pdf</i>	<i>Page 255</i>
	▢ <i>Appendix 8a - Report in relation to LA05 2025 0140PAN.pdf</i>	<i>Page 257</i>
	▢ <i>Appendix 8b LA05 2025 0140PAN ApplicationForm.pdf</i>	<i>Page 260</i>
	▢ <i>Appendix 8c LA05 2025 0140PAN Site Location Map.pdf</i>	<i>Page 267</i>
<b>4.9</b>	<b>Notification by telecommunication operator(s) of intention to utilise permitted development rights</b>	
	▢ <i>Item 9 - Notifications from an Operator in respect of intention - Drafted.pdf</i>	<i>Page 268</i>
	▢ <i>Appendix 9 - List of Notifications - April 2025.pdf</i>	<i>Page 270</i>
<b>4.10</b>	<b>Letter to Chief Executive in respect of the Planning Fee Regulations</b>	
	▢ <i>Item 10 - Letter to Chief Executives - Planning Fees.pdf</i>	<i>Page 271</i>
	▢ <i>Appendix 10a Letter to Chief Executives re Planning Fees - 13.03.25 (1).pdf</i>	<i>Page 273</i>
	▢ <i>Appendix 10b Planning Fees amendment 2025 (1).pdf</i>	<i>Page 275</i>
<b>4.11</b>	<b>Local Development Plan 2032 Quarterly Update</b>	
	▢ <i>Item 11 - Report for Noting LDP Quarterly Update March 25 (003).pdf</i>	<i>Page 280</i>
<b>4.12</b>	<b>Enforcement Quarterly Update</b>	
	▢ <i>Item 12 - Planning Committee Enforcement Quarterly Update April 2025.pdf</i>	<i>Page 282</i>

## 5.0 Any Other Business

LISBURN & CASTLEREAGH CITY COUNCIL

MEMBERS DISCLOSURE OF INTERESTS

1. Pecuniary Interests

The Northern Ireland Local Government Code of Conduct for Councillors under Section 6 requires you to declare at the relevant meeting any pecuniary interest that you may have in any matter coming before any meeting of your Council.

Pecuniary (or financial) interests are those where the decision to be taken could financially benefit or financially disadvantage either you or a member of your close family. A member of your close family is defined as at least your spouse, live-in partner, parent, child, brother, sister and the spouses of any of these. Members may wish to be more prudent by extending that list to include grandparents, uncles, aunts, nephews, nieces or even close friends.

This information will be recorded in a Statutory Register. On such matters **you must not speak or vote**. Subject to the provisions of Sections 6.5 to 6.11 of the Code, if such a matter is to be discussed by your Council, **you must withdraw from the meeting whilst that matter is being discussed**.

2. Private or Personal Non-Pecuniary Interests

In addition you must also declare any significant private or personal non-pecuniary interest in a matter arising at a Council meeting (please see also Sections 5.2 and 5.6 and 5.8 of the Code).

Significant private or personal non-pecuniary (membership) interests are those which do not financially benefit or financially disadvantage you or a member of your close family directly, but nonetheless, so significant that could be considered as being likely to influence your decision.

Subject to the provisions of Sections 6.5 to 6.11 of the Code, you must declare this interest as soon as it becomes apparent and **you must withdraw from any Council meeting (including committee or sub-committee meetings) when this matter is being discussed**.

In respect of each of these, please complete the form below as necessary.

Pecuniary Interests

Meeting (Council or Committee - please specify and name):

\_\_\_\_\_

Date of Meeting: \_\_\_\_\_

Item(s) in which you must declare an interest (please specify item number from report):

\_\_\_\_\_

Nature of Pecuniary Interest:

[Empty box for Nature of Pecuniary Interest]

**Private or Personal Non-Pecuniary Interests**

Meeting (Council or Committee - please specify and name):

\_\_\_\_\_

Date of Meeting: \_\_\_\_\_

Item(s) in which you must declare an interest (please specify item number from report):

\_\_\_\_\_

Nature of Private or Personal Non-Pecuniary Interest:

[Empty box for Nature of Private or Personal Non-Pecuniary Interest]

Name:

Address:

[Empty box for Name and Address]

Signed:

Date:

[Empty box for Signature and Date]

*If you have any queries please contact David Burns, Chief Executive,  
Lisburn & Castlereagh City Council*

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**LISBURN & CASTLEREAGH CITY COUNCIL****Minutes of Planning Committee Meeting held in the Council Chamber and in Remote Locations on Monday, 3 March, 2025 at 10.03 am****PRESENT IN CHAMBER:**

Councillor S Burns (Vice-Chairperson)

Aldermen O Gawith and J Tinsley

Councillors D Bassett, P Catney, D J Craig, U Mackin, A Martin and G Thompson

**IN ATTENDANCE:**Director of Regeneration and Growth  
Head of Planning & Capital Development  
Senior Planning Officers (PMcF and GM)  
Member Services Officers (CH and EW)

Mr S Masterson (Cleaver Fulton Rankin)

**Commencement of Meeting**

At the commencement of the meeting, the Vice-Chairperson, Councillor S Burns, welcomed those present to the Planning Committee. She pointed out that, unless the item on the agenda was considered under confidential business, this meeting would be audio recorded. The Head of Service for Planning and Capital Development outlined the evacuation procedures in the case of an emergency.

1. **Apologies**

It was agreed to accept apologies for non-attendance at the meeting on behalf of the Chairperson, Alderman M Gregg and Councillor N Trimble. It was noted that Alderman J Tinsley would be arriving late to the meeting.

2. **Declarations of Interest**

The following declarations of interest were made:

- Councillor U Mackin in respect of planning application LA05/2021/0360/F, as he was contacted about this application but did not offer any opinion; and
- Councillor D J Craig in respect of planning application LA05/2024/0780/F, as he spoke in support of this application in the Assembly as an MLA.

3. **Minutes of Meeting of Planning Committee held on 3 February, 2025**

It was proposed by Councillor P Catney, seconded by Councillor A Martin and agreed that the minutes of the meeting of Committee held on 3 February, 2025 be confirmed and signed.

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#### 4. Report from the Head of Planning & Capital Development

##### 4.1 Schedule of Applications

The Vice-Chairperson, Councillor S Burns, advised that there were 2 major applications and 3 local applications on the schedule for consideration at the meeting, with 1 application having been withdrawn from the schedule.

##### 4.1.1 Applications to be Determined

The Legal Advisor, Mr S Masterson, highlighted paragraphs 43-46 of the Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee which, he advised, needed to be borne in mind when determinations were being made.

- (i) LA05/2024/0780/F - Proposal to vary Condition 8 of planning approval S/2014/0884/F to allow the Construction Management and Environmental Plan to be provided in phases on land east of Knockmore Road, south of 68-80 Addison Park and 8-10 Knockmore Road and North of Flush Park, Lisburn

Having declared an interest in the above application, Councillor D J Craig left the Council Chamber immediately before its presentation (10.10 am).

The Senior Planning Officer (PMcF) presented the above application as outlined within the circulated report. Members noted an error in the report within the planning history, the previous application being approved on 22 July 2020, not 2022 as stated in the report.

The Committee received Ms R O'Neill accompanied by Ms E Donaldson and Mr C Jordan to speak in support of the application and a number of Members' queries were addressed.

A number of Members' queries were responded to by Planning Officers.

#### Debate

During debate:

- Councillor P Catney stated that he lived in the area along the railway line, had personally been contacted by Translink on a number of occasions, and had no doubt of their commitment to keep all those involved updated on progress. He advised that he was in support of the recommendation to approve this application;
- Alderman O Gawith stated that he was reassured by the answers provided by Officers to his concerns and would be supporting the recommendation of the Planning Officer to approve this application.

#### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to approve this application.

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### Adjournment of Meeting

The Vice-Chairperson, Councillor S Burns, declared the meeting adjourned at this point for a comfort break (11 am).

### Resumption of Meeting

The meeting was resumed at 11.11 am. Councillor D J Craig returned to the meeting on resumption of business.

- (ii) LA05/2024/0734/F – Proposal to vary condition 12 of planning approval LA05/2022/0830/F, from no more than 47 dwellings shall be built and occupied until the commercial/industrial units indicated as W1-W6 on the proposed site plan bearing council date stamp 16 March 2022

Alderman J Tinsley arrived at the meeting during consideration of this application (11.22 am).

The Senior Planning Officer (GM) presented the above application as outlined within the circulated report.

The Committee received Ms S Murphy accompanied by Mr J Anderson to speak in support of the application and a number of Members' queries were addressed.

A number of Members' queries were then responded to by Planning Officers.

Responding to questions in respect of the role of the Housing Association in the project and information supplied separately by the applicant in respect of the cost of the proposed development, the Head of Planning and Capital Development advised Members' that information in relation to viability was confidential in nature and should the Members require further advice in respect of that information, then it would need to be dealt with as confidential business.

### "In Committee"

It was proposed by Councillor A Martin, seconded by Alderman O Gawith, and agreed to go 'into committee' to consider this matter. Those members of the public in attendance left the meeting (11.58 am).

The Head of Service for Planning and Capital Development provided clarification to Members, in relation to commercial in confidence information, which had been provided by the applicant in support of the application.

### Resumption of Normal Business

It was proposed by Councillor P Catney, seconded by Councillor A Martin, and agreed to come out of committee and normal business was resumed (12.13 pm).

Additional Members' queries were responded to by Planning Officers.

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- (ii) LA05/2024/0734/F – Proposal to vary condition 12 of planning approval LA05/2022/0830/F, from no more than 47 dwellings shall be built and occupied until the commercial/industrial units indicated as W1-W6 on the proposed site plan bearing council date stamp 16 March 2022 (Cont'd)

Debate

## During Debate:

- Councillor P Catney stated that the previous application in 2022 had been a futuristic new way of building, with reduced car parking due to the nearby railway halt offering sustainable travel, and the inclusion of 6 commercial units. He was concerned if the commercial units were cut back from 6 to 2 at this stage, there would be no 100% guarantee that the remaining 4 units would be built in future, and stated that he was not sure he could support the recommendation to approve the planning application;
- Alderman O Gawith acknowledged that Councillor P Catney made a valid point, only having 2 commercial units built did not give the security that the remaining 4 would be built. Whilst there was a commitment that they would be built if they were required, it was still concerning. He was equally concerned that the whole project may not progress if the application was not approved. He would have been happier if a better commitment had been provided by the developer for all 6 units to be built. He advised that he was undecided at this point, and was interested to hear the views of Councillor Uel Mackin, as he had also raised the issue earlier during questions to Officers;
- Councillor D J Craig advised that he had listened with interest to the debate, and yet again as a planning committee they found themselves debating issues which were outside of their planning remit. He stated that there was a choice to be made, the committee had been provided with a commercial basis on which the site could be delivered, with 63 built and sold, and economic sense for 2 units to be built currently, or refuse the application and ultimately the developer would walk away, and nothing would be delivered. Councillor D J Craig expressed sympathy for developer, given the nature of the demolition and the complexities of the contamination of the site alongside inflation costs. He confirmed that he would be supporting the recommendation to approve the application because he wanted to see the site delivered. He confirmed that whilst he did not have 100% reassurance that the remaining 4 commercial units would be built, the fact that the foundations for the 4 remaining units were complete, and the ancillary equipment for the units would be put in place before the development completed was reassuring, and ultimately, if further changes to the site were sought, it would be the planning committee that would consider whether to grant permission;
- Councillor U Mackin concurred with the sentiments of the comments made by both Cllr Catney and Ald Gawith, as he also had concerns that no firm guarantee had been provided that all 6 units would be built in future, which could result in a loss of employment area.

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(ii) LA05/2024/0734/F – Proposal to vary condition 12 of planning approval LA05/2022/0830/F, from no more than 47 dwellings shall be built and occupied until the commercial/industrial units indicated as W1-W6 on the proposed site plan bearing council date stamp 16 March 2022 (Cont'd)

- However, he was also aware that there was a demand for commercial property in the area, which gave him a degree of comfort that the 6 units could be utilised the way they were originally intended. Councillor U Mackin confirmed that on balance he would be voting in favour of the Officers recommendation to approve planning permission;
- Councillor P Catney confirmed that he would be voting against the recommendation to approve planning permission as he felt the developer should proceed as originally agreed in the 2022 planning permission;
- Alderman O Gawith acknowledged the commercial reality of the situation but hoped that the 6 commercial units would still be built. He concurred with the sentiments of Councillor U Mackin, advising his finely balanced decision to vote in favour of the Officers recommendation was taken to ensure the best benefit for social housing was achieved.

#### Vote

On a vote being taken, it was agreed that planning permission for this application be approved, the voting being as follows:

In favour: Councillor D Bassett, Councillor S Burns, Councillor D J Craig, Alderman O Gawith, Councillor U Mackin, Councillor A Martin, Councillor G Thompson (7)

Against: Councillor P Catney (1)

Not having been present for the entire consideration of this application, Alderman J Tinsley did not participate in the vote.

#### Adjournment of Meeting

The Vice-Chairperson, Councillor S Burns, declared the meeting adjourned at this point for Lunch (12.39 pm).

#### Resumption of Meeting

The meeting was resumed at 1.19 pm.

Councillor P Catney did not return to the meeting on the resumption of business.

The Vice-Chairperson, Councillor S Burns, informing the Committee of a slight change to the schedule, advised that application LA05/2021/0360/F would be considered at this point in the meeting.

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- (iii) LA05/2021/0360/F – Proposed infill dwelling and garage on lands between 11 and 13 Crossan Road, Lisburn

The Senior Planning Officer (PMcF) presented the above application as outlined within the circulated report.

The Committee received Mr A Stephens to speak in support of the application and a number of Members' queries were addressed. Members' queries were responded to by Planning Officers.

Alderman O Gawith having stated that he would benefit from viewing the location of the development site, proposed that this application be deferred for a site visit. This was seconded by Councillor U Mackin and unanimously agreed by the Committee.

- (iv) LA05/2022/0562/F – Proposed residential development comprising of 14 apartments (1 one bed and 13 two bed) with private and communal amenity space, bin and bicycle storage, landscaping, car parking and all associated site works on lands at 933 Upper Newtownards Road, Dundonald

The Senior Planning Officer (GM) presented the above application as outlined within the circulated report.

No-one was registered to speak on this application. The agent Mr D Broderick was in remote attendance and a number of Members' queries were addressed.

A number of Members' queries were responded to by Planning Officers.

#### Debate

There were no comments made at the debate stage.

#### Vote

On a vote being taken, it was agreed that planning permission for this application be approved, the voting being as follows:

In favour: Councillor D Bassett, Councillor S Burns, Councillor D J Craig, Alderman O Gawith, Councillor A Martin, Alderman J Tinsley, Councillor G Thompson (7)

Against: Councillor U Mackin (1)

- (v) LA05/2020/0991/O – Site for a replacement dwelling, garage and associated siteworks on land 120 metres west of St Patricks RC Church, 23a Barnfield Road, Lisburn

The Senior Planning Officer (PMcF) presented the above application as outlined within the circulated report.

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- (v) LA05/2020/0991/O – Site for a replacement dwelling, garage and associated siteworks on land 120 metres west of St Patricks RC Church, 23a Barnfield Road, Lisburn (Cont'd)

The Committee received Mr N Coffee to speak in support of the application and Members queries were addressed.

A number of Members' queries were responded to by Planning Officers.

Councillor A Martin, having stated that he would benefit from viewing the location of the development site, proposed that this application be deferred for a site visit. This was seconded by Alderman O Gawith and agreed on a vote being taken, the voting being 7 in favour and 1 against.

#### Adjournment of Meeting

The Vice-Chairperson, Councillor S Burns, declared the meeting adjourned at this point for a comfort break (2.46 pm).

#### Resumption of Meeting

The meeting was resumed at 2.59 pm. Councillor Bassett did not return to the meeting on the resumption of business.

#### 4.2 Appeal Decision – LA05/2021/0168/F

It was proposed by Councillor G Thompson, seconded by Alderman O Gawith and agreed that the report and decision of the Planning Appeals Commission in respect of the above appeal be noted.

#### 4.3 Appeal Decision – LA05/2021/1305/F

It was proposed by Councillor U Mackin, seconded by Councillor G Thompson and agreed that the report and decision of the Planning Appeals Commission in respect of the above appeals be noted.

#### 4.4 Statutory Performance Indicators – January 2025

Members were provided with information in relation to statutory performance indicators for January 2025. It was proposed by Councillor A Martin, seconded by Alderman O Gawith, and agreed that this information be noted.

#### 4.5 Proposed Abandonment at Comber Road, Dundonald

It was proposed by Alderman J Tinsley, seconded by Councillor A Martin and agreed to note from the report, information regarding notification by the Department for Infrastructure (DfI), on the proposed abandonment and stopping up at Comber Road, Dundonald.

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#### 4.6 Letter from Department of Communities HED

It was proposed by Councillor D J Craig, seconded by Councillor G Thompson and agreed to note from the report, the update provided by the Heritage Buildings Designation Branch, on the importance of keeping the process of adding buildings to the list of buildings of special architectural or historic interest confidential.

#### 4.7 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights

It was proposed by Councillor D J Craig, seconded by Alderman O Gawith, and agreed to note from the report, information regarding notification by telecommunication operators of intention to utilise Permitted Development Rights at a number of locations in the Council area.

### 5. Any Other Business

#### 5.1 Court of Appeal Decision

The Head of Service for Planning and Capital Development advised the Committee that legal advice was available to Members in relation to the above matter.

#### "In Committee"

It was proposed by Councillor D J Craig, seconded by Councillor A Martin, and agreed to go 'into committee' to consider this matter (3.08 pm).

Legal advice was provided by the Legal Advisor in respect of the above matter.

#### Resumption of Normal Business

It was proposed by Councillor A Martin, seconded by Alderman O Gawith, and agreed to come out of committee and normal business was resumed (3.27 pm).

#### Conclusion of the Meeting

At the conclusion of the meeting, the Vice-Chairperson, Councillor S Burns, thanked those present for their attendance.

There being no further business, the meeting was ended at 3.27 pm.

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Chair/Mayor

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Decision
<b>Subject:</b>	Schedule of Planning Applications to be Determined
1.0	<p><b><u>Background</u></b></p> <ol style="list-style-type: none"> <li>1. The following applications have been made to the Council as the Local Planning Authority for determination.</li> <li>2. In arriving at a decision (for each application) the Committee should have regard to the guiding principle in the SPPS (paragraph 3.8) 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.</li> <li>3. Members are also reminded about Part 9 of the Northern Ireland Local Government Code of Conduct and the advice contained therein in respect of the development management process with particular reference to conflicts of interest, lobbying and expressing views for or against proposals in advance of the meeting.</li> </ol> <p><b><u>Key Issues</u></b></p> <ol style="list-style-type: none"> <li>1. The applications are presented in accordance with the current scheme of delegation. There are two major and four local applications. Two of the local applications are presented by way of exception and two have been Called In and previously deferred. <ol style="list-style-type: none"> <li>a) LA05/2022/1167/F -Proposed warehouse including chilled store, cold store (Use Class B4) all fixed plant/machinery and ancillary offices/welfare facilities. Proposed floor manufacturing facility (Use Class B2). Replacement HGV workshop including vehicle storage unit. Replacement commercial units with ancillary trade counters. Proposed HGV washing bay/fuel bay and bunded underground fuel storage tank, landscaping and all associated HGV parking/car parking/floodlights, site works with servicing via the existing access onto the Moira Road and Halftown Road at Burn House, 211 Moira Road, Lisburn. Recommendation – Approval</li> <li>b) LA05/2024/0775/F – Subdivision of Unit 5 and elevational changes at Unit 5 Drumkeen Retail Park, Upper Galwally, Belfast. Recommendation – Approval</li> <li>c) LA05/2021/0360/F – Proposed infill dwelling and garage on lands between 11 and 13 Crossan Road, Lisburn. Recommendation - Refusal</li> </ol> </li> </ol>

- d) LA05/2020/0991/O – Site for a replacement dwelling, garage and associated siteworks on lands 120 metre west of St Patricks RC Church, 23a Barnfield Road, Lisburn.  
Recommendation – Refusal
- e) LA05/2023/0623/F – Proposed housing development consisting of thirteen dwellings (five detached and eight semi-detached) with detached garages and associated site work plus pumping station. Existing dwelling 39a Gravelhill Road to be demolished at 39a Gravelhill Road, Lisburn  
Recommendation – Approval
- f) LA05/2024/0513/F - Proposed residential development comprising nine dwellings (one detached and eight semi-detached) including all other associated site works (change of house type to plots 39-45 of Planning approval reference: LA05/2023/0292/F) on Lands south of Mealough Road, west of Saintfield Road, approximately 65 metres north east of 9 Mealough Rise and 65 metres north east of 32 Mealough Drive, Carryduff  
Recommendation – Approval

2. The following applications will be decided having regard to paragraphs 42 to 53 of the Protocol of the Operation of the Planning Committee.

2.0 **Recommendation**

For each application the Members are asked to make a decision having considered the detail of the Planning Officer’s report, listen to any third-party representations, ask questions of the officers, take legal advice (if required) and engage in a debate of the issues.

3.0 **Finance and Resource Implications**

Decisions may be subject to:

- (a) Planning Appeal (where the recommendation is to refuse)
- (b) Judicial Review

Applicants have the right to appeal against a decision to refuse planning permission. Where the Council has been deemed to have acted unreasonably the applicant may apply for an award of costs against the Council. This must be made at the time of the appeal. The Protocol for the Operation of the Planning Committee provides options for how appeals should be resourced.

In all decisions there is the right for applicants and third parties to seek leave for Judicial Review. The Council will review on an on-going basis the financial and resource implications of processing applications.

4.0 **Equality/Good Relations and Rural Needs Impact Assessments**

4.1	Has an equality and good relations screening been carried out?	No
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4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out.</p> <p>The policies against which each planning application is considered have been subject to a separate screening and/or assessment for each application. There is no requirement to repeat this for the advice that comes forward in each of the appended reports.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out.</p> <p>The policies against which each planning application is considered have been subject to a separate screening and/or assessment for each application. There is no requirement to repeat this for the advice that comes forward in each of the appended reports.</p>	

<p><b>Appendices:</b></p>	<p>Appendix 1.1 - LA05/2022/1167/F                  Appendix 1.2 - LA05/2024/0775/F                  Appendix 1.3a - LA05/2021/0360/F – addendum report                  Appendix 1.3b – LA05/2021/0360/F                  Appendix 1.3c – LA06/2021/0360/F                  Appendix 1.4a – LA05/2020/0991/O – addendum report                  Appendix 1.4b – LA05/2020/0991/O                  Appendix 1.4c – LA05/2020/0991/O                  Appendix 1.5 – LA05/2023/0623/F                  Appendix 1.6 – LA05/2024/0513/F</p>

## Lisburn & Castlereagh City Council

Committee	Planning Committee
Date of Committee Meeting	7 April 2025
Committee Interest	Major Application
Application Reference	LA05/2022/1167/F
Date of Application	15 December 2022.
District Electoral Area	Lisburn South
Proposal Description	Proposed warehouse including chilled store, cold store (Use Class B4) all fixed plant/machinery and ancillary offices/welfare facilities. Proposed food manufacturing facility (Use Class B2). Replacement HGV workshop including vehicle storage unit. Replacement commercial units with ancillary trade counters. Proposed HGV washing bay/fuel bay and bunded underground fuel storage tank, landscaping and all associated HGV parking/car parking/floodlights, site works with servicing via the existing access onto the Moira Road and Halftown Road.
Location	Burn house 211 Moira Road Lisburn, BT28 2SN
Representations	2
Case Officer	Mark Burns
Recommendation	Approval

### Summary of Recommendation

1. This application is categorised as a major planning application in accordance with the Development Management Regulations 2015 in that the site area exceeds one hectare in size. The site measures approximately 5.3 hectares.
2. The proposal is presented with a recommendation to approve as the proposed is considered to comply with Strategic Policy 01 Sustainable Development, Strategic Policy 04 Supporting Sustainable Economic Growth, Strategic Policy 06 Protecting and Enhancing the Environment, Strategic Policy 11 Economic Development, Strategic Policy 18 Protecting and Enhancing the Historic

Environment, Strategic Policy 19 Protecting and Enhancing Natural Heritage, Strategic Policy 20 Transportation Infrastructure and Strategic Policy 24 Flooding of Part 1 of the Plan Strategy.

3. The proposal is also considered to be an acceptable form of non-residential development in the open countryside consistent with operational Policy COU1 of Part 2 of the Plan Strategy.
4. The proposal has been considered against and complies with policies ED4, ED8 and ED9 of the Plan Strategy in that it is demonstrated that the use does not prejudice the continued operation of any existing employment uses and that the general criteria in relation to economic development are met.
5. The proposed also complies with policy of TRA1 the Plan Strategy in that the detail demonstrates that an accessible environment is created.
6. It is further considered that the development complies with policies TRA2 and TRA3 of the Plan Strategy in that it is demonstrated that the that there will be no intensification of the existing access onto the protected route and that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.
7. The proposal complies with policy TRA7 of the Plan Strategy in that it is demonstrated that adequate parking and appropriate servicing arrangements have been provided having regard to the specific characteristic of the development, its location and parking standards.
8. The advice of DfI Roads has been considered and the statutory road authority has no objection to the proposed development on the grounds of road safety or traffic impact.
9. The proposal complies with policy NH2 of the Plan Strategy in that it is demonstrated that the proposed development will not give rise to significant adverse effects on habitats or species of ecological or nature conservation value. The proposed development is also unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby.
10. The proposal also complies with policy NH5 of the Plan Strategy in that it is demonstrated that there will be no detrimental impact of the development on priority habitats and species.
11. The proposal also complies with Policy HE1 and HE2, of the Plan Strategy in that it is considered that the proposal would not harm the Historic Environment or Archaeology
12. It is accepted that the proposal complies with the exception under policy FLD1 and FLD2, FLD3 and FLD4 of the Plan Strategy are satisfied.

## Description of Site and Surroundings

### Site

13. The site is located on the southern side of Moira Road close to the junction of the Halftown Road, Moira Road and Lissue Road. It is approximately 2.5 miles west of Lisburn City Centre.
14. The site measures 5.3 hectares and the topography is relatively flat throughout. It has been cleared with the exception of one small building and there are now large areas of hardstanding which is used for the parking and storage of HGV's.
15. The site is bound to the north by the Moira Road, to the east by a car sales business, to the east by Halftown Road and to the south by the River Lagan.
16. The northern boundary is defined by a planted bank, semi mature vegetation and a palisade fence. The eastern boundary is defined by mature and semi mature trees and vegetation. The southern boundary adjacent to the river lagan is defined and a concrete wall and fencing. The western boundary is defined by semi mature trees, palisade fencing and a brick wall.

### Surroundings

17. The immediate predominant land use to the north and northwest of the site is employment at the Lissue Industrial Estate. The buildings are mainly large portal frame sheds.
18. The lands to the south and south West are mainly in agricultural use as this is open countryside.

## Proposed Development

19. The proposed application is for:

*Proposed warehouse including chilled store, cold store (Use Class B4) all fixed plant/machinery and ancillary offices/welfare facilities. Proposed food manufacturing facility (Use Class B2). Replacement HGV workshop including vehicle storage unit.*

*Replacement commercial units with ancillary trade counters. Proposed HGV washing bay/fuel bay and bunded underground fuel storage tank, landscaping and all associated HGV parking/car parking/floodlights, site works with servicing via the existing access onto the Moira Road and Halftown Road.*

20. The application was supported by several technical reports which were updated during the processing of the application. These reports are available and can be viewed on the planning portal and include:
- Design and Access Statement.
  - Economic Assessment
  - Set of Architectural Drawings.
  - Transportation Assessment Form.
  - Preliminary Risk Assessment.
  - Generic Quantitative Risk Assessment.
  - Flood Risk and Drainage Assessment.
  - Bio – Diversity checklist
  - Preliminary Bat roost Assessment Report
  - Noise Impact Assessment
  - Alternative Site Assessment
21. In accordance with Section 29 of the Planning Act (Northern Ireland) 2011, a Pre-Application Community Consultation (PACC) report was submitted with the application as the threshold for a Pre-application Notice and community consultation was reached.

### Relevant Planning History

22. The relevant planning history associated with the application site includes the following

Reference Number	Description	Location	Decision
LA05/2021/0038/LDE	Class B1 office with associated access and car parking	213 and 215 Moira Road, Lisburn BT28 2SN	Permission Granted
LA05/2021/0754/O	Proposed 2 nos. infill dwellings and garages	Lands located between no's 211 and 213 Moira Road, Lisburn BT28 2SN	Under Consideration
LA05/2020/1071/LDE	Existing Class A1 - Retail Shop - 84 sqm with ancillary Class B4 - Storage and Distribution - 69 sqm, Class B1 - Office - 45 sqm and Class B2 - Light Industrial (Paint Mixing) 29 sqm with associated access and car parking	217 Moira Road, Lisburn, BT28 2SN	Permission Granted
LA05/2019/0748/F	Retrospective perimeter fencing, gates, walls, guard house, CCTV cameras and floodlights on mounted poles and improved access (previously granted under S/2010/0041)	Land at 211 Moira Road, Lissue, Lisburn BT28 2SN (former Burn House)	Permission Granted
LA05/2019/0363/LDE	Hard standing for the parking and storage of HGV's and Articulated Trailers	Land east of 211 Moira Road, Lissue, Lisburn BT28 2SN	Permission Granted
LA05/2019/0303/LDE	Overflow car parking and hard standing	Land adjacent to and west of 211 Moira Road, Lissue, Lisburn BT28 2SN	Permission Granted
LA05/2019/0274/LDE	Existing Class A2 financial, professional and other services with associated access and car parking	211 Moira Road, Lissue, Lisburn BT28 2SN	Permission Granted

S/2010/0041/F	Proposed Energy from Waste (EfW) gasification plant including energy recovery buildings with office/workshop, waste reception hall, waste bunker, fuel bunker, boiler house/CHP (Combined, Heat and Power) room and stack; weighbridge; fencing; cycle shelter; landscaping; sustainable urban systems with escape bridge; turbine generator building; air cooled condenser and associated infrastructure including car parking.	211 Moira Road, Lisburn, County Antrim BT28 2SN	Permission Granted
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## Consultations

23. The following consultations were carried out.

Consultee	Response
NI Water Strategic	No Objection
Historic Environment Division	No Objection
Environmental Health	No Objection
DFI Roads	No Objection
NIEA WMU	No Objection
NIEA Regulation Unit	No Objection
NIEA NED	No Objection
Rivers Agency	No Objection

## Representations

24. Two representations were received in relation to the proposal. The issues raised include:
- Traffic
  - Noise
  - Floodlights

## Environmental Impact Assessment (EIA)

25. The thresholds set out in the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 have been considered as part of this assessment as the site area exceeds the thresholds set out in Section 10 (a) of Schedule 2, of the Planning Environmental Impact Assessment (NI) Regulations 2015.
26. An EIA determination was carried out and it was concluded that there was not likely to be any significant environmental impacts created by the proposed development and as such, an Environmental Statement was not required to inform the assessment of the application.

## Pre- Application Community Consultation

27. The application was accompanied with a Pre-Application Community Consultation Report (PACC).
28. A leaflet and PAN letter were sent out to elected representatives for Lisburn South and local MLAs to provide background information in respect of the proposal. This included details regarding the dedicated website and information on how to respond/provide comments.
29. A Public Information Notice was placed in the Ulster Star on 21 January 2022 and Belfast Telegraph on Wednesday 19 January 2022 which provided details of the date and time of the online Zoom Webinar on 7 and 8 February 2022.
30. A dedicated website went live on the 31 January 2022 and ran until 28 February 2022. The website contained information such as drawings, ecological reports drainage and traffic information.
31. The report indicates that public interest in the proposal was low with only two people providing feedback, one via email and one via a feedback leaflet.
32. In conclusion two representations were made in relation to the proposal. The issues included flooding, drainage, access, traffic, ground conditions and ecology. traffic, noise, pollution, working hours and type of industry. The agent's

comments and responses to the representations are included in the PACC report.

## Local Development Plan

### Local Development Plan Context

33. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on Planning applications regard must be had to the requirements of the local development plan and that the determination of applications must be in accordance with the plan unless material considerations indicate otherwise.

34. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

35. In accordance with the transitional arrangements the Plan Strategy and the Lisburn Area Plan (LAP) is the local development plan. Draft BMAP remains a material consideration.
36. The LAP indicates that the proposed site is located outside the development settlement limit of Lisburn and in the countryside.
37. Within draft BMAP the site remained in the countryside.
38. A small portion of the southern boundary adjacent to the River Lagan falls within Knockmore Local Landscape Policy Area (LLPA) (LC 37).
39. LLPAs are designated to help protect those areas within and/or adjoining settlements which are considered to be of greatest amenity value, landscape

quality or local significance and are therefore worthy of protection from undesirable or damaging development.

40. With an increased emphasis on the quality of new development and greater environmental awareness care must be taken to ensure that new development does not dominate the townscape / landscape characteristics of settlements.
41. Environmental assets, identified as part of the process of Countryside Assessment, will normally form the basis for the designation of local landscape policy areas. These consist of those features and areas within and adjoining settlements considered to be of greatest amenity value, landscape quality or local significance and therefore worthy of protection from undesirable or damaging development. They may include:
  - archaeological sites and monuments and their surroundings.
  - listed and other locally important buildings and their surroundings;
  - river banks and shore lines and associated public access;
  - attractive vistas, localised hills and other areas of local amenity importance.
  - areas of local nature conservation interest, including areas of woodland and important tree groups.
42. Policy ENV3 of draft BMAP states that in designated LLPA's planning permission will not be granted for development that would be liable to adversely affect those features, or combination of features, that contribute to environmental quality, integrity and character.
43. Within Knockmore LLPA, draft BMAP advises that the features or combination of features within the designated LLPA that contribute to the environmental quality, integrity and character of this area are:
  - Area of local nature conservation interest – River landscape pertaining to the River Lagan with deciduous tree groups linking Long Kesh/ Lower Broomhedge/Lurganure LLPA (LH 02) and Lagan Vale Regional Park
44. Storage and distribution warehousing and food manufacturing is proposed in the open countryside. The following strategic policies in Part 1 of the Plan Strategy apply.
45. Strategic Policy 01 Sustainable Development states that:
 

*The Plan will support development proposals which further sustainable development including facilitating sustainable housing growth; promoting balanced economic growth; promoting balanced economic growth; protecting and enhancing the historic and natural environment; mitigating and adapting to climate change and supporting sustainable infrastructure.*

*The Plan Strategy seeks to support the provision of jobs, services, and economic growth; and delivery of homes to meet the full range of housing*

*needs integrated with sustainable infrastructure (physical and digital) whilst recognising the balance to be achieved in protecting environmental assets*

46. This is ambient and chilled goods manufacturing, storage and distribution business supplying the retail sector on the island of Ireland.

47. Strategic Policy 04 Supporting Sustainable Economic Growth states that:

*The Plan will support development proposals that support sustainable economic growth without compromising on environmental standards. Economic growth can contribute to an enhanced society and improve health and well-being through the creation of job opportunities.*

48. Strategic Policy 11 Economic Development states that:

*The Plan will support development proposals that:*

- a) *support and promote the Strategic Mixed Use Sites at West Lisburn/Blaris and Purdysburn/Knockbracken in accordance with key site requirements*
- b) *support and promote the local employment sites throughout the Council area, to help provide opportunities for a range of economic needs and businesses*
- c) *encourage mixed use schemes supporting regeneration on sites previously used for economic purposes to help tackle inequality and deprivation*
- d) *provide Class B1 Business within the strategic mixed use sites at West Lisburn/ Blaris and Purdysburn/Knockbracken in accordance with key site requirements.*

49. There are several built and natural heritage features that must be taken account of in the assessment of this proposal.

50. Strategic Policy 06 Protecting and Enhancing the Environment states that:

*The Plan will support development proposals that respect the historic and natural environment and biodiversity. Proposals must aim to conserve, protect and where possible enhance the environment, acknowledging the rich variety of assets and associated historic and natural heritage designations. Proposals should respect the careful management, maintenance and enhancement of ecosystem services which form an integral part of sustainable development.*

51. Strategic Policy 18 Protecting and Enhancing the Historic Environment and Archaeological Remains states that:

*The Plan will support development proposals that:*

- a) *protect and enhance the Conservation Areas, Areas of Townscape Character and Areas of Village Character*

- b) *protect, conserve and, where possible, enhance and restore our built heritage assets including our historic parks, gardens and demesnes, listed buildings, archaeological remains and areas of archaeological potential*
- c) *promote the highest quality of design for any new development affecting our historic environment.*

52. Strategic Policy 19 Protecting and Enhancing Natural Heritage states that:

*The Plan will support development proposals that:*

- a) *protect, conserve and, where possible, enhance and restore our natural heritage*
- b) *maintain and, where possible, enhance landscape quality and the distinctiveness and attractiveness of the area*
- c) *promote the highest quality of design for any new development affecting our natural heritage assets*
- d) *safeguard the Lagan Valley Regional Park allowing appropriate opportunities for enhanced access at identified locations thereby protecting their integrity and value*

53. The principal access to the site is from the Moira Road which is a protected route.

54. Strategic Policy 20 Transportation Infrastructure states that:

*The Plan will support development proposals that:*

- a) *provide or improve an integrated transport network servicing the needs of our community and future growth*
- b) *deliver sustainable patterns of development, including safe and accessible environments*
- c) *encourage a modal shift from private car dependency through integration of transport and land use*
- d) *facilitate Park & Ride, active travel (public transport, cycling and walking) and strategic greenways to move towards more sustainable modes of travel both within the Council area and linking to wider regional networks.*

55. The site is adjacent to the River Lagan. Strategic Policy 24 Flooding states that:

*The Plan will support development proposals that:*

- a) *reduce the risks and impacts of flooding by managing development to avoid, where possible the potential for flooding*
- b) *encourage the use of Sustainable Drainage Systems to alleviate issues around surface water flooding*
- c) *adopt a precautionary approach in*

*instances where the precise nature of any risk is as yet unproven but a potential risk has been identified*

56. The following operational policies in Part 2 of the Plan Strategy also apply.
57. The proposal is for an ambient and chilled goods manufacturing, storage and distribution facility in the Countryside. Policy COU 1 – Development in the Countryside states:

*There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.*

*Details of operational policies relating to acceptable residential development proposals are set out in policies COU2 to COU10.*

*Details of operational policies relating to acceptable non-residential development proposals are set out in policies COU11 - COU14.*

*There are a range of other non-residential development proposals that may in principle be acceptable in the countryside. Such proposals must comply with all policy requirements contained in the operational policies, where relevant to the development.*

*Any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 - COU16.*

### **Economic Development**

58. This proposal falls with classes B2 and B4 of the Planning (Use Classes) Order (Northern Ireland) 2015. The last established use of the land is a HGV trailer park which is a sui-generis use. Policy ED4 Redevelopment of an Established Economic Development Use in the Countryside states that:

*A proposal for the redevelopment of an established economic development use in the countryside for employment or business purposes (or a sui generis employment use) will be permitted where it is demonstrated that all the following criteria can be met:*

- a) the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area.*
- b) there would be environmental benefits as a result of the redevelopment*
- c) the redevelopment scheme deals comprehensively with the full extent of the existing site or in the case of partial redevelopment addresses the implications for the remainder of the site*

*d) the overall visual impact of replacement buildings is not significantly greater than that of the buildings to be replaced.*

59. Policy ED8 Development Incompatible with Economic Development Uses states that:

*A proposal for development in the vicinity of an existing or approved economic development use that would be incompatible with this use or that would prejudice its future operation will be refused.*

60. Policy ED9 General Criteria for Economic Development states that:

*Any proposal for an economic development use (including extensions) outlined in Policies ED1 to ED8 will also be required to meet all of the following criteria:*

- a) it is compatible with surrounding land uses*
- b) it does not harm the amenities of nearby residents*
- c) it does not adversely affect features of the natural or historic environment*
- d) it is not located in an area of flood risk and will not cause or exacerbate flooding*
- e) it does not harm the water environment*
- f) it does not create a noise nuisance*
- g) it is capable of dealing satisfactorily with any emission or effluent*
- h) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified*
- i) adequate access arrangements, parking and manoeuvring areas are provided*
- j) a movement pattern is provided that meets the needs of people whose mobility is impaired and public transport, walking and cycling provision forms part of the development proposal*
- k) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity*
- l) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view*
- m) it is designed to deter crime and promote personal safety*
- n) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape*
- o) it meets the requirements of Policy NH1.*

61. Irrespective of whether the requirements of policy for an economic use in the open countryside are met the applicant is also required to demonstrate in accordance with policy COU 1 that the requirements of policies COU15 and COU16 are met.

#### Integration and Design of Buildings in the Countryside

62. Policy COU15 - Integration and Design of Buildings in the Countryside states:

*In all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and of an appropriate design.*

*A new building will not be permitted if any of the following apply:*

- a) *it is a prominent feature in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- d) *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*
- e) *it relies primarily on the use of new landscaping for integration*
- f) *the design of the building is inappropriate for the site and its locality*
- g) *ancillary works do not integrate with their surroundings.*

### Rural Character and other Criteria

63. Policy COU16 – Rural Character and other Criteria states:

*In all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area.*

*A new development proposal will be unacceptable where:*

- a) *it is unduly prominent in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it does not respect the traditional pattern of settlement exhibited in that area*
- d) *it mars the distinction between a settlement and the surrounding countryside, or otherwise results in urban sprawl*
- e) *it has an adverse impact on the rural character of the area*
- f) *it would adversely impact on residential amenity*
- g) *all necessary services, including the provision of non mains sewerage, are not available or cannot be provided without significant adverse impact on the environment or character of the locality*
- h) *the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing*

### **Natural Heritage**

64. A Preliminary Ecological Assessment, which includes species surveys, and a Construction Environmental Management Plan are submitted with the application.

65. Policy NH2 – Species Protected by Law states that:

### *European Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm a European protected species.*

*In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:*

- a) *there are no alternative solutions; and*
- b) *it is required for imperative reasons of overriding public interest; and*
- c) *there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- d) *compensatory measures are agreed and fully secured.*

### *National Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.*

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

66. Policy NH5 Habitats, Species or Features of Natural Heritage Importance states that:

*Planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- a) *priority habitats*
- b) *priority species*
- c) *active peatland*
- d) *ancient and long-established woodland*
- e) *features of earth science conservation importance*
- f) *features of the landscape which are of major importance for wild flora and fauna*
- g) *rare or threatened native species*
- h) *wetlands (includes river corridors)*
- i) *other natural heritage features worthy of protection including trees and woodland.*

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature.*

*In such cases, appropriate mitigation and/or compensatory measures will be required.*

### **Access and Transport**

67. An existing access is to be utilised from the Moira Road, however given the scale of the proposed use works are required at the junction of Moira Road, Lissue Road and Halftown Road. A new access is also proposed to be constructed from Halftown Road for limited opera.

68. Policy TRA1 - Creating an Accessible Environment states that:

*The external layout of all development proposals will incorporate, were appropriate:*

- a) *facilities to aid accessibility e.g. level access to buildings, provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions*
- b) *user friendly and convenient movement along pathways and an unhindered approach to buildings*
- c) *priority pedestrian and cycling movement within and between land uses*
- d) *ease of access to car parking reserved for disabled or other users, public transport facilities and taxi ranks.*

*Public buildings will only be permitted where they are designed to provide suitable access for customers, visitors and employees.*

*Access to existing buildings and their surroundings should be improved as opportunities arise through alterations, extensions and changes of use.*

*Submission of a Transport Assessment Form (TAF) and a Design and Access Statement may also be required to accompanying development proposals.*

69. The application proposes a new access to the Moira which is a Protected Route. Policy TRA 2 – Access to Public Roads states:

*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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, the location and number of existing accesses and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.*

70 Policy TRA3 Access to Protected Routes states that:

*The Council will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes as follows:*

*Motorways and High Standard Dual Carriageways*

*All locations Planning permission will not be granted for development proposals involving direct access.*

*An exception may be considered in the case of motorway service areas.*

*Other Dual Carriageways, Ring Roads, Through-Passes and By Passes – All locations Planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance.*

*Other Protected Routes – Outside Settlement Limits*

*Planning permission will only be granted for a development proposal in the following circumstances:*

- i. For a replacement dwelling in accordance with Policy COU3 where the dwelling to be replaced is served by an existing vehicular access onto the Protected Route;*
- ii. For a farm dwelling or a dwelling serving an established commercial or industrial enterprise where access cannot be reasonably achieved from an adjacent minor road. Where this cannot be achieved, proposals will be required to make use of an existing vehicular access onto the Protected Route; and*
- iii. For other developments which would meet the criteria for development in the countryside where access cannot be reasonably achieved from an adjacent minor road. Where this cannot be achieved, proposals will be required to make use of an existing vehicular access onto the Protected Route.*

*In all cases the proposed access must be in compliance with the requirements of Policy TRA2.*

*Other Protected Routes – Within Settlement Limits*

*Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access where it is demonstrated that access cannot reasonably be taken from an adjacent minor road; or, in the case of residential proposals, it is demonstrated that the nature and level of access will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points.*

*In all cases, where access to a Protected Route is acceptable in principle it will also be required to be safe in accordance with Policy TRA2.*

71. The proposal is described as a park and ride car park. No barriers are proposed that would restrict access to the car park and no ticketing machines are included as part of the proposal to indicate this is paid for parking.

### **Flooding**

72. The site is adjacent to the River Lagan. The relevant extracts from Policy FLD1 specific to this proposal state:
73. A large area of hard-surfacing is proposed, and the site is more than one-hectare. The drainage must be designed to take account of the potential impact on flooding elsewhere.
74. Policy FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states that:

*A Drainage Assessment (DA) will be required for development proposals that exceed any of the following thresholds:*

- a) *a residential development of 10 or more units*
- b) *a development site in excess of 1 hectare*
- c) *a change of use involving new buildings and/or hard-surfacing exceeding 1,000 square metres in area.*

*A DA will also be required for any development proposal, except for minor development, where:*

- *it is located in an area where there is evidence of historical flooding.*
- *surface water run-off from the development may adversely impact on other development or features of importance to nature conservation, archaeology or historic environment features.*

*A development requiring a DA will be permitted where it is demonstrated through the DA that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere. If a DA is not required, but there is potential for surface water flooding as shown on the surface water layout of DfI Flood Maps NI, it remains the responsibility of the developer to mitigate the effects of flooding and drainage as a result of the development.*

*Where the proposed development is also located within a fluvial flood plain, then Policy FLD1 will take precedence.*

## Historic Environment and Archaeology

75. There are built heritage features within the site including, a two arch brick and stone building (HB19/10/006).

76. Policy HE1 The Preservation of Archaeological Remains of Regional Importance and their Settings states:

*The Council will operate a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. These comprise monuments in State Care, scheduled monuments and Areas of Significant Archaeological Interest (ASAs). Development which would adversely affect such sites of regional importance, or the integrity of their settings must only be permitted in exceptional circumstances. This approach applies to such sites which, whilst not scheduled presently, would otherwise merit statutory protection.*

77. Policy HE2 The Preservation of Archaeological Remains of Local Importance and their Settings states that:

*Proposals which would adversely affect archaeological sites or monuments which are of local importance, or their settings shall only be permitted where the Council considers that the need for the proposed development or other material considerations outweigh the value of the remains and/or their settings.*

78. Policy HE3 Archaeological Assessment and Evaluation states that:

*Where the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain, the Council will require developers to provide further information in the form of an archaeological assessment or an archaeological evaluation. Where such information is requested but not made available the Council will refuse planning permission.*

79. Policy HE4 Archaeological Mitigation states that:

*Where the Council is minded to grant planning permission for development which will affect sites known or likely to contain archaeological remains, the Council will impose planning conditions to ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development, including where appropriate completion of a licensed excavation and recording examination and archiving of remains before development commences or the preservation of remains in situ.*

## Regional Policy and Guidance

### Regional Policy

80. The SPPS was published in September 2015. It is the most recent planning policy, and it is stated at paragraph 1.5 that:

*The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.*

81. Paragraph 2.1 of the SPPS recognises that an objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being.

82. It states that:

*planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland. Planning authorities should therefore simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society.*

83. Paragraph 3.6 of the SPPS states:

*planning authorities should make efficient use of existing capacities of land, buildings and infrastructure, including support for town centre and regeneration priorities in order to achieve sustainable communities where people want to live, work and play now and into the future. Identifying previously developed land within settlements including sites which may have environmental constraints (e.g. land contamination), can assist with the return to productive use of vacant or underused land. This can help deliver more attractive environments, assist with economic regeneration and renewal, and reduce the need for green field development.*

84. Paragraph 3.8 of the SPPS states:

*that 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.*

85. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.

86. Paragraph 6.81 of the SPPS states that:

*The planning system has a key role in achieving a vibrant economy. In this regard the aim of this SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.*

87. Paragraph 6.91 of the SPPS states that:

*All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development.*

88. Paragraph 6.97 of the SPPS states that:

89. *Planning authorities should generally adopt a positive and constructive approach to determining applications for appropriate sustainable economic development informed by the provisions of the LDP, the SPPS and all other material planning considerations. Where proposals come forward on land not identified for economic development through the LDP, the planning authority must consider and assess the proposal against a wide range of policy considerations relevant to sustainable development, such as integration with transportation systems (particularly public transport), synergy with existing economic development uses, and use of previously developed land or buildings.*

90. With regards to Natural Heritage Paragraph 6.174 of the SPPS states that:

*Planning authorities should apply the precautionary principle when considering the impacts of a proposed development on national or international significant landscape or natural heritage resources.*

91. Paragraph 6.182 of the SPPS states that:

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

92. Paragraph 6.198 of the SPPS states that:

*Planning authorities should ensure that the potential effects on landscape and natural heritage, including the cumulative effect of development are considered. With careful planning and design the potential for conflict can be minimised and enhancement of features brought about.*

93. With regards to flood risk, Paragraph 6.103 of the SPPS states that:

*The aim of the SPPS in relation to flood risk is to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.*

94. Paragraph 6.132 of the SPPS states that:

*All planning applications will be determined with reference to the most up to date flood risk information available. The planning authority should consult Rivers Agency and other relevant bodies as appropriate, in a number of circumstances, where prevailing information suggests that flood risk or inadequate drainage infrastructure is likely to be a material consideration in the determination of the development proposal. The purpose of the consultation will often involve seeking advice on the nature and extent of flood risks and the scope for management and mitigation of those risks, where appropriate.*

### **Retained Regional Guidance**

95. Whilst not policy, the following guidance documents remain material considerations.

#### Development Control Advice Note 15 – Vehicular Access Standards

96. The policies in PPS 3 are replaced by the Plan Strategy but the guidance in Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 explain that:

*The Department’s Planning Policy Statement 3 “Development Control: Roads Considerations” (PPS3) refers to the Department’s standards for vehicular accesses. This Development Control Advice Note (DCAN) sets out and explains those standards.*

## **Assessment**

### **Strategic Need**

97. Strategic Policy 01 states that the Plan will support development proposals which further sustainable development including promoting balanced economic growth.
98. Strategic Policy 04 states that the Plan will support sustainable economic growth without compromising environmental standards. The impact of the proposed development on the environment is addressed later in the report.
99. It is further stated in Strategic Policy 04 that economic growth can contribute to an enhanced society and improve health and well-being through the creation of job opportunities.

100. Criteria b) of Strategic Policy 11 states that the plan will support development proposals that:

*“support and promote the local employment sites throughout the Council area, to help provide opportunities for a range of economic needs and businesses”.*

101. The applicant explains in the supporting documents that PRM is a family-owned business that was founded in 1988. The company specialises in the sales and distribution of chilled and frozen consumer goods and is structured in four divisions.
102. The company supplies over 300,000 cases of chilled and frozen food to various food sectors across Ireland, Great Britain and Europe per week.
103. The supporting statement further states that a combination of Brexit and Covid 19 restrictions has created operational challenges and complexities for supply chains. This is counterbalanced by the Northern Ireland protocol which has created opportunities for PRM to establish themselves as a key consolidator for European suppliers who require access to the Irish market. The report states that PRM has expanded its EU haulage capabilities and in house custom department to meet the new regulatory requirements and its client’s needs.
104. It is cited in the statement that for PRM to retain its market position it requires the redevelopment of the former Burn House site which the company purchased in 2019.
105. The applicant proposes to invest between £20-25 million on the redevelopment to operate in conjunction with the Rathdown Road site as it wishes to retain its bases in Lisburn rather than Dublin.
106. It is stated that this investment in the Burn House site will ensure PRM has a modern state of the art facility to meet current and future client requirements with increased storage capacity, manufacturing and distribution co-located on one site. Rathdown will be a back-up facility.
107. It is stated by the applicant that the investment will provide primary employment with new jobs and secondary employment economic benefits via the local supply chain and construction jobs. Significant rates will also be payable to the local authority. The local economy will also benefit from resultant wages that are spent. To support this assertion a more detailed report was submitted by Oxford Economics which is considered below.

### **Oxford Economic Assessment**

108. It is stated by the author that the PRM Group purchased land at 211 Moira Road (the former Burn House), Lissue, Lisburn, where they plan to invest in a distribution and logistics-led development. The report quantifies the economic

impacts that would take place with this proposed investment if they achieve full operational capacity.

109. The report states that various analysis shows that the proposed development would deliver benefits to both the local and regional economy, supporting economic activity, jobs, and tax revenues.
110. The construction generates a £5.7 million Gross Value Added (GVA) contribution to Lisburn & Castlereagh GDP and supports 85 job during the construction phase of the project.
111. Once open for business, PRM could create/sustain 63 local jobs, of which around 50 would be based at the development itself, and support £1.8 million of GVA.
112. The report goes on to further state that once the proposed development runs at full capacity, it is estimated there would be 222 jobs created/sustained, generating £6.5 million of GVA contributions to GDP in the local economy.
113. The development would also support local policy objectives to grow employment in the area and to support growth in indigenous businesses. It would also help PRM to take advantage of the opportunities that have arisen due to Brexit and the Northern Ireland Protocol.
114. The conclusion of the report states that within the socio-economic context, the development, if fully occupied, would be sub-regionally significant.
115. The councils Economic Development team were consulted in relation to the proposal and asked to provide comment on the Oxford Assessment. In their response they stated that:

*PRM Group Ltd, based in Lisburn, are a significant player in the distribution sector, particularly within the food and drink industry.*

*The PRM Group operates both in Northern Ireland and the South of Ireland, making it a cross-border distributor, it holds a strong share in the food distribution market in Ireland, particularly in Northern Ireland as one of the largest independent chilled and ambient food sales and distribution businesses in Ireland. Their extensive distribution network and significant presence in both NI and ROI would indicate a solid market position.*

*The sub-regional significance of the PRM Group development is understood through several dimensions:*

- **Economic Diversification:** *The distribution and logistics sector offers a sector diversification within the local economy.*

- **Regional Connectivity:** *Enhancing distribution and logistics infrastructure improves regional connectivity, facilitating better access to markets both within NI and beyond. Connectivity is vital for supporting local businesses and attracting inward investment.*
- **Infrastructure Investment:** *Growth in the logistics sector often drives investment in infrastructure, such as roads and warehousing.*
- **Community Impact:** *The development will contribute to community well-being by providing employment, enhancing local skills, and supporting economic stability.*

116. The Economic development team has further stated that:

*this particular labour-intensive sector drives economic multiplier effects through local spending and ultimately contributing to an enhanced quality of life. They went on to say that a robust distribution and logistics infrastructure will attract new businesses and help retain existing ones, as companies seeking efficient supply chain solutions are more likely to establish operations in well-connected regions.*

117. *In conclusion, a thriving distribution and logistics sector is a cornerstone of modern economic infrastructure. The proposed PRM Group multi-million-pound distribution and logistics development proposal will yield numerous sub-regional economic and social benefits.*

118. In consideration of the submitted report from Oxford Economics and the advice received from the economic development team I accept, the strategic need for the warehouse and manufacturing facility at this location is demonstrated and that:

- the Plan will support development proposals which further sustainable development including promoting balanced economic growth.
- that economic growth arising from the proposed development will contribute to an enhanced society and improve health and well-being through the creation of job opportunities.
- the proposal is in accordance with criteria b) of Strategic Policy 11 in that this is previously developed land with an established sui-generis employment use and the Plan promotes the use of local employment sites throughout the Council area, to help provide opportunities for a range of economic needs and businesses.

119. These comments are subject to requirements of the operational policies in Part 2 of the Plan and all planning and environmental considerations also being satisfied.

### **Development in the Countryside.**

#### Non-residential development in the open countryside

120. The detail submitted identifies that the site will predominantly be used for Warehousing including chilled stores (Use Class B4) and manufacturing purposes (Use Class B2) as defined in the Planning (Use Classes) Order (Northern Ireland) 2015. It is also proposed to replace existing commercial units with ancillary trade counters.
121. The proposal also includes a HGV workshop including vehicle storage unit, , proposed HGV washing bay/fuel bay and bunded underground fuel storage tank, landscaping and associated HGV parking/car parking/floodlights. These works are considered to be ancillary to the primary use of the site for employment uses.

### **Planning and Economic Development**

122. As explained previously, the application site has a history of established sui-generis economic development use within the open countryside. A CLEUD is certified that confirms the established use as a HGV trailer park. For this reason the applicable operational policy in the Plan Strategy is ED4 - Redevelopment of an Established Economic Development Use in the Countryside.
123. Policy ED 4 is supportive of proposals for the redevelopment of an established economic development use in the countryside for employment or business purposes where it is demonstrated that all the following criteria can be met:
- a) the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area*
124. As explained previously, the application site has a history of established sui-generis economic development use within the open countryside. Before this the land was previously developed as a waste facility. The remnants of this use can still be seen in the retention of a small number of ancillary buildings and hardstanding. This does not have the appearance of land normally found in the open countryside and it sits adjacent to and is enclosed by existing employment land on two sides. It is also separated from the surrounding countryside on all other sides by the River Lagan. No increase in the site area is proposed.

125. There are also several buildings on the site which predominately face onto the Moira Road at the junction of Halftown Road. These are mainly small business uses with ancillary storage, distribution and offices.
126. The development comprises a number of buildings including storage, distribution and production facility buildings which have a maximum height of 19 metres. Workshops which have a maximum height of approximately 9.9 metres, ancillary offices which have a maximum height of approximately 10 metres and a refuelling station that has a maximum height of approximately 5 metres.
127. The scale and nature of the buildings proposed are considered to be those which are required to meet the needs of the client but also what would be expected of a facility at this location.
128. The Design and Access Statement highlights that the previous approval on site for a 24hr Energy Recovery Facility was much bigger in size to that proposed in terms of height. The proposal consisted of 3500 sq. ft of floor space. The storage buildings vary in height from 10 metres to 24 metres and a chimney stack was also proposed that was 45 metres in height.
129. The area is characterised by a mix of large-scale industrial units of modern design located directly facing the site at Lissue Industrial Estate. The proposed site is separated from Lissue Industrial Estate by the Moira Road and it is considered that if the site was developed it would be read in conjunction with these existing industrial buildings.
130. The existing hard standing that covers the site and the ancillary works that have been approved around the site including fencing and floodlighting do not give the appearance of a site that is located in the Countryside. The area only appears rural in character on the far side of the the River Lagan that is adjacent to the site.
131. It is therefore considered that the scale and nature of the proposal will not harm the rural character or appearance of the local area and the requirements of criteria a) are met.

*b) there would be environmental benefits as a result of the redevelopment.*

132. A number of benefits are detailed in the Design and Access Statement as follows:
  - Visually the site will be more attractive as a modern facility will replace large areas of hardstanding that currently stores HGV's.
  - A quantitative risk assessment has been submitted that will identify any risks to human health and remediation works will take place to deal with the issues that would not have occurred if the site was not developed.

- A biodiversity checklist has identified that the site has limited ecological value. The proposal will have discrete area of planting and therefore the proposal will have some ecological benefit in terms of landscaping.
  - Significant upgrades have taken place around the access of the proposed site which will enhance road safety.
133. Having regards to the content and detail of the DAS and other submitted reports it is considered for the same reasons outlined above that the proposal will provide environmental benefits as a result of the redevelopment and therefore criteria b) is satisfied.
- c) the redevelopment scheme deals comprehensively with the full extent of the existing site or in the case of partial redevelopment addresses the implications for the remainder of the site.*
134. The proposal seeks to build a comprehensive scheme that redevelops the entire site comprehensively with £20-25 million of investment. It is not proposed to phase the development. For these reasons it is considered that criteria c) of PED 4 is met.
- d) the overall visual impact of replacement buildings is not significantly greater than that of the buildings to be replaced.*
135. In relation to criteria d) it is noted that the site has been cleared of most of the buildings that previously occupied the site and there is therefore not possible to bench mark this proposal against other buildings in the site.
136. As mentioned above at paragraphs 116 & 120 there was also previous approvals on site which again included large substantial buildings which were up to 25 metres in height and a chimney stack that measured 45 metres.
137. The site is visible when travelling in both directions along the Moira however it is considered that any buildings on site will read with the existing industrial buildings located along Moira Road and Lissue Industrial estate in the backdrop and will integrate with the surrounding area.
138. The proposal is considered on balance against the building found in the immediate visual context of the site and for the reasons set out above criteria c) is considered to be met.
- Development incompatible with Economic Development Uses*
139. Turning to the requirements of policy ED 8 and in consideration of whether the proposed development would be incompatible with Economic Development Uses. Consultation has been undertaken with Environmental Health with regards to the potential for noise, nuisance, disturbance and human health.
140. A Noise Impact Assessment (NIA) was submitted and in consultation with the Environmental Health Unit it is considered that the use of this site is compatible

the established uses adjacent to and surrounding the site and it will not give rise to significant for noise, nuisance or disturbance for the reasons set out in the NIA. It will not harm human health by reasons of its operation. This is a food processing and distribution facility. There are no waste or by products associated with the production process that gives rise to a human health concern.

141. It is considered the proposal meets the requirements of policy ED8 in full.

General Criteria for Economic Development

142. As described in the preceding paragraphs in consideration of policies ED4 and ED8, it is advised that the proposed development, is designed to be compatible with economic development uses. As such criteria (a) is satisfied.
143. The proposal as designed does not harm the amenity of nearby residents for the same reasons highlighted in consideration of policy ED 8. The finding of the NIA does not identify any sensitive residential receptors where mitigation is required. There is already significant employment activity occurring at and around the proposed development. Criteria (b) and (f) are satisfied.
144. The proposal does not adversely affect any features of natural heritage and there are no built heritage features to be affected. This is dealt with in subsequent sections below and based on the assessment of the relevant reports criteria (c) is met.
145. Part of the site is located within an area of flood risk as identified on Strategic Flood Maps (NI) and a Flood Risk and Drainage Assessment (FRDA) has been submitted in support of the application. The FRDA indicates that there will be no material increase in flooding resultant from the development proposal. This is further detailed under the consideration of flooding later in this report. Criteria (d) and (e) have been met.
146. With regards to criteria (g), having considered the advice of NI Water there is adequate capacity with the sewer network to accommodate any foul sewage arising from the proposed development. Storm water is addressed in the drainage assessment and public mains water is available. The requirements of this criterion is met.
147. DfI Roads have been consulted and are content with the proposal in terms of vehicular traffic movements.
148. As detailed under the relevant section below, adequate arrangements are made for access arrangements, parking and manoeuvring areas.
149. The proposal has been designed with a movement pattern provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport. This is again detailed in

the relevant sections below. Criteria (h, i and j) are met for the reasons stated here and in subsequent sections of the report.

150. The site is secured by perimeter fencing, walls a guard house along with secure vehicle and pedestrian access gates. Site lighting and CCTV will be provided to ensure entire site coverage. This is all to deter crime and promote personal safety in accordance with the criteria m).
151. It is considered that the proposal is in accordance with all the criteria in policy ED 9.
152. As the site is located in the open countryside it is a requirement of policy COU1 that the requirements of policies COU15 and COU16 are also met. .

#### COU15 - Integration and Design of Buildings in the Countryside

153. Turning then to policy COU 15 the proposed design of the proposed buildings are considered acceptable for the same reasons as set out for policy ED4. They are in keeping with the buildings at Lissue Industrial Estate in the backdrop and the other buildings wrapped around the junction of Halftown Road and the Moira Road.
154. The proposed external material finishes of the buildings include Kingspan grey and silver cladding and weathered timber vertical boarding and powder coated dark grey aluminium double glazed windows.
155. Overall, it is considered that the design of the proposal is visually acceptable and that it is appropriate for the site and the overall locality in that it will not be a prominent feature in the landscape and will complement the existing buildings in the vicinity. This is an edge of settlement location where the predominant character of the area is commercial/industrial. This site cannot be visually distinguished in this context. The requirement of criteria a) is met.
156. In terms of Criteria (b) the proposal will visually cluster with established buildings located in the backdrop of the site to the north at Lissue industrial Estate, with Eastwood Motors and its associated buildings to the East of the site and with the various building and uses located at the Moira Road and Halftown Road.
157. In terms of criteria (c), the existing building in the backdrop mean that the new buildings set down below the level of the Moira Road and retained landscaping along the edge of the River Lagan will ensure that the proposal blends into the existing landform.
158. The northern boundary is defined by a planted bank, semi mature vegetation and a palisade fence. The eastern boundary is defined by mature and semi mature trees and varying degrees of vegetation.

159. The southern boundary adjacent to the river lagan is defined and a concrete wall and fencing. The western boundary is defined by semi mature trees, palisade fencing and a brick wall.
160. All existing boundary vegetation is to be retained and there is additional boundary planting proposed on all boundaries.
161. The site therefore does not lack established natural boundaries to provide a suitable degree of enclosure. The requirements of criteria d) are met.
162. In terms of criteria (e), the proposal would not rely primarily on new landscaping for integration purposes. As well as the retaining the existing planting and vegetation new landscaping is also proposed as detailed on the landscaping plan [drawing LP-01] and is considered to be acceptable.
163. In terms of criteria (f), the design as discussed above is appropriate for the site and its locality in that it is simple in form and designed to complement the existing buildings in the immediate area.
164. With regards to criteria (g), it is considered that any ancillary works associated with the internal road layout and car parking areas would integrate into their surroundings. The existing and proposed levels are acceptable and whilst the existing access arrangement, is to be altered and upgrade to facilitate the proposal, these works will have no detrimental impact on the surroundings.
165. For the reasons outlined above, the proposed building can be visually integrated into the surrounding landscape and the design of the buildings are appropriate and policy tests associated with Policy COU 15 are met.

#### COU16 – Rural Character and Other Criteria

166. For the reasons outlined above, the new development will not be prominent in the landscape and would be sited to cluster with existing buildings to the north, east and west of the site. Criteria (a) and (b) are met.
167. As detailed above the proposal will read with the existing buildings in the immediate context and will not be perceived to be extending into the open countryside. The proposal will not mar the distinction between the settlement of Lisburn and the Countryside as this is previously developed land and is enclosed on three sides by other built development and commercial activities. The proposal will therefore not have an adverse impact on the rural character of the area. Criteria (d) and (e) are met.
168. The application seeks to provide a number of Industrial sized buildings and ancillary units. These buildings are in keeping with the pattern of development as set out in preceding paragraphs of this report. Criteria (c) is met.
169. In relation to criteria (f) and as detailed above a Noise Impact Assessment was submitted with the application. No issues of noise or nuisance are identified that

would impact adversely or significantly on any residential properties close to the site.

170. In respect of criteria (g) and (h) all of the proposed services are provided underground. No adverse environmental impact is identified in terms of connecting this development to services and the ancillary works will not harm the character of the area as they are already a feature of the landscape at this location.
171. In respect of criteria (i) for the reasons set out in the following paragraphs, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

### **Access and Transport**

172. A Transport Assessment was submitted with the application.
173. The TAF indicates that the existing access arrangements granted under retrospective application LA05/2019/0748/F is to be utilised to serve the proposal.
174. The security gates into the site have been located so as a large HGV with trailer and pull clear of the road Moira so as not to prejudice the flow of traffic or road safety.
175. An additional secondary access on the Halftown Road is to be permanently closed up and a new access is to be introduced further south of the site and further away from the signalised junction. This access will be to facilitate the staff car park for the HGV driver and other staff members only.
176. Paragraph 2.0 of the TAF indicates that the busiest peak hour for the proposal will be outside of the network peak times which are 08:00-09:00 and 17:00 to 18:00.
177. Trips arising from the proposed development are spread throughout the working day reducing the impact on the network at peak times.
178. Data supplied at Appendix G of the TAF indicates that the total daily vehicular trips proposed will be 771.
179. 381 of these trips are currently occurring at the site as certified by the CLEUD so the total number of new vehicle trips is modelled to be 390 two-way daily (arrivals/departures) trips.
180. A scheme Design Overview (SDO) has also been submitted with the proposal which outlines the additional works to be completed on the road network should the application be approved. These works include:

- Realignment of Moira Road west of the existing Burn House priority junction to improve west bound road alignment and aid traffic progression.
  - Introduce a right turning refuge to Burn House access on A3 to reduce potential for conflict improving Moira Road east bound traffic progression.
  - Widen existing turning provision to Lissue Road.
  - Improve access to facilitate efficient HGV access and egress.
  - Existing “Paint Centre” access on Halftown Road permanently closed up and new, improved access introduced further south of the access and further away from the signalised crossroads to facilitate staff car parking for PRM rest stop drivers.
181. The agent has stated that whilst these works are required for the proposal, there will be an overall material benefit to the area from the junction and road improvements.
182. In terms of parking provision within the site, 272 spaces are required and 292 spaces are being provided. The total number of HGV'S spaces required is 41 with 58 spaces proposed.
183. To promote cycling trips to the site 20 number cycle space are being provided for, along with showering and changing facilities.
184. The application site in the open countryside and access is proposed onto the Moira Road (A3) which is a protected route and part of the trunk road network. TRA 3 Access to protected Routes is therefore engaged.
185. There is an existing access on site that has served the previous use of the site going back over 80 years, they access was upgraded in 2019 to DfI standards and continues to serve the site. The history of use of the site and its proximity to the edge of the settlement are also relevant material considerations to be weighed in the planning balance.
186. Whilst there is intensification of the use of the existing access this is much safer than taking an access onto the Halftown Road given its proximity to a busy road junction. The improvements to the operation of the junction highlighted above also mitigate the impact of using the access onto the protected route.
187. For the reasons outlined it is accepted that whilst the requirements of policy require the access to be taken from the minor road this objection is outweighed

by the improvements in road safety achieved from the proposed road works. The existing access is therefore deemed to be acceptable, subject to meeting the criteria of TRA 2.

188. TRA2 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 it will not prejudice road safety or significantly inconvenience the flow of vehicles.
189. DfI Roads were consulted with the proposal layout of the access arrangements and improvement to the wider road network and after a number of amendments were submitted, they responded on 25 February 2025 stating that they had no objection to the proposal. Officers have no reason to disagree with the advice offered by DfI Roads on traffic impact or road safety grounds.
190. The application is considered to be compliant with all the requirements of policies TRA1 and TRA2 of the Plan Strategy in that the utilisation of the existing access onto the protected route is acceptable as it has been demonstrated that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.
191. The proposal also provides an accessible means of access to the site and building and sufficient parking is provided within the confines of the site for the proposed use in accordance with the requirements of policy TRA7. An assessment of the requirement for parking provision has been made against the published parking standards and the requirement is met in full.

### **Natural Heritage**

192. A Biodiversity Checklist, Preliminary Roost Assessment (PRA) both completed by Sterna Environmental and a Bat Survey Report, completed by Bat Authority were submitted in support of the application.

In a detailed response NED stated that:

*The proposal involves the demolition of eleven buildings on site as well as the installation of new floodlighting. NED note from the PRA assessment report that buildings denoted as 1, 4, 9 and 10 were assessed by the ecologist to have moderate Bat Roosting Potential (BRP) and buildings 6 and 8 were assessed by the ecologist to have low BRP. NED have reviewed the bat survey report and note that no bat roosts were recorded on site and that bat activity overall was low. All trees on site were assessed by the ecologist to have negligible BRP, NED are therefore content that should the proposal require the felling of any tree on site, this will not have a significant impact to bats. The ecologist notes within the biodiversity checklist that there is existing floodlighting on site. NED are therefore content that the proposal will not have a significant impact on bats. The ecologist did not record any*

*evidence of badger on site or within the 25m survey buffer. NED are content the proposal will not have a significant impact on badgers.*

193. DAERA Natural Environment Division (NED) confirmed in their response that they had no objection to the development. NED stated that they had considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns. Officers have no reason to disagree with this advice.
194. For the reasons outlined, the proposal is not likely to have an adverse impact on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby. The requirements of policies NH2 and NH5 are met.

### **Historic Environment and Archaeology**

195. There are no identifiable features of nature, conservation or archaeology on the site.
196. The NIEA Environment Map has indicated one historic record within the site, a two-arch brick and stone bridge located in the middle of the site along the northern boundary.
197. The historic site identified will not be impacted on given the location of the proposed development and the separation distance to the historic bridge.
198. As indicated above a small portion of the site is within Knockmore Local Landscape Policy Area (LLPA)
199. It is considered that the previous use of the site at this location along with the careful design of the building and how it reads with the existing industrial units in Lissue will ensure that the proposal will not detract from the environmental quality, integrity and rural character of the Knockmore LLPA.
200. Based on the advice from HED and the information submitted it is considered that the proposal would not harm the historic environment or archaeology and complies that it complies with Policy HE1 and HE2, of the Plan Strategy.

### **Flooding**

201. As previously stated, parts of the development proposal site are within the floodplain of the River Lagan. FLD1 of the Plan Strategy states that new development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) plus the latest mapped climate change allowance, unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

202. As outlined at paragraphs 98- 112 above and to assist in the consideration of the proposal LCCC Economic Development section was contacted for comment in relation to the proposal and in particular the economic benefits it could bring to the area. They concluded that the PRM group is operating on a sub-regional economic basis with their business extending across the island of Ireland and into the rest of the United Kingdom and Europe.
203. Taking into account the advice from the Economic Development Unit it is considered that the exceptions tests under criteria (a) of FLD1 “Development Proposals of Overriding Regional or Sub-Regional Economic Importance” has been met and can be applied to the proposed development.
204. A Flood Risk and Drainage Assessment dated February 2022 by Mc Cloy Consulting was submitted in support of the application.
205. At paragraph 2.3.1 of the Flood Risk Assessment the location of the site is reviewed with reference to Flood Maps NI. It confirms that:
- The detailed fluvial flood map indicates that part of the site is affected by the 1% AEP floodplain of the River Lagan.
  - The indicative surface water flood map indicates the site is unaffected by surface water flooding up to the 0.5% AEP event.
  - The Reservoir flood map indicates that the site is marginally affected by inundation zone of a controlled reservoir. The area affected is outside where development is proposed.
  - There are historical records of flooding at the southern boundary of the site from an event in December 1979
206. The flood risk assessment determines the potential source of flooding at the site and their associated risk to life and property. It also determines the suitability of the site for development in relation to flood risk from various sources and appropriate design and mitigation measures where appropriate.
207. DfI Rivers were consulted with both the Flood Risk Assessment and the Drainage Assessment, and their comments are outlined below. With regards to FLD1 Development in Fluvial (River) Flood Plains DfI Rivers have stated that:

*The site is affected by the River Lagan which flows along the southern boundary of the site, in a west to easterly direction. Rivers Directorate advises the Planning Authority that, based on the most up to date modelling information on predicted flood risk available to the Department, Flood Maps (NI) indicate that a considerable portion of the site lies within the 1 in 100-year climate change fluvial flood plain.*

*The predicted 1 in 100-year fluvial flood level at this location is within the range of 31.61m OD at the south-west corner of the site, to 31.55m OD at the south-east corner of the site. In accordance with policy, development will not be permitted within the 1 in 100-year climate change fluvial flood plain unless the Planning Authority deems it to be an 'exception' to policy, or to be of overriding regional or sub-regional economic importance.*

*Where the principle of development is accepted by the Planning Authority, a Flood Risk Assessment is required. It is noted that, in the consultation dated 4th September 2024, the Planning Authority has indicated that this development proposal is considered to be of sub-regional economic importance. Accordingly, Rivers Directorate has assessed the submitted Flood Risk Assessment and Drainage Assessment/Drainage Plan.*

*The output of the Flood Risk Assessment indicates that there will be no increase in flood risk outside of the site as a result of the proposed development and associated works. This outcome can be attributed to the fact that the loss of flood plain storage on the site, due to the development proposal, is proportionally very small when distributed across the large extents of the wider River Lagan flood plain at this location i.e. this figure is unmeasurable within the computational tolerances of the hydraulic model.*

*However, notwithstanding the results of the FRA for this individual development, Rivers Directorate advises the planning authority that piecemeal development within river flood plains will remove valuable flood storage areas and can have a cumulative effect that will redirect flows and undermine its natural function in accommodating and attenuating flood water. Accordingly, to minimise flood risk and help maintain their natural function, it is necessary to avoid development within flood plains, wherever possible.*

*In relation to flood risk within the proposed development site itself, Paragraph 3.2.3 of the FRA indicates that the following buildings and areas will be subject to flooding. For these areas, the FRA proposes mitigation in the form of Flood Resilient Construction and indicates that risk to people and materials will be mitigated by a robust Flood Management Plan/Flood Warning Plan. A Flood Management Plan has been included in Annex E of the FRA. Rivers Directorate, in line with Departmental Solicitors advice, cannot comment on the efficacy, adequacy and operational effectiveness of the mitigation offered by way of a Flood Management Plan/Flood Warning Plan to ensure people and property are safe.*

The following is a summary of the depths of flooding that will occur at various proposed buildings/areas within the proposed development site:

- *Ancillary Office and Welfare: Flood depths of up to 300mm deep with flood resilience measures, reduced freeboard*

- *HGV Workshop : Flood depths of up to 200mm*
- *Vehicle Storage Areas : Flood depths of up to 600mm (bunded fuels and oils etc)*
- *Fuel Bay and Storage : Outside 1 in 100 year CC flood plain + Sufficient freeboard*
- *Vehicle Wash bay: Within 1 in 100 year CC flood plain (bunded fuels and oils etc) • Vehicle Parking: Flood depths up to and exceeding 1500mm.*

*The FRA, in section 3.2.3, states that the “applicant acknowledges and accepts the commercial risk to private property on it’s site because of flood risk”. In relation to the flood depths predicted within the car park area, Rivers Directorate would have concerns around parked vehicles becoming buoyant in depths of 1.5 metres which could make their way into the river channel and cause a potential blockage in a downstream structure.*

*Moreover, it should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Flood Risk Assessment and Drainage Assessment by McCloy Consulting both, dated February 2023, and implementation of the proposed flood risk measures rests with the developer and their professional advisors.*

208. In response to DfI Rivers the agent provided clarification in respect of the content of the FRA and also DfI Rivers comments.
209. In respect of policy FLD1 the agent has addressed the concerns that DfI Rivers raised in relation to flood depths in areas of parking where flooding could cause vehicles to be buoyant; and environmental concerns in relation to fuel and oil storage in vehicle storage and the HGV workshop.
210. The agent has stated that high environmental risk areas (fuel bay and fuel storage, and wash bay) are sited either wholly or mostly outside the floodplain respectively.
211. The statement goes on to say that at section 3.2.3 of the FRA it is acknowledged the wider risk of deep flooding and environmental risks and that mitigation is proposed in the existing FRA. They draw attention to the following:

*1. A Flood Warning System is to be installed in the River Lagan at the site as noted at Section 4.4.1 of the existing FRA. The warning system will nominally comprise real-time water level monitoring and continuous flow sensors with an appropriate telemetry system.*

*The System will collect and transmit water level data and alert the site operator in the event a threshold is breached, indicating onset of flooding is likely. Distribution of a flood warning will be by SMS signal or similar.*

*The outcome of this system will mean that evacuation of the land / a flood response will be possible in advance of flooding.*

*2. A Flood Evacuation and Management Plan is proposed that sets out actions that will occur in response to predicted flooding from the site Flood Warning System or other sources. Fundamentally, the plan seeks to evacuate people, property (vehicles), and environmental hazards out of flood prone areas prior to the onset of flooding*

212. Officers have no reason to disagree with the clarification offered from the applicant and consider that the detail submitted in the FRA and the mitigation measure outlined above are adequate to confirm the requirements of policy FLD1 has been satisfied.
213. With regards to FLD2 - Protection of Flood Defence and Drainage Infrastructure – DfI Rivers have stated that:

*The site is affected by the Lagan River, designation number 178 under the terms of the Drainage (Northern Ireland) Order 1973. The site may be affected by watercourses of which we have no record. Note, NIW has a substantial storm sewer flowing directly across the site. There is a general presumption against the erection of buildings or other structures over the line of a culverted watercourse in order to facilitate replacement, maintenance or other necessary operations.*

*A suitable maintenance strip of minimum must also be in place but up to 10 metres where considered necessary. It is essential that a working strip of minimum width 5 metres from the top of the bank is retained but up to 10 metres where considered necessary*

214. In response to DfI Rivers comments the agent has provided clarification. They confirm that a 5-metre maintenance strip on the southern bank within lands under control of the applicant will be provided. This will allow DfI Rivers to fulfil its statutory function in relation to maintenance of the designated watercourse.
215. This is also outlined in detail at Section 3.3 and of the FRA and the location of the maintenance is also outlined on a map at Section 4.5.
216. In relation to Policy FLD3 - Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains DfI Rivers have stated that:

*The Drainage Assessment indicates that for the design event, 6 number of manholes surcharge and flood onto the site, it further states that at that time in the flood hydrograph when this occurs, river flooding would have encroached onto these low-lying areas of the site.*

*Accordingly at that point, the Drainage Assessment contends that rainfall falling onto the flood plain is essentially 100% runoff and uncontrolled. Rivers Directorate has no reason to disagree with this assessment. Consequently, the Drainage Assessment has provided a detailed*

*drainage design that demonstrates that the drainage system has been designed appropriately for the site.*

*However, consent to discharge storm water under Schedule 6 of the Drainage (NI) Order 1973 have not been furnished with this application. The applicant is requested to provide confirmation of Schedule 6 approval from Rivers Directorate if/when received*

217. DfI Rivers has requested evidence of discharge consent. An application for consent was previously submitted to DfI Rivers (Belfast Area), however the application did not progress, due to concerns around commenced development in the floodplain that mirrored concerns addressed in this planning application.
218. The matter of development in the floodplain / displacement of floodwater has now been resolved through the closure of the enforcement case, a renewed application to discharge was applied for.
219. A Schedule 6 Consent has been granted for the site in February 2025. It confirms that:

*DfI Rivers have consented to a discharge of stormwater at the greenfield runoff figure of a total maximum of 45.4 l/s by way of 2 no. outfall locations (40.5l/s and 4.9 l/s) to the River Lagan as detailed in the drainage plan.*

220. It is the opinion of the Council that the proposed attenuation measures outlined in the Flood Risk and Drainage Assessment will effectively mitigate against flood risk and therefore policy FLD 3 is satisfied.
221. NI Water in a response received on 31 August 2023 confirmed that there is a public sewer within 20 metres of the proposed development boundary which can adequately service the proposals and that an application to NI Water would be required to obtain approval to connect.
222. Based on a review of the information provided and the advice received from both DfI Rivers, and NI Water, it is considered that the proposed development is being carried out in accordance with the requirements of policies FLD 1, 2 and 3 of the Plan Strategy.

### Consideration of Representations

223. The following points of objection have been raised and are considered below:

#### Additional Traffic

An objection has been raised in relation to the additional traffic that may be generated to the site. Most of the traffic that will be using the site are already on the road network and travel to PRM's current site at Rathdown Road which is nearby. DfI Roads have been consulted with the proposal and have no

objection. Officers have no reason to disagree with the advice of DfI Roads for the reasons set out above.

### Noise levels

An objection has been raised in relation to the noise levels associated with the site. A noise impact assessment was submitted with the proposal. Environmental Health were consulted in relation to the proposal and had no objection. Officers have no reason to disagree with the advice of the Environmental Health Unit for the reasons set out above. .

### Floodlights

An objection has been raised in relation to proposed floodlights. Floodlights are required to light the site and provide safe travel through the site at night. Along with CCTV the lights also provide security. Environmental Health were consulted in relation to the proposal and had no objection subject to conditions. The recommended condition states that the lights should conform to the maximum values of vertical illuminance within the environmental zone for exterior lighting control. This will ensure there is no impact on the residential amenity of adjacent residential properties.

## Conclusions

224. For the reasons outlined above, it is accepted the proposal complies with policies ED1, ED4, ED8 and ED9 of the Plan Strategy. This proposal involves the redevelopment of previously developed land which is currently used for a sui-generis employment use. The buildings can also be integrated into the open countryside with adversely impacting on the rural character of the area. All other planning and environmental considerations are also met for the reasons set out in the report

## Recommendations

225. It is recommended that planning permission is approved subject to the following conditions:

- 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

- The vehicular accesses for Moira Road and Halftown Road, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No '22- 461-DD-100 Rev06' bearing the LCCC Planning Service date

stamp 21/02/2025, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted becomes operational and such splays shall be retained and kept clear thereafter.

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

- No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 22-461-DD-100 Rev 06 bearing the LCCC Planning Service date stamp 21/02/2025 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

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

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

- No other development hereby permitted shall be commenced until the existing access on the Halftown Road indicated on Drawing No. '22-461-DD-100 Rev 06' has been permanently closed and the footway properly reinstated to DfI Roads satisfaction.

Reason; In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

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

No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in

accordance with the details outlined blue on Drawing Number 22—461-DD-100 Rev 06 bearing the date stamp 25th February 2025 The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

- The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department 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: '22-461-DD-100 Rev06' bearing the Department for Infrastructure determination date stamp 25/02/2025.

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

- The hours of operation of the Refuelling Station (Building G), Car Wash (Building H) and Lorry Wash (Building I) shall not exceed 0700 – 2300 on any day.

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

- Prior to the operational phase of the development, Buildings A, C, D and E shall be constructed with cladding to achieve of at least Rw 25dB.

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

- Noise levels from external refrigeration plant units (chill equipment) at the Storage and Distribution Building (Building A) as indicated on approved drawing (08 Storage and Distribution Building) shall not exceed 85dB LAeq at 1m from the chill equipment.

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

- Noise levels from external refrigeration plant units (chill equipment) at the Production Building (Building C) as indicated on approved drawing (07 Production Building) shall not exceed 80dB LAeq at 1m from the chill equipment.

Reason: To protect the amenity of neighbouring dwellings with respect to noise 5.

- Noise levels from the Car Wash (Building H) and Lorry Wash (Building I) shall not exceed 80dB LAeq(15mins).

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

- All vehicles operating within the development site shall be fitted with white noise (full spectrum) reversing alarms or variable loudness reversing alarms whose noise level does not exceed 61dB (daytime) and 49dB (nighttime).

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

- All roller shutter doors shall be kept closed at all times except for access and egress.

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

- The development hereby permitted shall not commence until all fuel storage tanks (and associated infra-structure) are fully decommissioned and removed and the quality of surrounding soils and groundwater verified. Should any additional contamination be identified during this process, Conditions 3 and 4 will apply.

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

- In line with Section 8.1 of the Preliminary Risk Assessment and Generic Quantitative Risk Assessment date stamped 07 December 2022, areas containing asbestos shall be encapsulated by suitable hard standing.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

- In the event that previously unknown land contamination is discovered development on the site shall cease. The Council should be advised and a full written risk assessment in line with current government guidance that details the nature of the risks and any necessary mitigation measures shall be submitted for approval by the Council.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

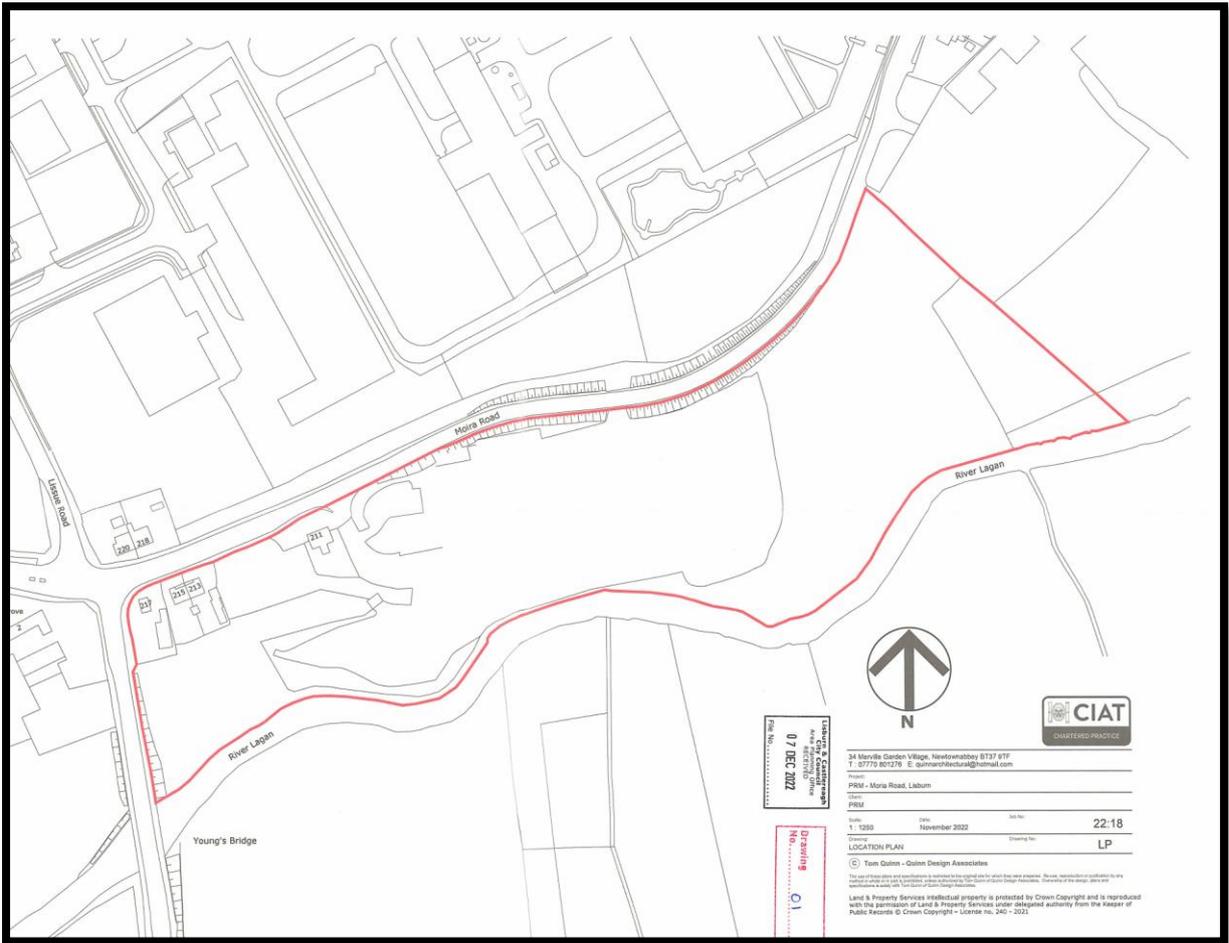
- The applicant shall have full regard to all relevant and current guidance and standards during the remediation and validation processes and shall incorporate such detail within any report submissions required to be submitted for prior approval by the Council.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

- Any artificial lighting to the development must minimise obtrusive light and conform to the maximum values of vertical illuminance within the environmental zone for exterior lighting control – E3 (Suburban). Reason: To protect the amenity of neighbouring dwellings with respect to obtrusive light
- Foul sewage shall be connected to the main sewer with Northern Ireland Water approval and maintained thereafter for the lifetime of the development.

Reason: To protect the amenity of neighbouring dwellings with respect to odour

### Site Location Plan – LA05/2022/01167/F



## Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	07 April 2025
Committee Interest	Major Application
Application Reference	LA05/2024/0775/F
Date of Application	17 October 2024
District Electoral Area	Castlereagh South
Proposal Description	Subdivision of Unit 5 and Elevational Changes.
Location	Unit 5 Drumkeen Retail Park, Upper Galwally, Belfast, BT8 6RB
Representations	One
Case Officer	Gillian Milligan
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This application is categorised as major development in accordance with the Planning (Development Management) Regulations (Northern Ireland) 2015 in that the site area exceeds one-hectare, and the retail development is over 1,000 square metres in size outside of a town centre.
2. The proposal is presented with a recommendation to approve as the proposed development is considered to comply with Policy TC1 of the Plan Strategy. It has been demonstrated that the site is sequentially preferable, there are no suitable sites within any centre and the proposal will have no adverse impact on the vitality or viability of existing centres.
3. In addition, the proposal satisfies the requirement tests of policies TRA1 and TRA7 of the Plan Strategy as it will not alter the existing access arrangements, and the environment is accessible with the existing car parking and servicing arrangements that are already provided at the site.

### Description of Site and Surroundings

### Site

4. The site is located at Unit 5, Drumkeen Retail Park, Bradford Court, Belfast.
5. The site (Unit 5) is the end unit in a larger block of retail warehouses within Drumkeen Retail Park. The building is rectangular in shape and is finished in lined masonry on the walls with metal panels on the roof. There is a glass shopfront on the front elevation with large signage above.
6. The unit is currently occupied by Curry's.
7. There is a large surface level car parking area at the front of the site. The site is accessed off Upper Galwally and the A55 Upper Knockbreda Road runs along the eastern boundary of the site.
8. Along the eastern boundary there is also a pedestrian access and brick wall with hedging and trees.

### Surroundings

9. The site is adjacent to and part of a larger block of retail warehouses and other ancillary buildings and uses that contain Smyth's Toys, Harry Corry, B&M Bargains. Costa Coffee, Burger King and a petrol filling station are also within the retail park.
10. Forestside Shopping Centre is located to the south of the site on the opposite side of Upper Galwally. To the south-west is the old Council offices and Homebase site. To the north, west and east of the site are residential properties.

### **Proposed Development**

11. The proposal is for the subdivision of Unit 5 and elevational changes.
12. The application was also supported by the following:
  - Design and Access Statement
  - Planning Statement
  - Pre-application Community Consultation Report

### **Relevant Planning History**

13. The following planning history is relevant to the site:

Reference Number	Description	Location	Decision
Y/1997/0299	Retail Warehousing and Drive-thru Restaurant, Car Parking, Access Roads and Service Area.	Upper Galwally	Permission Granted 22/06/1998
2000/A277 Y/2000/0130/F	Application under Article 28 of the Planning (Northern Ireland) Order 1991 for variation of planning condition No .5 (to restrict the nature of goods sold from the premises) of outline planning consent Y/97/0299 and condition 2 of subsequent reserved matters approval Y/97/0299.	Drumkeen Retail Park, Upper Galwally, Castlereagh.	Planning Appeal Upheld 5/10/2001
2000/A278 Y/2000/0506/F	Application under Article 28 of the Planning (Northern Ireland) Order 1991 for variation of planning condition No .4 (to control the amount of floorspace in the units) of outline planning consent Y/97/0299.	Drumkeen Retail Park, Upper Galwally, Castlereagh.	Planning Appeal Upheld 5/10/2001
Y/2010/0292/F	Amend condition1 of appeal decision 2000/A277 and 2000/A278 Planning application refers Y/2000/0130/F and Y/2000/0506/F to allow for the construction of an internal mezzanine floor for class 1 retail use	Currys Unit 5 Drumkeen Retail Park Upper Galwally Belfast BT8 6RB	Permission Granted 28/2/2011
Y/2013/0038/F	Application under Article 28 of the Planning (NI) Order 1991 to vary condition 1 of Y/2000/0506/F (Appeal ref: 2000/A278) to allow for the sub division of Unit 1 to create two self contained retail units	Unit 1Drumkeen Retail Park Belfast BT8 6RB	Permission Granted 30/10/2013

## Consultations

14. The following consultations were carried out:

Consultee	Response
Dfl Roads	No objection
Environmental Health	No objection
NI Water	No objection

## Representations

15. One letter of objection has been received to the proposal from the current occupier of the unit. The following issues are raised:

- Proposal is contrary to Strategic Policy 14 and Policy TC1 of the Plan Strategy.
- Smaller units would undermine the function of Drumkeen Retail Park for bulky goods and impact on town, local and district centres which are sequentially preferable sites for units of this size.
- It has not been detailed if there is any change of use relating to the goods to be sold on site.
- No retail impact assessment has been provided.
- The applicant attaches significant weight to previous comments from the Council in relation to the expansion of Forestside to include Drumkeen Retail Park and previous permission for the subdivision of Unit 1. The objector's position is that no significant weight can be attached as the proposal is contrary to the Plan Strategy and the only correct course of action is to refuse planning permission.

16. These issues are considered in more detail as part of the assessment below.

## Environmental Impact Assessment (EIA)

17. As the site area exceeds the threshold set out in Section 10 (b) of Schedule 2, of the Planning Environmental Impact Assessment (NI) Regulations 2015 the need for environmental impact assessment is considered.

18. An EIA screening was carried out and it was determined that the nature and scale of the proposed development was unlikely to result in any significant adverse environmental impact. As such, an Environmental Statement was not required to inform the assessment of the application.

## Pre-Application Community Consultation

19. The application exceeds the threshold for major developments as set out in the Planning (Development Management) Regulations (Northern Ireland) 2015 in that the site is more than one hectare in size and the retail development is over 1,000 square metres outside of a town centre.
20. In accordance with section 29 of the Planning Act (Northern Ireland) 2011, a Pre-Application Community Consultation (PACC) report was submitted with the application.
21. A leaflet including the legal notice and information about the proposal were hand delivered to residents and businesses in the surrounding area within 100 metres of the site on 1 October 2024.
22. The public event was held in the Crowne Plaza Hotel, 117 Milltown Road, Belfast on 10 October 2024 between 2pm and 6pm. At the event the planning consultant was available to the public to present the proposal. The event provided a display of the proposed scheme showing site layout, elevations and ground floor plan of the buildings.
23. At the event two members of the public attended and viewed the drawings and spoke to the design team. There was no objection to the proposal's design. The current tenant of the unit provided an e-mail objecting to the proposal.
24. The format and content of the Pre-Application Community Consultation report is in accordance with the Practice Note published by DfI Planning. The report concludes that based on the comments made during the consultation no changes to the proposal were necessary.

## Local Development Plan

### Local Development Plan

25. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.

### Plan Strategy 2032

26. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

27. In accordance with the transitional arrangements, the Plan Strategy and the Belfast Urban Area Plan (BUAP) are the statutory development plan however draft Belfast Metropolitan Area Plan 2015 (draft BMAP) remains a material consideration.
28. In the BUAP the application site is located within the Settlement Development Limit. In BMAP the site is within the Settlement Development Limit of Metropolitan Castlereagh. In both plans the site is whiteland with no zoning. Significant weight is attached to the location of the site within the settlement development limit of Castlereagh.
29. To the south of the site is Forestside (Shopping Centre) which was designated in the last revision of draft BMAP as a District Centre MCH16. It is noted that the site is outside any town, district or local centre,
30. This proposal is for the subdivision of an existing retail warehouse unit with elevational changes inside a settlement. The following strategic policies in Part 1 of the Plan Strategy apply.
31. Strategic Policy 01 Sustainable Development states:

*The Plan will support development proposals which further sustainable development including facilitating sustainable housing growth; promoting balanced economic growth; protecting and enhancing the historic and natural environment; mitigating and adapting to climate change and supporting sustainable infrastructure.*

*The Plan Strategy seeks to support the provision of jobs, services, and economic growth; and delivery of homes to meet the full range of housing*

*needs integrated with sustainable infrastructure (physical and digital) whilst recognising the balance to be achieved in protecting environmental assets.*

32. Strategic Policy 05 - Good Design and Positive Place-Making states that:

*the plan will support development proposals that incorporate good design and positive place-making to further sustainable development, encourage healthier living, promote accessibility and inclusivity and contribute to safety. Good design should respect the character of the area, respect environmental and heritage assets and promote local distinctiveness. Positive place-making should acknowledge the need for quality, place specific contextual design which promotes accessibility and inclusivity, creating safe, vibrant and adaptable places.*

33. Strategic Policy 14 Town Centres, Retailing and Other Uses states:

*The Plan will support development proposals that: a) promote town centres, retailing and other uses within the City and town centres to enhance their vitality and viability in accordance with their role and function in the retail hierarchy b) support the role of District and Local Centres.*

34. The following operational policies in Part 2 of the Plan Strategy also apply.

### **Town Centres, Retailing and Other Uses**

35. The proposal is for subdivision of a retail unit. Policy TC1 Town Centres, Retailing and Other Uses states:

*A Sequential Approach will be adopted for planning applications for retail and other city/ town centre uses to be considered in the following order of preference:*

- a) primary retail core and retail frontage (where designated)*
- b) city or town centres*
- c) edge of city or town centres*
- d) out of centre locations – only where sites are accessible by a choice of good public transport.*

#### *Justification and Amplification*

*Retail development within the city or town centres maximises business opportunities, promotes competition and innovation and enhances quality of life by stimulating economic investment. In order to sustain and enhance the vitality and viability of town centres and their functions, town centres, or where designated their primary retail core, and retail frontage will be the first choice for all retailing development.*

*The provision of a sequential approach enables a range of retailing opportunities appropriate to the needs of the community. The sequential*

*approach will help ensure that consideration is first given to the primary retail core and retail frontage, followed by city and town centres to encourage viability and vitality. Preference will then be given to an edge of centre location before considering an out of centre location.*

*Proposals for retail or town centre type developments above a threshold of 1,000 square metres gross external area which are not proposed in a town centre location or in accordance with the Local Development Plan will be required to undertake a Retail Impact Assessment and/or an assessment of need. This includes proposed extensions to existing premises which would result in the overall development exceeding 1,000 square metres gross external area*

### **Access and Transport**

36. The proposal will use an existing unaltered vehicular access. Policy TRA1 - Creating an Accessible Environment states that:

*The external layout of all development proposals will incorporate, where appropriate:*

- a) *facilities to aid accessibility e.g. level access to buildings, provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions*
- b) *user friendly and convenient movement along pathways and an unhindered approach to buildings*
- c) *priority pedestrian and cycling movement within and between land uses*
- d) *ease of access to car parking reserved for disabled or other users, public transport facilities and taxi ranks.*

*Public buildings will only be permitted where they are designed to provide suitable access for customers, visitors and employees.*

*Access to existing buildings and their surroundings should be improved as opportunities arise through alterations, extensions and changes of use.*

*Submission of a Transport Assessment Form (TAF) and a Design and Access Statement may also be required to accompanying development proposals.*

37. The proposed development will require car parking and need to be serviced. Policy TRA7 – Car Parking and Servicing Arrangements in New Development states that:

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

*flow of vehicles.*

*Beyond areas of parking restraint a reduced level of car parking provision may be acceptable in the following circumstances:*

*a) where, through a Transport Assessment or accompanying Travel Plan, it forms part of a package of measures to promote alternative transport modes*

*b) where the development is in a highly accessible location well served by public transport*

*c) where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking*

*d) where shared car parking is a viable option*

*e) where the exercise of flexibility would assist in the conservation of the historic or natural environment, would aid rural regeneration, facilitate a better quality of development or the beneficial re-use of an existing building.*

*Proposals involving car parking in excess of the Department's published standards will only be permitted in exceptional circumstances, subject to the submission of a Transport Assessment outlining alternatives.*

*A proportion of the spaces to be provided will be reserved for people with disabilities.*

*Car parking proposals should include an appropriate number of reserved electric charging point spaces and their associated equipment.*

*Where a reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.*

## **Regional Policy and Guidance**

### **Regional Policy**

38. The SPPS was published in September 2015. It is the most recent regional planning policy and it is stated at paragraph 1.5 that:

*The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.*

39. Paragraph 3.8 of the SPPS states:

*that 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.*

40. The proposal is for retail use. The SPPS at paragraph 6.271 confirms that:

*The regional strategic objectives for town centres and retailing are to secure a town centres first approach for the location of future retailing and other main town centre uses;*

41. Para 6.280 of the SPPS states that:

*A sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to date LDP.*

42. Paragraph 6.281 states that:

*Planning authorities will require applications for main town centre uses to be considered in the following order of preference (and consider all of the proposal's catchment):*

- *primary retail core;*
- *town centres;*
- *edge of centre; and*
- *out of centre locations, only where sites are accessible by a choice of good public transport modes.*

43. Paragraph 6.282 states that:

*In the absence of a current and up-to-date LDP, councils should require applicants to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites. All applications for retail or town centre type developments above a threshold of 1000 square metres gross external area which are not proposed in a town centre location and are not in accordance with the LDP should be required to undertake a full assessment of retail impact as well as need.*

### **Retained Regional Guidance**

44. Whilst not policy, the following guidance documents remain a material consideration.

### Parking Standards

45. This document sets out the parking standards that the Council will have regard to in assessing proposals for new development. The standards should be read in conjunction with the relevant policies contained in the Plan Strategy.

### Assessment

46. The proposal is for the subdivision of an existing retail warehouse unit into two equal smaller units. Curry's electrical is the current occupier of the existing unit.
47. The unit is currently 1,324 square metres ground floorspace with a 254 square metre mezzanine. Each new unit will be 655 square metres on the ground floor with a mezzanine area of 125 square metres and total floorspace of 780 square metres. There is no change to the use of the units to sell bulky goods only. The application does not seek to vary this condition.
48. The advice offered by the applicant in their supporting statement explains that the proposal is to allow other options for the unit other than the existing occupier.
49. It is recognised that a town centre first approach must be adopted for retail and main town centre uses.
50. In accordance with BMAP, Drumkeen Retail Park is not within an existing town centre or district/ local centre. It is identified as whiteland and within the settlement development limit of Metropolitan Castlereaugh.
51. Drumkeen Retail Park is directly adjacent to Forestside which is designated as a District Centre in the last revision to draft BMAP.
52. Part 1 of the Plan Strategy – Plan Objective C outlines those actions the Council will adopt to grow the city, town centres, retailing and other uses within the Council area which includes supporting the role of the District and Local Centres in accordance with the retail hierarchy.
53. Strategic Policy 14 - Town Centres, Retailing and Other Uses within Part 1 of the Plan Strategy also advises that the Plan will support development proposals that support the role of District and Local Centres.
54. On Forestside, Part 1 of the Plan Strategy states:

*“Forestside is a District Centre and provides an important role in the retail hierarchy, offering convenience and choice in a highly accessible location. It co-*

*exists with other centres and fulfils a complementary role to those services provided across the Council area.*

*The study forecasted that retail capacity in the Forestside catchment would support modest additions to the retail comparison offer.*

*Consideration of a possible extension to the District Centre boundary to consolidate and strengthen its role, focusing on the mix of office and retailing uses, will be considered at the Local Policies Plan stage”.*

55. Whilst outside the boundary of the District Centre it is considered that Drumkeen Retail Park has a functional and spatial relationship to Forestside and supports the role of the district centre at Forestside for these reasons. There is a detailed planning history associated with the wider Drumkeen lands and how it functions in the context of the District Centre. This proposal does not change this as the proposal only involves the subdivision of an existing unit within the established retail park. No additional floorspace is created and there is no change to type of goods to be sold (bulky goods). It is considered that the proposal will have no adverse impact on the vitality or viability of the existing urban centres and will meet the objectives of Part 1 of the Plan Strategy and the requirements of Strategic Policy 14.
56. Policy TC1 of the Plan Strategy states that a sequential approach will be adopted for planning applications for retail and other city/town centre uses and that the provision of a sequential approach enables a range of retailing opportunities appropriate to the needs of the community.
57. Within the supporting Planning Statement submitted by the applicant it is commented that:

*‘It is hard to see how the sequential test would comfortably apply to the proposal. The proposal is an already built retail unit in a retail park situated beside the fully occupied Forestside District Centre... The sequential test must be applied having proper regard to caselaw, in particular Tesco Stores Ltd v Dundee City Council [2012] UKSC 13. This sets out clearly that*

*(para 38) “The words “the proposal” which appear in the third and fifth of the list of the criteria which must be satisfied serve to reinforce the point that the whole exercise is directed to what the developer is proposing, not some other proposal which the planning authority might seek to substitute for it which is for something less than that sought by the developer”*

*The Council’s Sequential Test in Policy TC 1 does not stipulate the requirement to only consider the proposal’s catchment, but the legal interpretation of the Tesco v Dundee case must mean that only centres within the proposal’s catchment should be considered’*

58. In order to comply with Policy TC1 a sequential approach should be applied to this proposal as it is the creation of two new retail units. However, officers accept the applicant's argument that based on the case law provided, that the sequential approach in this case need only apply to the proposal's catchment area.
59. Under Policy TC1 the most sequentially preferably sites for retailing would be Lisburn or Belfast primary retail cores then their respective city centres.
60. During the process of the Plan Strategy the Council commissioned a Retail Capacity Study which states at para 4.18 that:

*From the conclusions of shopping patterns consideration of future opportunities for comparison retail development should include Forestside separately from Lisburn.*
61. Within the Retail Capacity Study and the catchment area put forward by the agent for Forestside (although different as the agent has included a wider radius of 10-minute isochrones) Carryduff is the only centre within the catchment area of Forestside (of which the site is adjacent to and therefore considered to have a similar catchment area).
62. Given the findings of the Retail Capacity Study and as Lisburn is 7.8 miles from the site, the primary retail core and city centre of Lisburn are discounted as within the catchment of this development proposal.
63. Belfast primary retail core and city centre are also outside the catchment area provided within the Retail Capacity Study and the catchment area put forward by the agent.
64. Within the supporting planning statement, the applicant has provided details on why there are no available or suitable sites within Carryduff town centre or edge of centre.
65. The supporting planning statement sets out that in terms of Carryduff town centre, 'this is a small area comprised of the former shopping centre, Lowes Industrial Estate and some small local shops along the Ballynahinch Road.'
66. The supporting statement goes on to refer to planning permission for the redevelopment of Carryduff Shopping Centre to provide a discount supermarket, 3 retail units, café, bookmakers and drive thru with car parking. Since the supporting statement was submitted, Lidl's food store is built and is operational.
67. The supporting planning statement then demonstrates that the planning permission for the redevelopment of the previous shopping centre site provides:

*one retail unit of 834 sq m and two smaller retail units of 143 sq m which are smaller than Unit 5 at Drumkeen which is currently 1,578 sq m and has potential to be 2,096 sq m in size (given the gross floorspace allowed for Drumkeen is 6,180 sq m). Unit 1 on the Carryduff site is 37% smaller in footprint terms compared to the proposal and 60% smaller in gross floorspace terms when compared to the required floorspace for Unit 5.*

68. The supporting planning statement also considers that the other main land use in Carryduff is Lowes Industrial Estate but that this is zoned for industrial use and not retail. It is also demonstrated that this location is not appropriate as none of the units are suitable for conversion to modern retail use similar to the proposal, the access from the main road and internal road layout is not suitable, the car parking is haphazard, it does not provide standard car parking spaces and there is no separation for pedestrians from vehicles and it is unsuitable for the high demands of car borne customers that would be attracted to the retail provision at Drumkeen.

69. It is also stated that:

*the site at Lowes Industrial Estate cannot be made suitable for this proposal without major demolition of numerous, already occupied buildings. The site is typical of old industrial estates, inward looking and has no high street prominence. Most buildings are steel portal frames with roller shutter doors. They do not have any form of shop front and a number of buildings on the Estate are portacabins.*

70. The detail in the supporting planning statement concludes that:

*As such the Lowes Industrial Estate is not a suitable alternative for the proposal. It should also be noted that the proposal seeks to reuse an existing modern retail warehouse. There is no other modern retail warehouse of this nature available, suitable or viable in any town centre in the entire catchment area of the proposal site.*

71. Officers accept the justification within the planning supporting statement that there are no suitable sites within Carryduff. The old shopping centre site has recently been redeveloped, the new units are only recently occupied and would be too small for the size of this development proposal.
72. Lowes Industrial Estate is also accepted to be unsuitable given it is zoned for industry and as such the form of the buildings and the access and parking are not suitable for retail use and its customers.
73. Part d) of Policy TC1 then refers the preferred location for retailing uses to be out of centre locations – only where sites are accessible by a choice of good public transport.
74. It is considered that the site at Drumkeen is an out of centre location which is highly accessible. There are a number of bus stops within the vicinity of the site at Upper Galwally and Upper Knockbreda Road. There are cycle routes along

the Outer Ring road adjacent to the site, and the site is in close proximity to surrounding housing areas which encourages walking to the site.

75. It is therefore considered that the proposed site is the sequentially preferred location for this size and scale of retail development and meets the requirements of Policy TC1.
76. Within the justification and amplification of Policy TC1 it states that town centre type developments above a threshold of 1,000 square metres of gross external area which are not proposed within a town centre location or in accordance with the LDP will be required to undertake a retail impact assessment.
77. It is considered that as there is no new floor space created and there is no application to vary the type of goods to be sold from the sub-divided units, that a retail impact assessment is not required.
78. The applicant however has detailed in the supporting planning statement that the proposal will have no adverse impact on the vitality and viability of existing centres within the catchment area as the current electrical retailer of Unit 5 generates a higher turnover than two non-electrical retailers would if Unit 5 was allowed to be subdivided into two smaller units.
79. The applicant used Mintel Retail Rankings to demonstrate that the turnover of other retail warehouse operators such as Homebase, Carpetright, Pets at Home and Halfords would have a much lower turnover than the existing occupier.
80. The supporting planning statement details that the existing occupier would have a turnover of about £11.9 million. If Unit 5 and its current mezzanine is subdivided and occupied with non-electrical retailers it would have a combined turnover of £4 million which is less than half of the existing turnover and therefore there would be almost £8 million of spend released into the market to support other existing shops in the nearby centres (Forestsides and Carryduff). Officers have no reason to disagree with this assessment and no contrary evidence is submitted.
81. The planning history of the site is also a material consideration. Planning application Y/2000/0506/F (Appeal Ref 2000/A278) was granted to vary condition No. 4 of outline planning permission Y/97/0299 which controlled the floorspace of the units. The PAC approved this under a new Condition 1 of the combined permission which states:

*“The gross floorspace of the proposed retail warehouses shall not exceed 5,576 square metres. With the exception of one unit, which shall be not less than 734 square metres in gross floorspace, no individual unit shall be less than 1,000 square metres in gross floorspace”.*

82. Planning permission was subsequently granted in 2011 for application Y/2010/0292/F to ‘amend Condition 1 of appeal decision 2000/A2777 and 2000/A278. Planning application refers Y/2000/0130/F and Y/2000/0506/F to allow for the construction of an internal mezzanine floor for class 1 retail use’. Condition 1 was amended to read:
- “The gross floorspace of the proposed retail warehouses shall not exceed 6,180 sq m. With the exception of one unit, which shall not be less than 734 sq m gross floorspace, no individual unit shall be less than 1,000 square metres in gross floorspace”.*
83. This permission was granted to allow a mezzanine floor of 772 square metres to Unit 5. This permission was only partially implemented with a 254 square metre mezzanine floor in Unit 5.
84. Planning permission was also previously granted in 2013 under Y/2013/0038/F for the variation of Condition 1 of Y/2000/0506/F (Appeal Ref: 2000/A278) to allow for the subdivision of Unit 1 to create two self-contained retail units. Condition 1 of this permission states:
- “The gross floorspace of the retail warehouses shall not exceed 6180 square metres. With the exception of Unit 1 (which shall not be less than 824 square metres in gross floorspace) and Unit 1A (which shall not be less than 549 square metres in gross floorspace) no individual units shall be less than 1,000 square metres in gross floorspace.”*
85. The planning history of the site demonstrates that units smaller than what is proposed (subdivision would create two units with floorspace of 780 square metres) have previously been granted within the Drumkeen Retail Park. Whilst the policy context is changed in the intervening period the same broad tests on the impact of vitality and viability of existing centres applies. It has been demonstrated that this proposal will not have an adverse impact for the reasons set out earlier in this report.

### Design

86. To facilitate the subdivision of Unit 5 into two units, external alternations to the front elevation are required to create two shop fronts with doors into each unit and signage above.
87. It is considered that the design changes are in keeping with the existing building and other retail warehouses in the surrounding area. The materials and finishes are the same and in keeping with the general characteristics of the existing buildings.

### **Access and Transport**

88. The proposal relates to the subdivision of one retail unit in an existing block of retail warehouses. There is no increase in floorspace. There are no alterations to the existing access, car parking or servicing arrangements.
89. It is considered that the proposal will create an accessible environment and ease of access to all visitors to the site. There will be level access to the units to aid accessibility and priority to pedestrians and cyclists via the existing footpaths along the front of the site and pedestrian access off Upper Knockbreda Road.
90. There is no requirement to alter or provide additional parking given there is no increase in retail floorspace therefore adequate parking and appropriate servicing arrangements will still be provided in accordance with Parking Standards.
91. It is therefore considered that the proposal meets the tests associated with Policies TRA1 and TRA7 of the Plan Strategy.

### Consideration of Representations

92. The issues raised by way of third-party representation are considered below.

- Description updated to include bulky goods.

It is not considered necessary to amend the proposal description as the applicant is not wishing to vary this condition or change the use of the units. The bulky goods condition will be added to any approval to allow the Council to control the range of goods sold.

- Proposal is contrary to Strategic Policy 14 and Policy TC1 of the Plan Strategy.

It has been considered in detail in the report how the proposal complies with Strategic Policy 14 and Policy TC1 of the Plan Strategy. The sequential test has been applied, and the site is preferable as an out of centre location.

- Smaller units would undermine the function of Drumkeen Retail Park for bulky goods and impact on town, local and district centres which are sequentially preferable sites for units of this size. Retail warehouse description is a minimum of 1,000 square metres gross retail floorspace.

It has been considered in detail in the report that there is no change to the retail use of the units and the size of the units will still be suitable for bulky goods. Drumkeen Retail Park has approval for retail units of a smaller size than the proposed subdivision will create and therefore it is considered that there will be no adverse impact on town, local and district centres.

- It has not been detailed if there is any change of use relating to the goods to be sold on site.

The description of the proposal relates to the subdivision of the unit only. A condition relating to bulky goods will be added to any planning permission to allow the Council to control the range of goods and to ensure there is no adverse impact on any town centre or district, local centre.

- No retail impact assessment has been provided.

It is considered that as there is no increase in the floor space of the retail provision at this location and there is no change to the type of goods to be sold (bulky goods) that a retail impact assessment is not required.

- Drumkeen Retail Park is not subject to any specific allocation and is not identified as within Forestside District Centre.

The assessment in the report agrees that Drumkeen Retail Park is not within Forestside District Centre and has based the assessment on the site being an out of centre location.

- Applicant has not submitted supporting information identifying tenants in place for the subdivided units.

There is no requirement in policy to provide information on future tenants.

- Applicant attaches significant weight to previous comments from the Council in relation to the expansion of Forestside to include Drumkeen Retail Park and previous permission for the subdivision of Unit 1. Objector's position is that no significant weight can be attached as the proposal is contrary to the Plan Strategy and the only correct course of action is to refuse planning permission.

The assessment of the application does not attach any weight to the expansion of Forestside to include Drumkeen Retail Park. This proposal is considered on its own merits against prevailing policy. An assessment has been made having regard to Part 1 and Part 2 of the Plan Strategy and the BUAP. Draft BMAP is also weighed as a material consideration. For the reasons detailed in the report the proposal complies with the Plan Strategy.

## Conclusions

93. For the reasons outlined in the report, the proposal is considered to comply with the relevant policy tests set out in the Plan Strategy and will have no adverse impact on the vitality or viability of existing centres.

## Recommendation

94. It is recommended that planning permission is approved.

## Conditions

95. The following conditions are recommended:

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

**Reason:** Time limit.

2. The gross floorspace of the retail warehouses shall not exceed 1,560 square metres. Each unit shall not be less than 780 square metres.

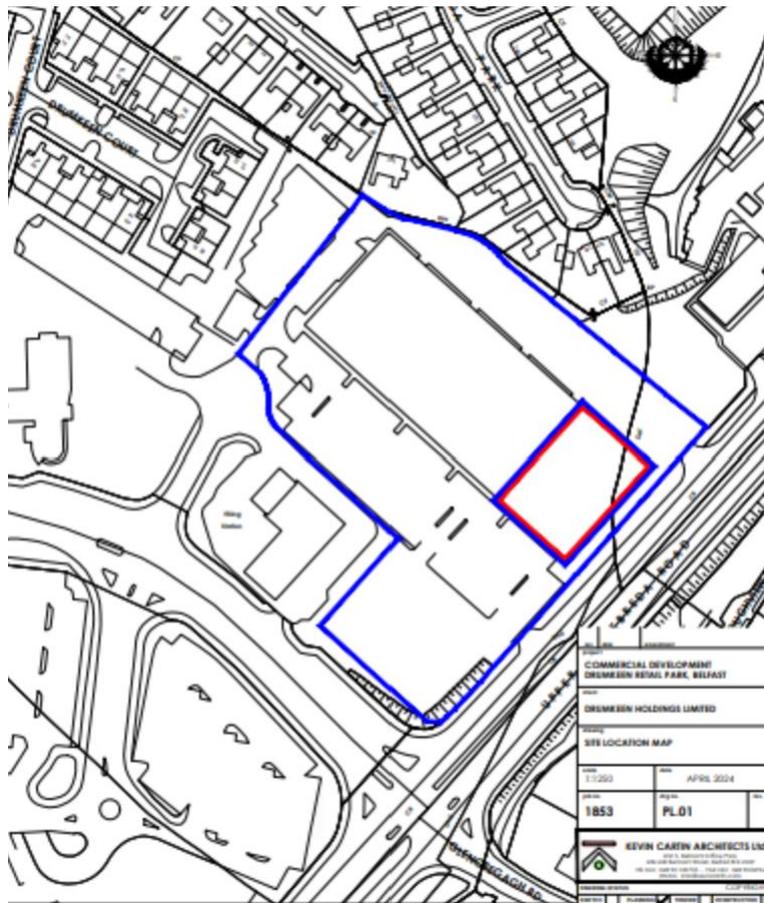
**Reason:** To enable the Council to control the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the vitality and viability of existing retail centres.

3. The development hereby approved shall be used only for the retail sale and ancillary storage of items listed hereunder and for no other purpose, including any other purpose in Class A1 of the schedule to the Planning (Use Classes) Order (Northern Ireland) 2015:

- a) DIY material, products and equipment;
- b) garden materials, plants and equipment;
- c) furniture and soft furnishings, carpets and floor coverings and electrical goods;
- d) toys; and
- e) such other items as may be determined in writing by the Department as generally falling within the category of bulky goods.

**Reason:** To enable the Council to control the nature, range and scale of retailing activity to be carried out at this location so as not to prejudice the vitality and viability of existing centres.

### Site Location Plan – LA05/2024/0775/F



## Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	7 April 2025
Committee Interest	Local Application (Called in)
Application Reference	LA05/2021/0360/F
Proposal Description	Proposed infill dwelling and garage
Location	Lands between 11 & 13 Crossan Road, Lisburn
Representations	None
Case Officer	Kevin Maguire
Recommendation	<b>Refusal</b>

### Background

1. This application was included on the Schedule of Applications for consideration by the Committee at a meeting on 03 March 2025. The recommendation was to refuse planning permission.
2. Following a presentation by officers and after representations were heard from the applicant and his advisers, Members agreed to defer consideration of the application to allow for a site visit to take place.
3. A site visit took place on 21 March 2025. A separate note of this site visit is provided as part of the papers.

### Further Consideration

4. Members were reminded that the purpose of the site visit was to observe the proposed development in the context of the buildings either side of the site and to allow them to ask questions about what the officers had taken account of in calculating the plots sizes and determining what the existing pattern of development in the area was.
5. Members visited and observed the recently constructed dwelling referred to by the agent in his speaking request at a previous meeting. They also observed the tennis court and agricultural shed to the rear of the field.

6. Members walked along the stretch of Crossan Road and observed the buildings highlighted by the planning officer as contributing to the built up frontage while also considering the size of the gap between them.

### **Conclusion and Recommendation**

7. The purpose of the site visit was to afford Members an opportunity to visit the site and observe the proposed development in its context.
8. The advice previously offered that planning permission should be refused is not changed.
9. The information contained in this addendum should be read in conjunction with the main DM Officer's report presented to the Committee on 03 March 2025 .

**LISBURN & CASTLEREAGH CITY COUNCIL****Report of a Planning Committee Site Visit held at 2.25 pm on Friday, 21 March, 2025 at Lands between 11 and 13 Crossan Road, Lisburn****PRESENT:**

Alderman M Gregg (Chair)

Councillors P Catney, D J Craig and G Thompson

**IN ATTENDANCE:**

Head of Planning & Capital Development (CH)

Member Services Officer (CR)

Apologies for non-attendance were submitted by the Vice-Chair, Councillor S Burns, Aldermen O Gawith and J Tinsley and Councillors U Mackin, A Martin and N Trimble.

The site visit was held in order to consider the following application:

LA05/2021/0360/F – Proposed infill dwelling and garage on lands between 11 and 13 Crossan Road, Lisburn

This application had been presented for determination at the meeting of the Planning Committee held on 3 March, 2025. The Committee had agreed to defer consideration to allow for a site visit to take place.

Members viewed the site location plan. The Head of Planning & Capital Development pointed out that the purpose of the site visit was for Members to view the buildings adjacent to and either side of the site and allow them to consider if there was a substantial and continuous built-up frontage.

The Head of Planning & Capital Development indicated the extent of the application site, which the agent indicated at the committee meeting was one half of a double infill site. The dwelling under construction was the other building referred to by the agent in his speaking request. However, Officers were required to take account of current circumstances and to consider the gap in the context of the buildings that are either side of the site now.

The Head of Planning & Capital Development pointed out to Members the buildings that were being considered by Officers as having frontage, that had been counted by the officer in their assessment. There was a tennis court set back off the road and surrounded by hedging and an agricultural shed set behind that. Officers had assessed that the shed was not a building in the road frontage. It was not a domestic or ancillary building but was separated from the road by a tennis court and hedging.

Members walked along the stretch from 11 to 13 Crossan Road to observe the buildings that were being counted towards built-up frontage and the size of the gap in between.

There being no further business, the site visit was terminated at 2.34 pm.

**Lisburn & Castlereagh City Council**

Planning Committee Report	
Date of Committee	03 March 2025
Committee Interest	Local Application (Called-In)
Application Reference	LA05/2021/0360/F
Date of Application	31 March 2021
District Electoral Area	Downshire East
Proposal Description	Proposed infill dwelling and garage
Location	Lands between 11 & 13 Crossan Road, Lisburn
Representations	None
Case Officer	Kevin Maguire
Recommendation	Refusal

**Summary of Recommendation**

1. This application is categorised as a Local Application. It is presented to the Planning Committee in accordance with the Protocol for the Operation of the Planning Committee in that it has been Called-In.
2. The application is recommended for refusal as it is considered that the proposed development is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development is not a type of development which in principle is acceptable in the countryside.
3. The proposal is contrary to Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development, if approved, would add to a ribbon of development along this section of Crossan Road. There is not a small gap sufficient to accommodate two dwellings within a substantial and continuously built-up frontage and the proposed development would fail to respect the existing pattern of development in terms of plot size and width of neighboring buildings.
4. The development proposal is contrary to Criteria (c) and (e) of Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development would, if permitted, not respect the traditional pattern of settlement and would have an adverse impact on the rural character of the area.

## Description of Site and Surroundings

### Site

5. The application site is located at lands between 11 and 13 Crossan Road, Lisburn. The site is a large irregular parcel of land measuring approximately 0.46 hectares in size and which is currently in agricultural use.
6. Crossan Road abuts the eastern boundary of the site consisting of a section of post and rail wooden fencing to the southeastern corner adjacent to an existing agricultural gate with mature mixed species hedging approximately 1.3 metres high further to the north. The northern and northwestern boundary is defined by a strong mature hedgerow between 1.5 and 2.5 metres in height. The southwestern boundary follows the edge of a hard surfaced tennis court which is separated from the site by a line of high conifer hedging. The southern portion of site runs along an existing agricultural laneway and is separated from the adjoining existing dwelling at No. 11 Crossan Road by a mixed species hedge approximately 1.8 to 2 metres in height.
7. In relation to the topography, the application site is relatively flat along its southern edge but rises gently towards the north.

### Surroundings

8. There is a dwelling to the south of the site at No. 11 Crossan Road which is a large detached two storey dwelling. There is a dwelling directly to the north which is currently under construction.
9. The site is located adjacent to an existing tennis court located at the southwest corner of the site and which has a single metal agricultural building located to the rear.

## Proposed Development

10. Full planning permission is sought for a proposed infill dwelling and garage on the site.

11. The proposed dwelling is a two-storey detached dwelling with a footprint of 152 square metres and a total floorspace of 273 square metres. The proposed building has a pitched roof and the following finishes are proposed:
  - Walls – Smooth sand/cement render
  - Windows – Double glazed uPVC white
  - Fascia – uPVC black
  - Gutters and downpipes – uPVC black
  - Roof – Blue/black slate
12. The application also proposes a 1.5 storey detached double bay garage with external staircase to access an upper floor.
13. The application also proposes upgrading of an existing agricultural access which currently provides access to the tennis court and agricultural building. If approved the laneway will serve the dwelling, tennis court and associated agricultural building.

### Relevant Planning History

14. The planning history for the site is set out in the table below:

Reference Number	Description	Location	Decision
LA05/2012/0251/F	Proposed two storey farm dwelling and detached garage	Adjacent to 11 Crossan Road Lisburn BT27 6XH	Permission Granted 27/02/2013

15. There are a series of relevant planning histories located to the north of this site which relate to a dwelling that was under construction at the time of inspection, and which has since been completed. The applications are set out in the table below:

Ref Number	Description	Location	Decision
LA05/2018/0528/F	Proposed single dwelling and detached domestic garage in compliance with PPS 21 CTY 8 - infill	Lands south of 13 Crossan Road Lisburn	Permission Granted 1/09/18
LA05/2024/0408/CLEUD	Proposed dwelling under construction - planning	Lands between 11 and 13	Certified 10/7/24

	reference LA05/2018/0528/F	Crossan Road, Lisburn	
LA05/2024/0311/F	Proposed change of house type from dwelling approved under LA05/2018/0528F	Lands south of 13 Crossan Road Lisburn	Permission Granted 17/10/24

16. These histories are relevant as the planning applicant relies on them to justify there are sufficient buildings to make up a substantial and continuous built-up frontage.

### Consultations

17. The following consultations were carried out:

Consultee	Response
Dfl Roads	No Objection
DAERA Water Management Unit	No objection
NI Water	No Objection
LCCC Environmental Health	No Objection
Northern Ireland Electricity	No Objection

### Representations

18. One representation has been received in support of this application.

## Local Development Plan

19. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on Planning applications, regard must be had to the requirements of the local development plan and that determination of applications must be in accordance with the plan unless material considerations indicate otherwise.

### Plan Strategy 2032

20. It is stated at Part 1 of the Plan Strategy that:

*‘Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption, the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 states that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.’*

21. In accordance with the transitional arrangements, the development plan is the Plan Strategy and the Lisburn Area Plan. Draft BMAP remains a material consideration.
22. The site is located within Green Belt in the Lisburn Area Plan (2001). In draft BMAP (2015), the application site is in the open countryside, out with any defined settlement limit. No other designation applies.
23. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out in Part 1 of the Plan Strategy.
24. Strategic Policy 09 Housing in the Countryside states:

*The Plan will support development proposals that:*

- a) *provide appropriate, sustainable, high quality rural dwellings, whilst protecting rural character and the environment*
- b) *resist urban sprawl in the open countryside which mars the distinction between the rural area and urban settlements*
- c) *protect the established rural settlement pattern and allow for vibrant sustainable communities.*

## **Development in the Countryside**

### Development in the Countryside

25. The proposal is for a dwelling in the open countryside. Policy COU1 – Development in the Countryside states:

*‘There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.*

*Details of operational policies relating to acceptable residential development proposals are set out in policies COU2 to COU10.*

*Details of operational policies relating to acceptable non-residential development proposals are set out in policies COU11 - COU14.*

*There are a range of other non-residential development proposals that may in principle be acceptable in the countryside. Such proposals must comply with all policy requirements contained in the operational policies, where relevant to the development.*

*Any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 - COU16.’*

### Infill/Ribbon Development

26. It is proposed to infill a gap in a road frontage. Policy COU8 – Infill/Ribbon Development states:

*‘Planning permission will be refused for a building which creates or adds to a ribbon of development.*

*Exceptionally, there may be situations where the development of a small gap, sufficient to accommodate 2 dwellings within an otherwise substantial and continuously built-up frontage, may be acceptable. For the purpose of this policy a substantial and continuously built-up frontage is a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway.*

*The proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development. Buildings forming a substantial and continuously built-up frontage must be visually linked.'*

### Integration and Design of Buildings in the Countryside

27. Policy COU15 - Integration and Design of Buildings in the Countryside states:

*'In all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and of an appropriate design.*

*A new building will not be permitted if any of the following apply:*

- a) *it is a prominent feature in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- d) *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*
- e) *it relies primarily on the use of new landscaping for integration*
- f) *the design of the building is inappropriate for the site and its locality*
- g) *ancillary works do not integrate with their surroundings.'*

### Rural Character and other Criteria

28. Policy COU16 – Rural Character and other Criteria states:

*'In all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area.*

*A new development proposal will be unacceptable where:*

- a) *it is unduly prominent in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it does not respect the traditional pattern of settlement exhibited in that area*
- d) *it mars the distinction between a settlement and the surrounding countryside, or otherwise results in urban sprawl*
- e) *it has an adverse impact on the rural character of the area*
- f) *it would adversely impact on residential amenity*
- g) *all necessary services, including the provision of non mains sewerage, are not available or cannot be provided without significant adverse impact on the environment or character of the locality*
- h) *the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character*

- i) *access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.'*

## **Waste Management**

### Treatment of Wastewater

29. A septic tank and soak away are proposed to serve the dwelling. Policy WM2 - Treatment of Wastewater states:

*'Development proposals to provide mains sewage Wastewater Treatment Works (WwTWs) will be permitted where it is demonstrated to the Council there is a need for new or extended capacity requirements and the new facilities comply with the requirements of Policy WM1.*

*Development relying on non mains sewage treatment will only be permitted where it is demonstrated to the Council and its statutory consultees that there is sufficient capacity to discharge treated effluent to a watercourse and that this will not create or add to a pollution problem or create or add to flood risk.'*

## **Access and Transport**

### Access to Public Roads

30. A new access has been proposed to Crossan Road for the dwelling. Policy TRA2 – Access to Public Roads states:

*'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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, the location and number of existing accesses and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.'*

## Natural Heritage

### Species Protected by Law

31. Hedgerow is proposed to be removed from the frontage to facilitate the access and the visibility splays. Policy NH2- Species Protected by Law states:

#### *European Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm a European protected species.*

*In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:*

- a) there are no alternative solutions; and*
- b) it is required for imperative reasons of overriding public interest; and*
- c) there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- d) compensatory measures are agreed and fully secured.*

#### *National Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.*

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.'*

### Habitats, Species or Features of Natural Heritage Importance

32. Policy NH5 – Habitats, Species or Features of Natural Heritage Importance states:

*Planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- a) priority habitats*
- b) priority species*
- c) active peatland*
- d) ancient and long-established woodland*
- e) features of earth science conservation importance*

f) features of the landscape which are of major importance for wild flora and fauna

g) rare or threatened native species

h) wetlands (includes river corridors)

i) other natural heritage features worthy of protection including trees and woodland.

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature.*

*In such cases, appropriate mitigation and/or compensatory measures will be required.'*

## Regional Policy and Guidance

33. The SPPS was published in September 2015. It is the most recent Planning policy, and it is stated at Paragraph 1.5 that:

*'The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.'*

34. Paragraph 3.8 of the SPPS states:

*'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.'*

35. With regard to infill development paragraph 6.73 of the SPPS states:

*'Provision should be made for the development of a small gap site in an otherwise substantial and continuously built-up frontage. Planning permission will be refused for a building which creates or adds to a ribbon of development.'*

36. It is further stated at Paragraph 6.78 of the SPPS that:

*'Supplementary planning guidance contained within Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside must be taken into account in assessing all development proposals in the countryside.'*

37. The following retained regional guidance documents remain material considerations:

***Building on Tradition***

38. With regards to Infill development, Building on Tradition guidance notes.

- *It is not acceptable to extend the extremities of a ribbon by creating new sites at each end.*
- *Where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill.*
- *When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.*
- *Some ribbon development does not have a consistent building set back. Where this occurs the creation of a new site in the front garden of an existing property is not acceptable under CTY 8 if this extends the extremities of the ribbon.*
- *A gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.*

39. It also notes that:

*‘4.5.0 There will also be some circumstances where it may not be considered appropriate under the policy to fill these gap sites as they are judged to offer an important visual break in the developed appearance of the local area.*

*4.5.1 As a general rule of thumb, gap sites within a continuous built-up frontage, exceeding the local average plot width may be considered to constitute an important visual break. Sites may also be considered to constitute an important visual break depending on local circumstances. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings.’*

40. Building on Tradition includes infill principles with examples.

- *Follow the established grain of the neighbouring buildings.*
- *Allow for clear definition of front and back, public and private sides to the plot which help address overlooking issues.*
- *Design in scale and form with surrounding buildings*
- *Retain existing boundaries where possible and construct new boundaries using native hedgerows and natural stone walls to assist integration and local biodiversity*
- *Use a palette of materials that reflect the local area*

### **Development Control Advice Note 15 – Vehicular Access Standards**

41. The policies in PPS 3 are replaced by the Plan Strategy. However, the guidance in Development Control Advice Note 15 – Vehicular Access Standards is retained. It states (Paragraph 1.1):

*‘The Department’s Planning Policy Statement 3 “Development Control: Roads Considerations” (PPS3) refers to the Department’s standards for vehicular accesses. This Development Control Advice Note (DCAN) sets out and explains those standards.’*

## **Assessment**

### **Development in the Countryside**

#### Policy COU1 – Development in the Countryside

42. Policy COU1 states that the details of operational policies relating to acceptable residential development are set out in policies COU2 to COU10.
43. The proposal is for an infill dwelling. Therefore, it falls to be assessed against the requirements of policy COU8.
44. Policy COU1 also states that any proposal for development in the countryside will also be required to meet all of the general criteria set out in policies COU15 – COU16.

#### Policy COU8 – Infill/Ribbon Development

45. The initial consideration is whether the proposal would create or add to a ribbon of development. The Justification and Amplification text of Policy COU8 describes a ribbon as:

*‘A ribbon of development cannot be defined by numbers, although, if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning. Most frontages are not intensively built up and have substantial gaps between buildings, giving visual breaks in the developed appearance of the locality. Infilling of these gaps is visually undesirable and, in most cases, creates or adds to a ribbon of development.’*

46. The proposed development engages ribbon development as the application site is located beside an existing dwelling No.11 Crossan Road and the recently constructed dwelling to the north. There are sufficient buildings along the road frontage to meet the description of what a ribbon is.

### The issue of exception

47. Whilst the premise of Policy COU8 is that planning permission will be refused for a building which creates or adds to a ribbon of development, it does however advise that there may be exceptions whereby the development of a small gap, sufficient to accommodate two dwellings within an otherwise substantial and continuously built-up frontage, may be acceptable. The exceptions test also requires that the proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings and the buildings forming the substantial and continuously built-up frontage must be visually linked.
48. The first step in determining if an exception exists is whether an 'infill' opportunity exists in an otherwise substantial and continuously built-up frontage is present on the ground. Policy COU8 states that for the purposes of this policy, a substantial and continuously built-up frontage is a line of four or more buildings, of which at least two must be dwellings (excluding domestic ancillary buildings such as garages, sheds and greenhouses) adjacent to a public road or private laneway.
49. The Justification and Amplification of Policy COU8 states:  
*For the purposes of this policy a building's frontage must extend to the edge of the public road or private laneway and not be separated from it by land or development outside of its curtilage.*
50. No. 11 Crossan Road is a two-storey detached residential dwelling and considered part of the frontage. It is counted. The agricultural building to the rear of the tennis courts is not considered to have a frontage to the road as the tennis courts separate this building from the road frontage and it is discounted.
51. Travelling further north, a newly constructed dwelling set slightly back from Crossan Road does have frontage and is counted as a second building. The single storey detached dwelling at No. 13 Crossan Road beyond this is also counted as part of the frontage but the detached garage to rear is discounted as an ancillary building.
52. While there is another dwelling located a substantial distance further north at No. 17 Crossan Road it does not present a frontage to the road apart from an access point. It is also discounted.
53. For the reason explained in the preceding paragraphs there are only three buildings counted in the road frontage. As a consequence the policy test is not met as there is not a substantial and continuously built-up frontage which is comprised of at least four or more buildings of which two must be dwellings.

54. Even though the first test of the policy is not met and the proposal fails to meet the requirements of COU8 on this basis all the other criteria are assessed for completeness.
55. The second step is determining whether an infill opportunity exists is to identify if the small gap site is '*sufficient to accommodate two dwellings.*'
56. Policy COU8 relates to the gap between road frontage buildings. The gap width is measured between the two buildings either side of the application site.
57. In this instance, the gap is between the dwelling at No. 11 Crossan Road and the newly constructed dwelling adjacent to No.13 Crossan Road. This gap measures approximately 89 metres.
58. No. 11 has a plot width of approximately 51 metres, the newly constructed dwelling has a plot width of 54 metres, and No. 13 a plot width of approximately 55 metres. This equates to an average plot width of around 53 metres.
59. A gap sufficient to accommodate two dwellings in accordance with policy would require a frontage of approximately 106 metres. Taking this into account, and the fact that the proposal is for a single dwelling and garage, it is considered that the gap of 89 metres does not constitute a small gap sufficient to accommodate two dwellings.
60. Turning to the third test the proposed development is required to be accordance with the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development.
61. In terms of assessing whether the existing pattern of development would be respected, the Justification and Amplification text associated with COU8 states:  
  
*'Assessment of what constitutes an existing pattern of development must take account and have regard to the size and scale of buildings, their siting and position in relation to each other and the size and width of individual plots upon which they are situated.'*
62. As demonstrated in the submitted site plan, the proposed dwelling would largely follow a similar building line to the neighbouring buildings to the north and south and therefore it is considered that the pattern of development would be respected in terms of being set back from the public road.
63. In relation to design, the dwelling is a two storey, linear fronted dwelling which has a traditional dual pitched roof. The house type is of simple rural form and includes two integral chimney breasts to each gable end with chimney stacks positioned to

each end of the ridgeline. The proposed schedule of external finishes includes smooth render at walls, blue/black natural slate roof, white UPVC double glazing window units and black rainwater goods.

64. The proposed 1.5 storey detached domestic garage is proposed to have a rectangular shaped footprint and would be of simple form with a dual pitched roof and external finishes to match the host dwelling. The upper floor will be accessed through an external staircase
65. It is acknowledged that the existing dwellings at No. 11 and the new dwelling to the north are both two-storey and the proposed dwelling would not be out of keeping with these other buildings in terms of scale, form, design or materials. The size of the garage and its position set back into the site would reduce views from public vantage points. As a whole, the size and scale are considered to be acceptable.
66. With regards to plot size No. 11, the new dwelling to the north and No. 13 Crossan Road are approximately; 0.5 hectares, 0.38 hectares and 0.48 hectares respectively. This equates to an average plot size of circa 0.45 hectares. The plot size of the proposed dwelling is approximately 0.48 hectares, and this is consistent with the average plot size of other dwellings in the general area. However, if this was a proposal for two dwellings in accordance with the requirements of the policy the plots would be 0.24 hectares in size and this would be at odds with the neighbouring plots and not in keeping with the existing pattern of development.
67. It is therefore considered that the proposal would not meet the third component of the exceptions test, in that the proposal would not respect the existing pattern of development in terms of plot size and width.
68. The fourth and final element of the exceptions test of Policy COU8 is that the buildings forming the substantial and continuously built-up frontage must be visually linked.
69. Standing facing the application site there is a visual awareness of the dwelling at No.11; the newly constructed dwelling adjacent; and dwelling to the north. It is therefore accepted that the buildings are visually linked.
70. The Council received a supporting email from a third-party agent on behalf of the applicant which outlined an approach of how he intended to meet policy. It was suggested that the applicant would submit a CLOPUD (Proposed Certificate of Lawfulness) for an agricultural building in front of the tennis court with curtilage extending to the public road to provide frontage.

71. To date no submission has not been made to the Council. It is also unclear what the intended outcome of the CLOPUD was. There would still be no building to count in the road frontage for the purpose of assessing the policy and the gap would still be too small to accommodate two dwellings. The application is assessed on the basis of the current submission and officers cannot engage in speculation on what may happen in the future.
72. The supporting statement also noted that '*Policy COU8 does not place an embargo on single dwellings and Building on Tradition remains a material consideration, with the diagrams on Page(s) 70 & 71 of BoT, visually demonstrating what is acceptable*'. While it is agreed that Building on Tradition is a material consideration it is recognised that it is a guidance document which pre-dates the publication of the Lisburn Planning Strategy. Policy COU8 is explicitly clear and includes the reference to 'a small gap, sufficient to accommodate two dwellings'. This proposal is for a single dwelling. The guidance in Building on Tradition and the worked examples on page 71 are of limited material weight in the assessment of this proposal as most of the examples are for single dwellings and the gap needs to be large enough to accommodate two.
73. Reference is made to the adjoining recently constructed dwelling originally approved under LA05/2018/0528/F. This was approved in a different policy context. It is only relevant in so far as it is a building to be counted as having frontage to Crossan Road. It is not implicit that it is one half of a much larger gap. Officers are concerned only with the size of the gap that exists now.
74. There has also been reference made in the submission to two applications at Gregorlough Road (LA05/2020/0420/O and LA05/2020/0421/O) and the agent has commented that they '*see little discernible difference in the overall approach*'. The application is distinguishable for the reasons outlined at paragraph 73. The proposal currently being assessed is for a single dwelling with no concurrent application and cannot rely on that approval under LA05/2018/0528/F as evidence of the gap sufficient to accommodate two dwellings. There is no planning history for two infill dwellings. An earlier planning permission is implemented, and officers are only concerned with the size of gap which exists now.
75. The submission also makes reference to the '*public law principles of legitimate expectation and administrative fairness*' and the basis of the submission date of the application. It is contended that no determination can be made on any application until a full assessment has been made by the Council. The applicant was advised in July 2023 that officers would assess all live applications against the policies contained within the draft Plan Strategy which was formally adopted in September 2023. The draft Plan was published and the Independent Examination a live issue when the application was submitted. The applicant had the right of non-determination appeal and did not take up the opportunity.

76. This proposal does not satisfy the exceptions test of Policy COU8 for the reasons set out above. It is considered that a substantial and continuously built-up frontage does not exist at this location; that the gap is not sufficient to accommodate two dwellings and that two dwellings could not be accommodated consistent with the established pattern of development. The proposal would add to a ribbon of development along Crossan Road.

Policy COU15 - Integration and Design of Buildings in the Countryside

77. The design of the proposed dwelling and garage has been described in paragraph 53 above.
78. The siting of the proposal, sitting back from the road with the land rising when travelling in a northerly direction along Crossan Road which would, along with the new dwelling to the north, likely limit views when travelling in a southerly direction would assist in reducing any prominence that the proposal would have. The relatively low topography of the site in general also reduce any longer-range views of the site and it is therefore contended that the proposed dwellings would not be prominent features in the landscape.
79. It is considered that the proposed scheme would cluster with the existing buildings in situ at No. 11 and the new dwelling under construction to the north along Crossan Road.
80. It is considered that the proposed dwelling and garage would blend with the existing boundary vegetation along the northern and western boundaries in particular.
81. A natural boundary is in situ along the eastern (roadside) boundary of the application site with a small section of post and rail fence close to the proposed access point. The landscape plan submitted notes that the existing boundary planting is to be retained unless necessary to prevent danger to the public. Based on this and the presence of a section of post and rail fence measuring approximately 29 metres along the northern visibility splay it is envisaged that there will be no requirement to remove existing vegetation along the frontage. On this basis it is contended that the proximity of the neighbouring buildings would also provide a degree of enclosure to assist with the integration of the buildings into the landscape.
82. Whilst new landscaping is proposed, primarily within the interior of the site, taking the above into account, it is not perceived that the proposal would rely primarily on new landscaping for the purposes of integration.
83. The design of the proposed dwellings/garages has been detailed above. The house type proposed is of simple traditional rural form and it is acknowledged that the proposed design and scale is akin to the existing dwellings adjacent to the site.

The design has been assessed against Building on Tradition guidance and is found to be acceptable.

84. In terms of proposed ancillary works, the proposal is to utilize an existing agricultural access point with the existing laneway dividing further into the site with one branch leading to the proposed dwelling and garage and the other around the tennis courts and providing access to the rear of the agricultural shed. The driveway proposed to the dwelling in particular is slightly sweeping in nature however it is acknowledged that using an existing opening and not removing further roadside hedging would be an acceptable solution. No suburban style entrance features have been proposed. Taking the existing levels into account in the context of the proposed finished floor levels (it is not considered that the proposed scheme would require an unacceptable degree of cut and fill (excavation) and no large retaining type walls/structures have been proposed. The proposed ancillary works have been assessed against Building on Tradition guidance and are found to be largely acceptable.
85. Taking all of the above into account, all of the criteria of policy COU15 of the Lisburn and Castlereagh City Council Plan Strategy are met.

#### Policy COU16 - Rural Character

86. For the reasons outlined in paragraph 62 above, it is considered that the proposed scheme would not be unduly prominent in the surrounding landscape.
87. As noted under paragraph 63 above, it is considered that the proposed development would cluster with the established group of existing buildings which are in situ in the immediate vicinity.
88. As per the assessment of Policy COU8 above, it is considered that the proposed scheme would not respect the traditional pattern of settlement exhibited in the area, in that the proposal would not respect the existing pattern of development in terms of plot size and width and the proposed development would add to a ribbon of development.
89. The application site is located wholly within the open countryside, out with any designated settlement limit, as are the neighbouring buildings directly to the north and south. It is considered that the proposed scheme would not mar the distinction between a settlement and the surrounding countryside, nor would it result in urban sprawl.
90. It is considered that the proposed development would have an adverse impact on the rural character of the area, as the proposal would add to a ribbon of development along Crossan Road.

91. Taking the existing/proposed boundary treatments, the distance from/siting of neighbouring residential properties and the positioning of the buildings, there are no concerns in relation to potential overlooking/loss of privacy or overshadowing/loss of light to any neighbouring property to an unreasonable degree.
92. There are also no concerns in relation to any potential overhang to a neighbouring property. LCCC Environmental Health were consulted as part of the processing of the application and note no concerns in relation to impact on amenity, either on the proposed or existing dwellings subject to an appropriate method for the disposal of effluent.
93. DAERA Water Management Unit and NI Water were also consulted as part of the processing of the application. No objections were raised by said consultees, subject to the inclusion of conditions/informatives with any approval. Therefore, there are no concerns with regards to the provision of necessary services.
94. In terms of proposed ancillary works, similar to the consideration of ancillary works relating to integration as detailed in Paragraph 68, the proposed use of an existing agricultural access point with spur off the existing laneway would negate the need to remove substantial hedging along the site boundaries and this would also reduce any impact on the rural character of the immediate area. As noted, the proposed ancillary works have been assessed against Building on Tradition guidance and are found to be largely acceptable in relation to rural character.
95. As noted, a new access to serve the proposed dwelling is located in the approximate location of a current agricultural access and laneway. Visibility splays of 2 metres by 48 metres have been proposed in each direction. DfI Roads were consulted as part of the processing of the application and subsequently responded with no objection subject to conditions linking any approval to the details as submitted.
96. Taking all of the above into account, it is contended that the proposed scheme would not respect the traditional pattern of settlement exhibited in that area, and it would, if permitted, have an adverse impact on the rural character of the area. The requirements of criterion c) and criterion e) of policy COU16 are not met.

## **Access and Transport**

### Policy TRA2 - Access to Public Roads

97. A new altered vehicular access has been proposed at the point of the existing agricultural access and laneway which would provide access to the dwelling and land/agricultural building to rear of the site. The proposed vehicular access point

would be installed at the south-eastern boundary of the application site, providing access/egress to/from Crossan Road.

98. It is acknowledged that the double garage would accommodate the parking of two private vehicles, in addition to an area for the in-curtilage parking/turning of private vehicles to the front of the this which would allow vehicles to exit the site in forward gear.
99. DfI Roads were consulted as part of the processing of the application and in their final consultation response, dated 9<sup>th</sup> March 2022, they responded with no objection.
100. Taking the above advice into account, there are no concerns in relation to the proposed scheme insofar as it relates to Policy TRA2 and TRA7 of the Lisburn and Castlereagh City Council Plan Strategy.

## **Waste Management**

### Policy WM2 – Treatment of Waste Water

101. The detail submitted with the application (Application Form/Plans) indicates that the source of water supply is to be from the public main. Surface water is to be disposed of by soak aways and foul sewage is to be disposed of via a treatment plant with soak away.
102. LCCC Environmental Health were consulted as part of the processing of the application. In their consultation response they state:

*'Environmental Health have no objection to the above proposed development subject to the following:*

*Proposed conditions:*

*The septic tank/sewage treatment unit shall be sited as indicated with suitable levels and adequate area of subsoil irrigation for the disposal of effluent (if appropriate). This comment is based on an assessment of potential nuisance and in no way does it negate the need to meet the requirements of the Water (Northern Ireland) Order 1999. Consent to discharge must be obtained from the Northern Ireland Environment Agency.*

*Reason: To protect the amenity of neighbouring dwellings with respect to odour.'*

103. Whilst it is noted that LCCC Environmental Health suggest a condition, it is considered that this does not meet the test for a condition and would not be included as a condition if the recommendation to refuse planning permission for this proposal was not agreed with.
104. NI Water were also consulted as part of the processing of the application. In their consultation response of 12 January 2023, they have offered a generic response and have not put forward any objection to the proposal.

105. DAERA Water Management Unit were also consulted as part of the processing of the application. In their consultation response of 14 April 2021, it provided standing advice however offered no objections to the proposal.
106. Based on a review of the information and having regard to the advice received from consultees, the requirements of Policy WM2 – Treatment of Wastewater are met.

### **Natural Heritage**

#### Policy NH2 – Species Protected by Law

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

107. The application was not supported by a Biodiversity Checklist or any other ecological information. The submitted site plan indicates that the proposed development site would retain all of the existing vegetation along the boundaries. As noted above, the presence of post and rail fence to the northern visibility splay would mean that this access is unlikely to require removal of any vegetation. The site relates to an agricultural field and there are no trees or hedging within the interior of the site. The garage is close to the northern boundary which is a mixed species hedge however given the expected limited roots system is unlikely to have an impact on the integrity of the planting.
108. The site does not contain or is close to any known watercourses and does not contain any other buildings that could have the potential to be a roosting feature for bats. There was no evidence at the time of site visit of any protected species on the site. The site is also not in close proximity to any protected habitats as identified on the NIEA Natural Environment Map Viewer.
109. While no ecological information was submitted in support of the application, given the proposal and retention of boundaries within the site there is no clear basis for refusal in terms of Policy NH2. Equally, as the site is not close to any protected areas and given its scale would be unlikely to have any wider impacts, it is contended that the proposal also would not be contrary to Policy NH5 of the LCCC Plan Strategy.

### **Conclusion and Recommendation**

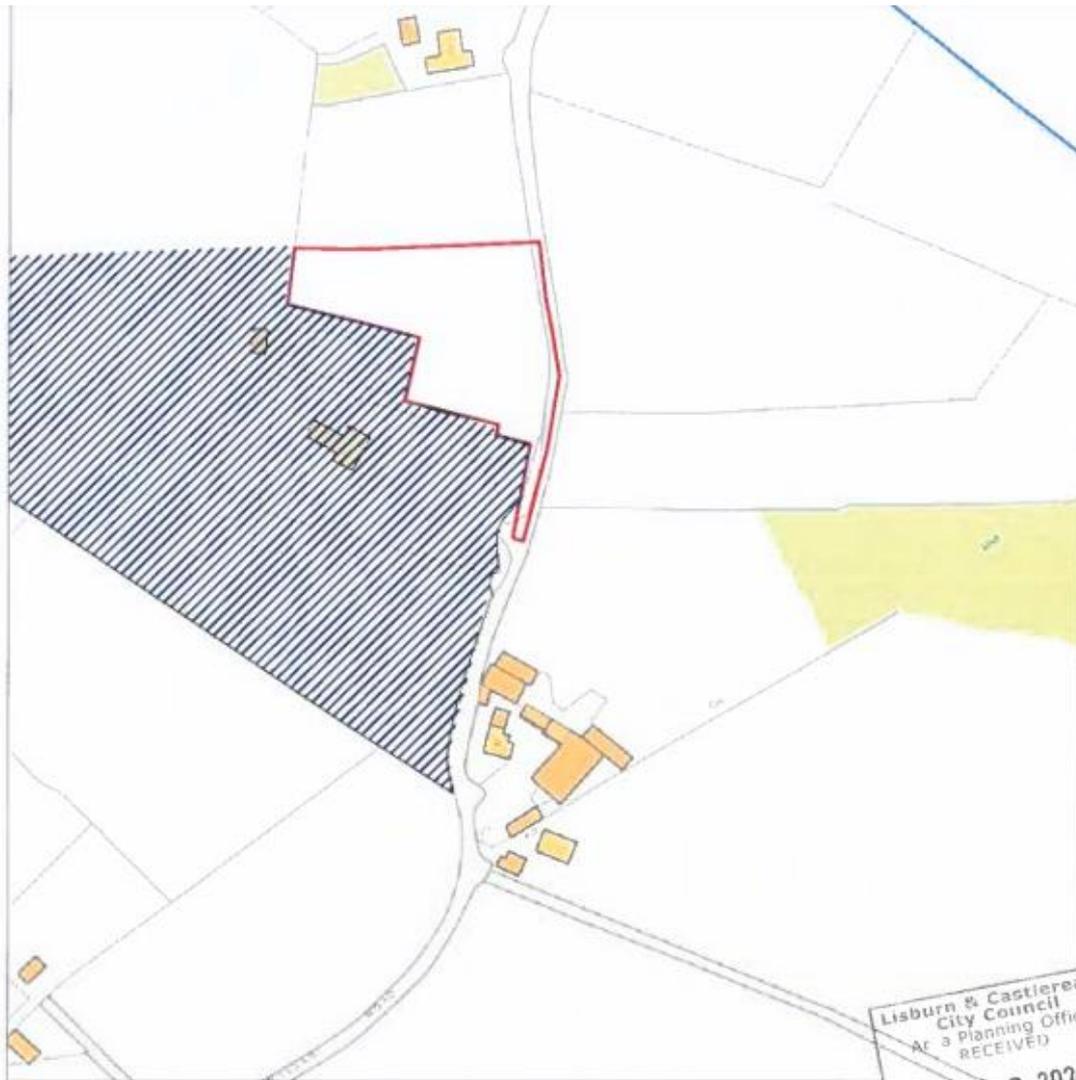
110. The recommendation is to refuse planning permission as the proposal is not in accordance with the requirements of Policies COU1, COU8 and COU16 of the Lisburn and Castlereagh City Council Plan Strategy.

## Refusal Reasons

111. The following reasons for refusal are proposed:

- The proposal is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that it is not a type of development which in principle is considered to be acceptable in the countryside.
- The proposal is contrary to Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development, if approved, would add to a ribbon of development along this section of Crossan Road. There is not a small gap sufficient to accommodate two-dwellings within a substantial and continuously built-up frontage and would fail to respect the existing pattern of development in terms of plot size and width of neighboring buildings along Crossan Road.
- The proposal is contrary to Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development does not respect the traditional pattern of settlement exhibited in that area and it would, if permitted, result in an adverse impact on the rural character of the area.

Site Location Plan – LA05/2021/0360/F



Lisburn & Castlereagh  
City Council  
At a Planning Office  
RECEIVED  
31 MAR 2021  
21/0360/F  
File No. ....

Drawing  
No. .... 01  
Lisburn & Castlereagh  
City Council



PROJECT  
Proposed infill dwelling and garage  
to be erected between 11 & 13 Crossan  
Road, Lisburn BT27 6XH  
PROJECT No.  
bardcrrd2-sam baird  
DRAWING TITLE  
Site Location Map  
CLIENT  
Mr. Sam Baird  
DRAWING No.  
1



## Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	7 April 2025
Committee Interest	Local Application (Called In) – Addendum
Application Reference	LA05/2020/0991/O
Proposal Description	Site for a replacement dwelling, garage and associated siteworks
Location	120M West of St Patricks RC Church 23a Barnfield Road, Lisburn
Representations	None
Case Officer	Joseph Billham
Recommendation	<b>Refusal</b>

### Background

1. This application was included on the Schedule of Applications for consideration by the Committee at a meeting on 03 March 2025. The recommendation was to refuse planning permission.
2. Following a presentation by officers and representations by the agent, Members agreed to defer consideration of the application to allow for a site visit to take place.
3. A site visit took place on 21 March 2025. A separate note of this site visit is provided as part of the papers.

### Further Consideration

4. Members were reminded that the purpose of the site visit was to allow the Members to observe the proposed development in the context of the building remaining on site.
5. Clarification was provided on the section/extent of the building which is to be considered in relation to the (application) proposed replacement dwelling. This was separate from the attached outbuilding.
6. Officers accepted that the building was previously used as a dwelling house. The policy requires an assessment of how much of the building fabric remains. The agent claims more of the building is intact than detailed in the officer's

report. Therefore, two opposing opinions are held on whether the policy test is met.

7. Members visited and observed the building. A query was raised by a member as to a recent PAC decision and what 'substantially intact' meant, this was roughly 80% of all the four walls but were advised to engage with the content of the report and representations to allow them to make an accurate assessment.

### Conclusion and Recommendation

8. The purpose of the site visit was to afford Members an opportunity to visit the site and observe the building on site.
9. The advice previously offered that planning permission should be refused is not changed.
10. The information contained in this addendum should be read in conjunction with the main DM Officer's report presented to the Committee on 3 March 2025.

**LISBURN & CASTLEREAGH CITY COUNCIL****Report of a Planning Committee Site Visit held at 1.46 pm on Friday, 21 March, 2025 at Land 120m West of St Patrick's RC Church, 23a Barnfield Road, Lisburn****PRESENT:**

Alderman M Gregg (Chair)

Councillors P Catney, D J Craig and G Thompson

**IN ATTENDANCE:**

Head of Planning & Capital Development (CH)

Member Services Officer (CR)

Apologies for non-attendance were submitted by the Vice-Chair, Councillor S Burns, Aldermen O Gawith and J Tinsley and Councillors U Mackin, A Martin and N Trimble.

The site visit was held to consider the following application:

LA05/2020/0991/O – Site for replacement dwelling, garage and associated siteworks on land 120m west of St Patrick's RC Church, 23a Barnfield Road, Lisburn

This application had been presented for determination at the meeting of the Planning Committee held on 3 March 2025. The Officer recommendation had been to refuse the application on the basis that the existing building was not substantially intact. The Committee had agreed to defer consideration to allow for a site visit to take place.

Members viewed the site location plan. The Head of Planning & Capital Development pointed out the building that was identified in the application as a dwelling and distinguished between that and an associated outbuilding.

He further confirmed that the agent had provided an analysis that there was more of the building fabric intact than had been detailed in the Officer's report and subsequent presentation. There were, therefore, two opposing opinions on whether the policy test was met.

In response to a query from a Member the Head of Planning and Capital Development advised that the Officer's report had included detail of a recent appeal decision in which the Planning Appeals Commission had given an indication that 'substantially intact' meant and this was roughly 80% of all the four walls.

Members were now being afforded the opportunity to view the existing building and determine if it was substantially intact and met the criteria set out in policy.

There being no further business, the site visit was terminated at 1.51 pm.

## Lisburn & Castlereagh City Council

Planning Committee	
Date of Meeting	03 March 2025
Committee Interest	Local Application (Called In)
Application Reference	LA05/2020/0991/O
Date of Application	25 November 2020
District Electoral Area	Lisburn North
Proposal Description	Site for a replacement dwelling, garage and associated siteworks
Location	120m West of St Patricks RC Church 23a Barnfield Road Lisburn
Representations	0
Case Officer	Joseph Billham
Recommendation	<b>Refusal</b>

### Summary of Recommendation

1. This application is categorised as a local planning application. The application is presented to the Committee in accordance with the Protocol for the Operation of the Planning Committee in that it has been called in.
2. The application is presented to the Planning Committee with a recommendation to refuse in that the proposal is contrary to Policy COU3 of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that building to be replaced does not have four external structural walls that are substantially intact.

### Description of Site and Surroundings

3. This site is located at the south side of Barnfield Road and lies 120 metres west of St. Patricks RC Church.
4. The site measures 0.9 hectares in size and is rectangular in shape. The site is accessed via a shared laneway running off the Barnfield Road.

5. On the site is a derelict single storey building running adjacent to the western boundary. The site includes the footprint and outline of previous buildings that had been located along the north boundary and centrally within the site.
6. The subject building is single storey with a rectangular footprint. It has no roof, and a number of walls have collapsed, and the overall building is in a derelict condition.
7. The remnants of a building are on the site made of a mix of natural stone and red brick building materials.
8. The access has parallel hedging running all either side on the lane. The northern boundary is defined by post and wire fencing. The south, west and eastern boundaries are comprised of mature trees and hedging.
9. The topography of the site has relatively flat with a backdrop of rising hills in a western direction.

### **Surroundings**

10. The site is located within the open countryside and is bounded by open agricultural fields to the north, south and east. To the west of the site lies a cluster of mature trees.

### **Proposed Development**

11. The application is for full planning permission for a replacement dwelling, garage and associated siteworks.

### Relevant Planning History

Reference Number	Description	Location	Decision
LA05/2017/0632/O	Site for a replacement dwelling, garage and associated siteworks	120m west of St Patrick's RC Church 23a Barnfield Road Lisburn	Permission Refused
2020/A0110	Site for a replacement dwelling, garage and associated siteworks	120m west of St Patrick's RC Church 23a Barnfield Road Lisburn	Appeal Withdrawn

12. The LA05/2017/0632/O application was presented to Planning Committee on 2<sup>nd</sup> March 2020. The application had a series of refusal reasons and was considered under previous operational policies prior the adoption of the Plan Strategy.
13. The planning history indicates this decision was appealed but was subsequently withdrawn prior to any formal determination by the PAC. This allowed for a second application to be made but the circumstances are not changed and there is no new evidence submitted in support to justify a change of opinion. This is dealt with in more detail below.

### Consultations

14. The following consultations were carried out:

Consultee	Response
DFI Roads	No objection
NI Water	No objection
Environmental Health	No objection
NIEA	No objection
HED	No objection
DFI Rivers	No objection

## Representations

15. There have been no representations received during the processing of the planning application.

## Planning Policy Context

### Local Development Plan Context

16. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.

### Plan Strategy 2032

17. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

18. In accordance with the transitional arrangements the existing Local Development Plan and the Lisburn Area Plan (LAP). Draft BMAP remains material considerations.
19. The site is located in the countryside in the Lisburn Area Plan (LAP) and at page 49 it states:

*that the Departments regional development control policies for the countryside which will apply in the Plan area are currently set out in the various Planning Policy Statements published to date.*

20. In draft BMAP (2004) this site is also identified as being in the open countryside.
21. The strategic policy for new housing in the countryside [Strategic Policy 09] states:

*The Plan will support development proposals that:*

- (a) *provide appropriate, sustainable, high quality rural dwellings, whilst protecting rural character and the environment*
- (b) *resist urban sprawl in the open countryside which mars the distinction between the rural area and urban settlements*
- (c) *protect the established rural settlement pattern and allow for vibrant sustainable communities.*

22. The following operational policies in Part 2 of the Plan Strategy also apply.
23. The proposal is for a replacement dwelling. Policy COU 1 – Development in the Countryside states:

*There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.*

*Details of operational policies relating to acceptable residential development proposals are set out in policies COU2 to COU10.*

*Details of operational policies relating to acceptable non-residential development proposals are set out in policies COU11 - COU14.*

*There are a range of other non-residential development proposals that may in principle be acceptable in the countryside. Such proposals must comply with all*

*policy requirements contained in the operational policies, where relevant to the development.*

*Any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 - COU16.*

24. As explained this is an application for a replacement dwelling and in accordance with the requirements of Policy COU1, the application falls to be assessed against policies COU3, COU15 and COU16 of the Plan Strategy.

### **Replacement Dwellings**

25. The applicant asserts that there is a dwelling which is capable of being replaced. Policy COU3 – Replacement Dwellings states:

*Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' includes buildings previously used as dwellings.*

*In cases where a dwelling has recently been destroyed, for example, through an accident or a fire, planning permission may be granted for a replacement dwelling. Evidence about the status and previous condition of the building and the cause and extent of the damage must be provided.*

### **Non-Listed Vernacular Buildings**

*The retention and sympathetic refurbishment, with adaptation if necessary, of non-listed vernacular dwellings in the countryside will be encouraged in preference to their replacement in accordance with policies COU4 and HE13.*

*In all cases where the original dwelling is retained, it will not be eligible for replacement again. Equally, this policy will not apply where planning permission has previously been granted for a replacement dwelling and a condition has been imposed restricting the future use of the original dwelling, or where the original dwelling is immune from enforcement action as a result of non-compliance with a condition to demolish it.*

### **Replacement of Non-Residential Buildings**

*Favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. Non-residential buildings such as domestic ancillary buildings, steel framed buildings designed for agricultural purposes, buildings of a temporary construction and a building formerly used for industry or business will not be eligible for replacement under this policy.*

*In addition to the above, proposals for a replacement dwelling will only be permitted where all of the following criteria are met: a) the proposed replacement dwelling must be sited within the established curtilage of the existing building, unless either (i) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (ii) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits; b) the overall size of the new dwelling must not have a visual impact significantly greater than the existing building; c) the design of the replacement dwelling should be of a high quality appropriate to its rural setting.*

#### Integration and Design of Buildings in the Countryside

#### 26. Policy COU15 - Integration and Design of Buildings in the Countryside states:

*In all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and of an appropriate design.*

*A new building will not be permitted if any of the following apply:*

- a) *it is a prominent feature in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- d) *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*
- e) *it relies primarily on the use of new landscaping for integration*
- f) *the design of the building is inappropriate for the site and its locality*
- g) *ancillary works do not integrate with their surroundings.*

#### Rural Character and other Criteria

#### 27. Policy COU16 – Rural Character and other Criteria states:

*In all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area.*

*A new development proposal will be unacceptable where:*

- a) *it is unduly prominent in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it does not respect the traditional pattern of settlement exhibited in that area*
- d) *it mars the distinction between a settlement and the surrounding countryside, or otherwise results in urban sprawl*
- e) *it has an adverse impact on the rural character of the area*
- f) *it would adversely impact on residential amenity*
- g) *all necessary services, including the provision of non mains sewerage, are*

- not available or cannot be provided without significant adverse impact on the environment or character of the locality*
- h) *the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character*
  - i) *access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.*

### **Habitats, Species or Features of Natural Heritage Importance**

- 28. As an existing building is being replaced consideration is given to the potential for an adverse impact or damage to be caused to priority species such as bats. Supporting ecological reports are submitted with the application.
- 29. It is stated at policy NH5 Habitats, Species or Features of Natural Heritage Importance that:

*Planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- a) priority habitats b) priority species c) active peatland d) ancient and long-established woodland e) features of earth science conservation importance f) features of the landscape which are of major importance for wild flora and fauna g) rare or threatened native species h) wetlands (includes river corridors) i) other natural heritage features worthy of protection.*

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.*

### **Waste Management**

- 30. A private package treatment plant is proposed and Policy WM 2 - Treatment of Waste Water states:

*Development proposals to provide mains sewage Wastewater Treatment Works (WwTWs) will be permitted where it is demonstrated to the Council there is a need for new or extended capacity requirements and the new facilities comply with the requirements of Policy WM1.*

*Development relying on non mains sewage treatment will only be permitted where it is demonstrated to the Council and its statutory consultees that there is sufficient capacity to discharge treated effluent to a watercourse and that this will not create or add to a pollution problem or create or add to flood risk.*

## Access and Transport

31. The proposal involves the alteration of an existing access to the public road. Policy TRA2 – Access to Public Roads states:

*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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, the location and number of existing accesses and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.*

32. The justification and amplification states:

*For development proposals involving a replacement dwelling in the countryside, where an existing access is available but does not meet the current standards, the Council would encourage the incorporation of improvements to the access in the interests of road safety.*

### HE1 The Preservation of Archaeological Remains of Regional Importance and their Settings

33. *The Council will operate a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. These comprise monuments in State Care, scheduled monuments and Areas of Significant Archaeological Interest (ASAI). Development which would adversely affect such sites of regional importance or the integrity of their settings must only be permitted in exceptional circumstances. This approach applies to such sites which, whilst not scheduled presently, would otherwise merit statutory protection.*
34. The site is in the location of a recorded SMR monument (ANT064:011), a potential early Christian Rath.
35. *The Council will consult with the Department for Communities (DfC) Historic Environment Division, taking into account all material considerations in assessing development proposals affecting sites of regional importance. Exceptions to this policy are likely only to apply to proposals of overriding importance in the Northern Ireland context. In assessing proposals for development in the vicinity of monuments in state care the Council will pay particular attention to the impact of the proposal on:*

- *the critical views of, and from the site or monument including the protection of its setting*
- *the access and public approaches to the site or monument*
- *the experience, understanding and enjoyment of the site or monument by visitors.*

*Scheduled monument consent is required from DfC for any works affecting the scheduled monument. Accordingly where applications for planning permission are submitted which involve works affecting a scheduled monument the Council will encourage the submission of an application for scheduled monument consent in order that these may be considered concurrently, having been subject to prior engagement with DfC Historic Environment Division.*

*In assessing development proposals affecting sites which would merit scheduling the Council will proceed as for State Care and scheduled monuments and only permit development in exceptional circumstances*

#### HE9 Development affecting the Setting of a Listed Building

36. *Proposals which would adversely affect the setting of a listed building will not be permitted. Development proposals will normally only be considered appropriate where all the following criteria are met:*

- a) the detailed design respects the listed building in terms of scale, height, massing and alignment*
- b) the works and architectural details should use quality materials and techniques (traditional and/or sympathetic) in keeping with the listed building*
- c) the nature of the use proposed respects the character of the setting of the building.*

37. There are three listed buildings in the vicinity of the site. St Patrick's RC Church and Sextons House located to the north east and Fair Acre House locate some 200m Northwest of the site. There are no listed structures within the application site.

#### Flooding

38. *Policy FLD1 Development in Fluvial (River) Flood Plains states:*

*New development will not be permitted within the 1 in 100 year fluvial floodplain (AEP of 1%) plus the latest mapped climate change allowance, unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

39. *Policy FLD2 Protection of Flood Defence and Drainage Infrastructure states that:*

*Development will not be permitted that impedes the operational effectiveness of flood defence and drainage infrastructure or hinder access for maintenance, including building over the line of a culvert.*

*Policy FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states:*

*A Drainage Assessment (DA) will be required for development proposals that exceed any of the following thresholds:*

- a) a residential development of 10 or more units*
- b) a development site in excess of 1 hectare*
- c) a change of use involving new buildings and/or hard surfacing exceeding 1,000 square metres in area.*

*A DA will also be required for any development proposal, except for minor development, where:*

- it is located in an area where there is evidence of historical flooding.*
- surface water run-off from the development may adversely impact on other development or features of importance to nature conservation, archaeology or historic environment features.*

*A development requiring a DA will be permitted where it is demonstrate through the DA that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere. If a DA is not required, but there is potential for surface water flooding as shown on the surface water layout of DfI Flood Maps NI, it remains the responsibility of the developer to mitigate the effects of flooding and drainage as a result of the development.*

*Where the proposed development is also located within a fluvial flood plain, then Policy FLD1 will take precedence.*

*Policy FLD4 Artificial Modification of Watercourses states:*

*Artificial modification of a watercourse, including culverting or canalisation, will only be permitted in the following exceptional circumstances:*

- a) a short length of culverting necessary to provide access to a development site, or part thereof*
- b) where it can be demonstrated to the satisfaction of DfI Rivers 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.*

## **Regional Policy and Guidance**

40. The SPPS was published in September 2015. It is the most recent planning policy and it is stated at paragraph 1.5 that:

*The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and*

*are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPPS within 5 years.*

41. Paragraph 3.8 of the SPPS states:

*that 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*

42. The SPPS remains a material consideration of significant weight irrespective of what stage the Local Development Plan making process is at. The policies in the Plan Strategy have been drafted to be consistent with the SPPS.

## Assessment

### Replacement Dwelling

43. The initial test within Policy COU 3 is to consider whether the building to be replaced exhibits the essential characteristics of a dwelling. It is still accepted that the building has internal walls that define individual rooms and has some window and door openings of a domestic scale. The openings between rooms have been partially blocked up and are in a dilapidated condition. The building appears to have the remnants of a fireplace and hearth located centrally in the floorplan.
44. The building was previously accepted to exhibit the characteristics of a dwelling under application LA05/2017/0632/O. Further information using Griffiths Valuation online indicates the building on site has the description of a dwelling on the valuation of tenements. I am content the building meets the first test and exhibits the essential characteristics of a dwelling.
45. The second test requires as a minimum all external structural walls be substantially intact. The building on site is not considered to have all external structural walls substantially intact. Upon site inspection it is evident that several of its walls have partially collapsed.

### East Elevation

46. The front elevation is densely vegetated along the left-hand side of the elevation. It is evident that a substantial section of wall has collapsed above the window and the entire section over the doorway is missing. The window opening has been partially blocked up with concrete block. A further even more substantial section of the wall passed the internal wall has collapsed this is almost to ground level. Continuing along the elevation the building steps in and again show sign of previous collapse. This is evident over the window and door

openings. It is contended that this elevation is not substantially complete as large sections of the elevation are collapsed.

#### West Elevation

47. The rear elevation has a large amount of vegetation growing over the northern end however it is clear some collapse has occurred as it is not possible to see any wall plate. To the southern end of the elevation there is again evidence of substantial collapse around the window and door openings. The full extent of the collapse is hard to ascertain as vegetation covers the upper part of the remaining walls. There is clear evidence of collapse, and it is contended this wall is not substantially intact.

#### South Elevation

48. The side gable facing the south boundary is again densely vegetated. The side elevation shows a stone gable exterior. The visual inspection shows a substantial amount of the wall remains intact. The top of the gable, chimney and roof have collapsed here.

#### North Elevation

49. The side elevation facing north similarly to the south elevation is densely vegetated over the majority of the gable. The visual inspection shows a substantial amount of the wall remains intact. The top of the gable, chimney and roof have collapsed here. This could be considered an internal wall as the building extends further north of this wall and the end gable wall is missing entirely as large sections of the elevation are collapsed.
50. The agent has provided elevational drawings showing the extent to which the four external walls remain by way of percentage. The agent estimated the front elevation has 84.6% of the walls remain, 85.6% of the rear elevation remain, 89% of the north elevation and 91.4 of the south elevation. This is not consistent in my opinion with the site observations as described above.
51. This issue of whether a building is substantially intact has been previously considered by the Planning Appeals Commission under Planning Appeal Decision 2015/A0030. The commissioner stated:

*The building has no roof and is open to the elements. The configuration of the internal arrangement of the structure as demonstrated at the site visit leads me to accept the appellant's assertion that the dwelling element of the building consisted of two rooms. The two gable walls of that part of the building constituting the dwelling are in the best condition. Whilst the chimneys are missing, I accept that what remains of the gable walls are mostly intact. There is one window opening apparent on the rear elevation of the dwelling whilst on the front elevation a central door opening and two window openings can be*

*discerned. There are no lintels above any of the openings as a significant portion of the walls around each opening is missing. Consequently only part of the walls on both elevations extends up to the discernible height of the wall plate dictated by the evident profile of the gables. Policy CTY3 in requiring that "as a minimum, all external walls should be substantially intact" allows for some loss to the original built fabric. The dictionary definition of the word 'substantial' is of an ample or considerable amount and the word 'intact' is defined as complete or whole. There was dispute as to what percentage of the external walls is intact. Even if as much as 75% of the front elevation and 88.5% for the rear elevation remains (which I judge to be an overestimation by the agent), I do not consider that the external walls can be described as being substantially intact. The identified part of the building therefore does not satisfy one of the essential requirements of CTY3 and does not represent a replacement opportunity.*

52. The appeal decision provides useful direction when considering the extent of all external structural walls being substantially intact. As advised above the dictionary definition of the word substantial is of an ample or considerable amount and intact is defined as complete of whole.
53. The front elevation is considered to be in the worst condition of the 4 walls. The front and rear elevation from visual inspection and taking into account the areas of stonework missing are not considered to be substantially in-tact. Policy states that as a minimum all external structural walls are substantially intact, and the building does not meet this criterion.
54. Looking at the previous history on the site application LA05/2017/0632/O for replacement of the same building the Council held the opinion the building was not substantially intact. Taking into consideration the information above and from site inspection the building to be replaced the condition of the building has deteriorated over time and it does not have all external structural walls substantially intact.
55. The proposal does not comply with this part of the policy and is contrary to COU3. The Council maintains its position from the time of accessing the previous proposal even though this was under the previous operation policy CTY3. The thrust of the new policy has not altered.
56. The proposal is contrary to Policy COU3 - Replacement Dwelling of the Lisburn and Castlereagh City Council Plan Strategy in that the building to be replaced does not have all external structural walls substantially intact.
57. The next step in the policy is considering if the building to be replaced is a non-listed vernacular dwelling. Policy COU3 refers to 'A Sense of Loss – The Survival of Rural Traditional Buildings in Northern Ireland' and its noted that

there are a number of other issues to be considered in relation to non-listed vernacular dwellings.

58. In relation to defining what constitutes the vernacular and in particular rural vernacular dwellings the document notes:

*Rural vernacular or traditional architecture is the construction of small plain buildings in the countryside (particularly before 1925) where the dominant influence in siting, materials, form and design is the local folk tradition.*

59. No evidence has been provided as to when the existing dwelling has been constructed.
60. The retention and sympathetic refurbishment with adaption of necessary of non-listed vernacular dwellings in the countryside will be encouraged in preference to their replacement in accordance with policies COU4 and HE13.
61. In terms of the primary characteristics of a vernacular dwelling, the dwelling does appear to have a formal plan and specification to the building. There is an internal room and layout. The depth of the house is 6m. The walls do appear to be mass load bearing walls. The doorway and window openings have been impacted by collapsed section of wall and there are no tops to any of the openings. There are no windows on the side elevations.
62. The secondary characteristic of the dwelling it has symmetry and regularity in the windows and doorway at the front and rear elevations. There is no roof present.
63. The dwelling would appear to have the majority of primary and secondary characteristics in this regard however over time the building has become derelict and not substantially intact. It is not considered to hold vernacular importance.
64. All replacements have three criteria to meet the first criteria relates to siting. The proposal is seeking permission for a replacement dwelling. The site is considered to be within the established curtilage of the former outbuildings. The siting does not overlap the existing building however is sited centrally on site. Criteria a) is met.
65. The application is seeking outline permission, and the size of the dwelling will be assessed at reserved matters stage. The curtilage and boundary treatments present shall allow a new dwelling to integrate into the surrounding landscape and will not have an impact significantly greater than the existing building.
66. A condition will be placed on a decision notice in event of approval for the dwelling to be designed in accordance with the Design Guide Building on Tradition – A sustainable Design Guide for the Northern Ireland Countryside. This will enable to ensure the dwelling of the replacement dwelling is to a high quality which is appropriate to the rural landscape.

67. It is considered that the proposal does not comply with all the requirements of policy COU 3 in that building on site does not have as a minimum all external structural walls substantially intact.

#### Integration and Design of Buildings in the Countryside

68. Turning then to policy COU 15 in terms of criteria (a), it is considered that the proposal would not be a prominent feature in the landscape. The site is screened from the Barnfield Road due to the mature vegetation surrounding the site and it has a separation distance of 155 metres from the Barnfield Road.
69. The proposal is to replace the original dwelling. It is considered the site is capable of accommodating a dwelling that will not have an adverse impact on the character of the area. Appropriate condition will be applied to this outline planning application to ensure the proposed dwelling integrates into the surrounding landscape.
70. In terms of criteria (b) The application is for outline permission for a replacement dwelling and an indicative layout had been provided. The dwelling is located with the curtilage of the overall site. A new dwelling is considered to cluster with the established group of buildings to the east.
71. The existing boundary treatments to the east, west and south comprise of mature trees and hedging which will be conditioned to be retained and a landscaping condition shall be included at the design stage. The site does not lack long established natural boundaries as the south and east boundary of the site comprise of mature treeline. The dwelling is not overly visible from Barnfield Road due to the dense vegetated boundaries and separation distance.
72. When viewed from the Barnfield Road while the landscape has a flat topography that site has a backdrop of high mature trees that will allow a new dwelling to blend with the landform. This will provide a suitable degree of enclosure for the new building to integrate into the landscape and not rely primarily on the use of new landscaping for integration. Criteria c), d) and e) are met.
73. In terms of criteria (f), the appropriate condition will be applied to ensure the design of the building is appropriate for the site and its locality and designed in accordance with the Design Guide Building on Tradition. Further details relating to design are to be submitted at reserved matters.
74. In terms of criteria (g), any ancillary works such as the access and land around the development should integrate into the surroundings. The application is at outline stage therefore full design details have not been provided for consideration. The proposal is seeking to use the existing access laneway.

### Rural Character

75. In terms of policy COU16, in terms of criteria (a), it is considered that the proposal would not be unduly prominent in the landscape.
76. Criteria (b) has been explained in paragraph 69 above in relation to a cluster with an established group of buildings east of the site.
77. In terms of criteria (c), the proposal would respect the traditional pattern of settlement exhibited within the area. The proposal is for a replacement dwelling within an established curtilage. One building is being replaced by another here. The proposal would respect the pattern of settlement. Criteria c) is met.
78. In terms of criteria (d), the proposal does not mar distinction between a settlement and surrounding countryside.
79. While no design details have been provided at outline stage the proposal is for outline permission and the replacement dwelling shall not have an adverse impact on the rural character of the area.
80. The residential amenity shall not be adversely impacted by the new dwelling. Taking in consideration the mature boundary treatments separation distance here no adverse impact shall arise. EHO have been consulted and offered no concerns in relation to residential amenity.
81. The P1 form states that the proposed method of sewerage disposal is by existing septic tank and soakaway.
82. Environmental Health and Water Management Unit have both been consulted on the proposal and have raised no objections to the proposal. Further details of this shall be provided at reserved matters stage.
83. In terms of criteria (h), it is considered that the impact of any ancillary works would not damage rural character.
84. The existing access is to be utilised here. DfI Roads have been consulted and offered no objections. Criteria (i) is met here.

### Policy WM2 - Waste Management

85. The P1 Form [question 18] indicates that the method of disposal of septic tank.
86. The Councils Environmental Health Unit confirmed that they had no objection in principle to this method of disposal.

87. The response recommended the connection to the existing sewage treatment.
88. Consultation with NIEA – Water Management Unit raised no concerns with drainage here.
89. Consideration of flood risk is included as a criteria for assessment in policy WM 2. The site is not located with an area of flood risk on the rivers agency mapping system.
90. Based on a review of the information and advice received from consultees, the requirements of Policy WM2 of the Plan Strategy are complied with.

#### Access, Movement and Parking

91. The site plan provides details showing the use of the existing access and laneway are being used from Barnfield Road.
92. DfI Roads offered no objection to the proposal, subject to conditions. The site shall be able to provide adequate provision for car parking and appropriate servicing arrangement.
93. It is therefore contented that Policy TRA 2 and section a) is complied with. No issues of concern shall arise with respect to road safety or the flow of traffic.

#### Natural Heritage

94. NH2 and NH5 makes provision for ensuring that development does not harm or have a negative impact on any natural heritage or conservation.
95. The application site is not within or adjacent to any designated areas such as ASSI's etc. and there are no watercourses or streams within or adjacent to the site.
96. The existing dwelling is proposed to be demolished. During the processing of the application a Bio-Diversity Checklist and Preliminary Ecological were submitted. The reports were sent to NED for consultation, and they replied stating:

*Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.*

*Using the information submitted, NED notes that Drawing Number 02 indicates that the existing trees within the site boundaries are to be retained, NED advises that a condition should be attached to the decision notice to ensure that the boundary vegetation is retained and shown on plans at Reserved Matters Stage.*

*NED notes that the buildings within the site have been assessment as having negligible bat roost potential, and NED is in agreement that these buildings are unlikely to support roosting bats.*

97. Taking this into account the planning department would agree with the information submitted. It is accepted that the proposal would not result in demonstrable harm being caused to any European protected species and habitats, species and features of natural heritage importance. The policy requirements are met.

#### Planning and Flood Risk

98. Rivers agency offered no objection to the proposal for a replacement dwelling. Rivers Agency response stated that policies FLD 1 - FLD 5 were not applicable to the site.
99. It should be noted that NI Water, EHO and NIEA Water Management Unit have no objection to the proposal. NI Water have confirmed that there is public watermain available to serve the site.
100. It is considered that the proposal complies with policy for the reason outlined above.

#### Historic Environment and Archaeology - Policy HE1 - The Preservation of Archaeological Remains of Regional Importance and their Settings.

101. The Council will operate a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings.
102. The agent has submitted an Archaeological Evaluation Report for the site. The report concluded that the archaeological test trenching did not reveal evidence for monument ANT064:011 and the proposed development is considered not to have an archaeological impact. HED have been consulted on the report and did not raise any concerns.
103. The reason for the Archaeological Evaluation Report was it had been requested during the processing of the previous application and trenches had been dug to ensure the application would satisfy Policy HE1 for this application after consultation with HED.

#### HE9 Development affecting the Setting of a Listed Building

104. The proposal is not considered to adversely affect the setting of the listed building. The site is in close proximity to St Patrick's RC Church (Grade B1) and the Sexton's house at St Patrick's RC Church (Grade B2) which are listed buildings of special architectural and historic interest and are protected by Section 80 of the Planning Act (NI) 2011.

105. HED have been consulted on the application and replied stating:

*HED (Historic Buildings) is content with the proposals, subject to the conditions below, under Paragraph 6.12 of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.*

*HED (Historic Buildings) acknowledge that this is an outline application and limited information has been submitted. HED (Historic Buildings) note that the proposed dwelling and garage is currently shown well screened from the listed building by a band of trees – HED wish to be consulted if a full application is submitted to ensure the proposal remains well screened and the detail design is of an appropriate scale.*

106. The Council would agree with the comments raised by HED. The application is seeking outline approval and no design details have been provided at this stage.

107. Taking into consideration the separation distance and mature boundaries between the site and St Patrick's RC Church in the event of approval the application can be appropriately conditioned relating to boundaries being retained and ridge height restrictions.

108. The proposal shall not have an adverse effect on the setting of the listed building and the policy requirement is met.

## Conclusions

109. In conclusion the application is recommended to refuse in that the proposal is contrary to Policy COU3 - Replacement Dwelling of the Lisburn and Castlereagh City Council Plan Strategy in that the building to be replaced does not have all external structural walls substantially intact.

## Recommendations

110. It is recommended that planning permission is refused.

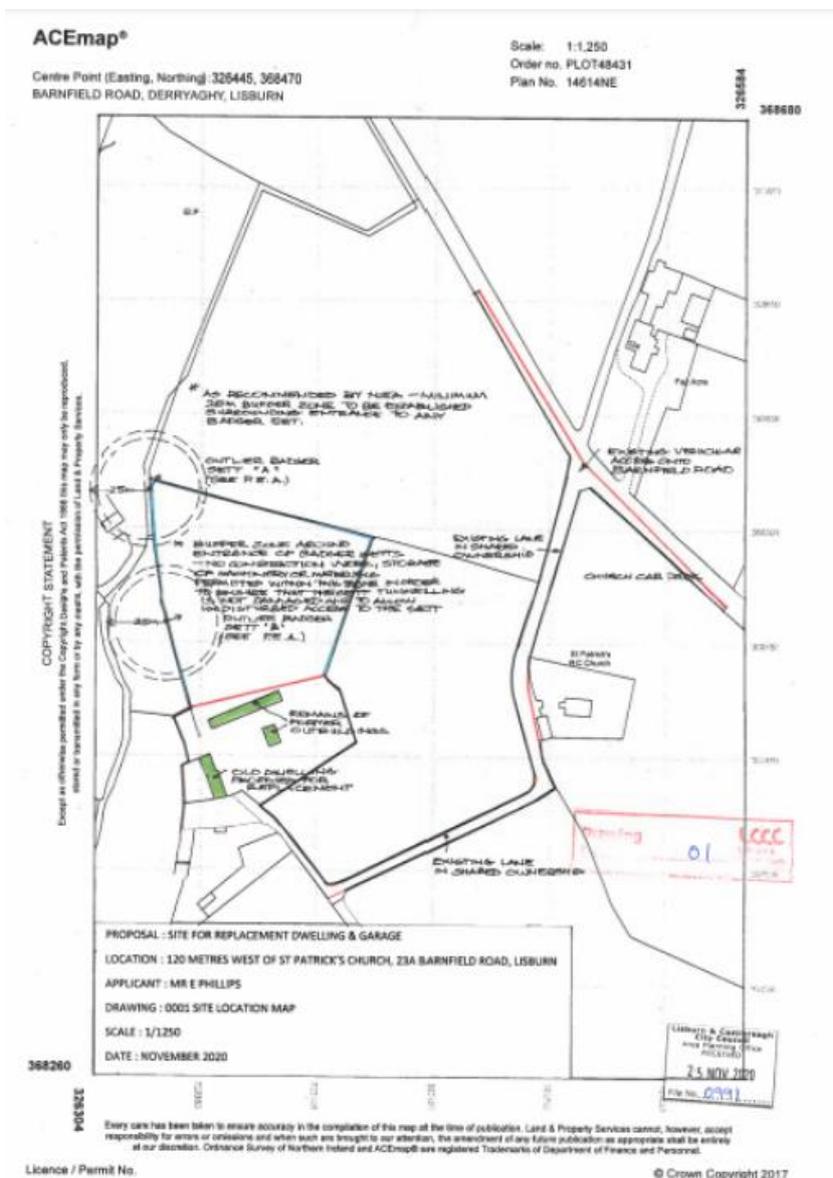
## Refusal Reasons

111. The following refusal reasons are recommended:

- The proposal is contrary to Policy COU3 - Replacement Dwelling of the Lisburn and Castlereagh City Council Plan Strategy in that the building

to be replaced does not have all external structural walls substantially intact.

Site Location Plan – LA05/2020/0991/O





## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	07 April 2025
Committee Interest	Local (Exceptions Apply)
Application Reference	LA05/2023/0623/F
Proposal Description	Proposed housing development consisting of 13 dwellings (5no. detached and 8no. semi detached) with detached garages and associated site work plus pumping station. Existing dwelling No.39a Gravelhill Road to be demolished.
Location	39a Gravelhill Road, Lisburn, BT27 5RW
Representations	None
Case Officer	Catherine Gray
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This is a local application. It is presented to the Committee for determination in accordance with the Scheme of Delegation in that the application requires a legal agreement to secure the delivery of affordable housing.
2. It is recommended that planning permission is granted as the proposal is in accordance with the requirements of policies HOU1, HOU3, HOU4 and HOU5 of Lisburn and Castlereagh City Council Plan Strategy in that the detailed layout and design of the proposed buildings create a quality residential environment and when the buildings are constructed, they will not adversely impact on the character of the area. The development will also not have a detrimental impact on the amenity of existing residents in properties adjoining the site by reason of overlooking or dominance.
3. Furthermore, the density is not significantly different than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area.
4. It is considered that the proposal is also in accordance with the requirements of policy HOU10 of the Plan Strategy in that adequate provision is made for affordable housing as an integral part of the development. This provision will be subject to a Section 76 Planning Agreement.

5. The proposal complies with Policies NH2 and NH5 of the Plan Strategy in that the development will not harm any protected species nor is it likely to result in the unacceptable adverse impact on, or damage to known habitats, species or features of Natural Heritage Importance including any European designated sites.
6. The proposed complies with Policy TRA1 the Plan Strategy in that the detail demonstrates that an accessible environment will be created through the provision of footway along the front of the site.
7. It is also considered that the development complies with Policy TRA2 of the Plan Strategy in that the detail submitted demonstrates that the creation of two new access will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.
8. The proposal is considered to comply with the Policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided without prejudice to road safety. It will not inconvenience road users or impede the flow of traffic on the surrounding road network.
9. The proposed development complies with Policies FLD 1, 2 3 of the Plan Strategy in that the detail submitted demonstrates that adequate drainage can be provided within the site to service the proposal.

## Description of Site and Surroundings

### Site Context

10. The application site is located to the southeastern side of the Gravelhill Road, Lisburn and is comprised of the buildings and curtilage of an existing dwelling house with attached garage that fronts on to the public road. The access to the site is from the Gravelhill Road.
11. The northwestern boundary abuts the Gravelhill Road and is currently undefined. There is a grassed area and driveway between the road and the existing dwelling at 39a Gravelhill Road. The dwelling is two-storey with the appearance of a one and a half storey from the front elevation and has an attached double garage.
12. The northeastern boundary is defined by a bank of land with vegetation and fencing along it. The northeastern boundary along the northwestern portion of the site abuts the rear boundaries of properties 39 and 37a Gravelhill Road.
13. The southwestern boundary is defined partially by a sloped bank of land with some vegetation on it and a hedgerow to the top of it with trees scattered along it, partially defined by a retaining wall with fencing above it and then partially undefined to the eastern most end of the site. This boundary abuts an existing housing development called Chancery Chase. The eastern boundary is currently

undefined.

14. The majority of the site is relatively flat in nature with some raised parts within it. The road level is higher than the site itself and grades down to the existing dwelling and the rest of the site. The site is mainly set at a lower level than the surrounding boundary treatments.

#### Surrounding Context

15. Beyond the immediate context of the proposed site is predominantly residential in character within the Settlement Development Limit of Long Kesh and surrounded by open countryside. The Maze racecourse is also in close proximity to the site.

### Proposed Development

16. This is a full application for proposed housing development consisting of 13 dwellings (5no. detached and 8no. semi-detached) with detached garages and associated site works plus pumping station. The existing dwelling at No.39a Gravelhill Road is to be demolished.
17. The following documents are submitted in support of the application:
- Drainage Assessment
  - Biodiversity Checklist and Bat Roost Potential Survey
  - Additional information supplied by Lisbane Consultants in response to Rivers Agency comments dated 29 January 2024 and 15 April 2024.

### Relevant Planning History

18. The relevant planning history associated with the application site is set out in the table below:

Reference Number	Proposal	Decision
LA05/2021/0914/F	Residential development comprised of 9 detached dwellings, alterations to the existing dwelling at 39A Gravelhill Road, and associated site works and landscaping and pumping station	Permission Granted 09/09/2022

### Consultations

19. The following consultations were carried out:

<b>Consultee</b>	<b>Response</b>
DfI Roads	No objection
DfI Rivers Agency	No objection
Housing Executive	No objection
LCCC Environmental Health	No objection
NI Water	No objection
NIEA Natural Heritage	No objection
NIEA Water Management Unit	No objection

### Representations

20. No representations have been received in respect of the application.

### Environmental Impact Assessment (EIA)

21. The thresholds set out in the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 have been considered as part of this assessment.
22. The site area is 0.81 hectares and exceeds the thresholds set out in Section 10(b) of Schedule 2, of the Planning Environmental Impact Assessment (NI) Regulations 2017.
23. An EIA determination was carried out and it was concluded that given the scale and nature of the proposal there is not likely to be any significant environmental effects created and as such, an Environmental Statement was not required to inform the assessment of the application.

### Local Development Plan

24. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on Planning applications regard must be had to the requirements of the local development plan and that the determination of applications must be in accordance with the plan unless material considerations indicate otherwise.

### Plan Strategy 2032

25. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption, the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

26. In accordance with the transitional arrangements, the development plan is the Plan Strategy and the Lisburn Area Plan (LAP). Draft BMAP remains a material consideration.
27. The application site is identified as being located within the Settlement Development Limit of LongKesh within the LAP and draft BMAP.
28. Within draft BMAP the application site is also within designation LH06 Local Landscape Policy Area and adjacent to designation LN09 Strategic Land Reserve: The Maze Lands.
29. The proposal does not impact on any features of the local landscape policy area or have an impact on the adjacent designation of the Strategic Land Reserve.
30. The strategic policy for Sustainable Development is set out in Part 1 of the Plan Strategy applies.
31. Strategic Policy 01 – Sustainable Development states that:

*The Plan will support development proposals which further sustainable development including facilitating sustainable housing growth; promoting balanced economic growth; protecting and enhancing the historic and natural environment; mitigating and adapting to climate change and supporting sustainable infrastructure.*

32. The following strategic policies are also relevant to the assessment of proposals for new housing in settlements.
33. Strategic Policy 03 – Creating and Enhancing Shared Space and Quality Places states that:

*The Plan will support development proposals that contribute to the creation of an environment which is accessible to all and enhances opportunities for shared communities; has a high standard of connectivity and supports shared use of public realm. Good quality housing that supports more balanced communities must offer a variety of house types, sizes and tenures to meet different needs.*

*Creating shared neighbourhoods should provide opportunities for communities to access local employment, shopping, leisure, education and community facilities.*

34. Strategic Policy 05 – Good Design and Positive Place Making states that:

*The Plan will support development proposals that incorporate good design and positive place-making to further sustainable development, encourage healthier living, promote accessibility and inclusivity and contribute to safety. Good design should respect the character of the area, respect environmental and heritage assets and promote local distinctiveness. Positive place-making should acknowledge the need for quality, place-specific contextual design which promotes accessibility and inclusivity, creating safe, vibrant and adaptable places.*

35. Strategic Policy 06 – Protecting and Enhancing the Environment states that:

*The Plan will support development proposals that respect the historic and natural environment and biodiversity. Proposals must aim to conserve, protect and where possible enhance the environment, acknowledging the rich variety of assets and associated historic and natural heritage designations. Proposals should respect the careful management, maintenance and enhancement of ecosystem services which form an integral part of sustainable development.*

36. Strategic Policy 07 – Section 76 Agreements states that:

*Development will be required to deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale, impact of the development and the sustainability of its location.*

*A developer will be expected to provide or contribute to the following infrastructure in order to mitigate any negative consequences of development:*

- a) *improvements to the transport network, including walking and cycling routes, public transport or, where necessary appropriate parking provision*
- b) *affordable housing*
- c) *educational facilities and/or their upgrades*
- d) *outdoor recreation*
- e) *protection, enhancement and management of the natural and historic environment*
- f) *community facilities and/or their upgrades*
- g) *improvements to the public realm*
- h) *service and utilities infrastructure*
- i) *recycling and waste facilities.*

37. Strategic Policy 08 Housing in Settlements states that:

*The Plan will support development proposals that:*

- a) *are in accordance with the Strategic Housing Allocation provided in Table 3*
  - b) *facilitate new residential development which respects the surrounding context and promotes high quality design within settlements*
  - c) *promote balanced local communities with a mixture of house types of different size and tenure including affordable and specialised housing*
  - d) *encourage compact urban forms and appropriate densities while protecting the quality of the urban environment.*
38. This proposal is for 13 dwellings on a site that measures 0.81 hectares. The following operational policies in Part 2 of the Plan Strategy also apply to this type and scale of development

### **Housing in Settlements**

39. As this application is for residential development policy HOU1 - New Residential Development states that:

*Planning permission will be granted for new residential development in settlements in the following circumstances:*

- a) *on land zoned for residential use*
- b) *on previously developed land (brownfield sites) or as part of mixed-use development*
- c) *in designated city and town centres, and within settlement development limits of the city, towns, greater urban areas, villages and small settlements*
- d) *living over the shop schemes within designated city and town centres, or as part of mixed-use development.*

*The above policy applies to all residential uses as set out in Part C of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015 (or as amended).*

40. Policy HOU3 - Site Context and Characteristics of New Residential Development states:

*Planning permission will be granted for new residential development where it will create a quality and sustainable residential environment which respects the existing site context and characteristics. An overall design concept, in accordance with Policy HOU6 must be submitted for all residential proposals and must demonstrate that a proposal draws upon the positive aspects of, and respects the local character, appearance and environmental quality of the surrounding area. Proposals for residential development will be expected to conform to all the following criteria:*

- a) *the development respects the surrounding context, by creating or enhancing a local identity and distinctiveness that reinforces a sense of place, and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped*

*and hard surfaced areas*

- b) *archaeological, historic environment and landscape characteristics/features are identified and, where appropriate, protected and suitably integrated into the overall design and layout of the development.*

*For new residential development in areas of distinctive townscape character, including Conservation Areas and Areas of Townscape or Village Character, an increased residential density will only be allowed in exceptional circumstances.*

*All development should be in accordance with available published space standards.*

41. Policy HOU4 - Design in New Residential Development states:

*Proposals for residential development will be expected to conform to all the following design criteria:*

- a) *the design of the development must draw upon the best local architectural form, materials and detailing*
- b) *landscaped areas using appropriate locally characteristic or indigenous species and private open space must form an integral part of a proposal's open space and where appropriate will be required along site boundaries to soften the visual impact of the development and assist in its integration with the surrounding area*
- c) *where identified as a Key Site Requirement adequate provision is made for necessary local community facilities, to be provided by the developer*
- d) *residential development should be brought forward in line with the following density bands:*
- *City Centre Boundary 120-160 dwellings per hectare*
  - *Settlement Development Limits of City, Towns and Greater Urban Areas: 25-35 dwellings per hectare*
  - *Settlement Development Limits of Villages and small settlements 20-25 dwellings per hectare.*
  - *Within the above designated areas, increased housing density above the indicated bands will be considered in town centres and those locations that benefit from high accessibility to public transport facilities*
- e) *a range of dwellings should be proposed that are accessible in their design to provide an appropriate standard of access for all. The design of dwellings should ensure they are capable of providing accommodation that is wheelchair accessible for those in society who are mobility impaired. A range of dwelling types and designs should be provided to prevent members of society from becoming socially excluded*
- f) *dwellings should be designed to be energy and resource efficient and, where practical should include integrated renewable energy technologies to minimise their impact on the environment*
- g) *a proposed site layout must indicate safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks; meet the needs of mobility impaired persons; and respect existing public rights of way*

- h) *adequate and appropriate provision is made for car and bicycle parking including where possible electric vehicle charging points*
- i) *the design and layout must not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance*
- j) *the design and layout should where possible include use of permeable paving and sustainable drainage.*
- k) *the design and layout design must demonstrate appropriate provision is made for householder waste storage and its collection can be facilitated without impairment to the access and maneuverability of waste service vehicles.*
- l) *the development is designed to deter crime and promote personal safety.*
- m) *Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.*

42. The Justification and Amplification states that:

*Please note the Supplementary Planning Guidance on design of residential development that will support the implementation of this policy.*

43. It also states that:

*Accessible Accommodation*

*Design standards are encouraged to meet the varying needs of occupiers and be easily capable of accommodating adaptations. Developers should ensure that a range of dwelling sizes (including internal layout and the number of bedrooms) is provided to meet a range of housing needs that facilitate integration and the development of mixed communities.*

44. As more than five dwellings are proposed there is a need to consider the requirement for affordable housing. Policy HOU10 - Affordable Housing in Settlements states that:

*Where the need for Affordable Housing is identified, through the Housing Needs Assessment on sites of more than 0.5 hectares or comprising of 5 residential units or more, proposals will only be permitted where provision is made for a minimum 20% of all units to be affordable. This provision will be secured and agreed through a Section 76 Planning Agreement.*

*All developments incorporating affordable housing should be designed to integrate with the overall scheme with no significant distinguishable design differences, in accordance with any other relevant policies contained within this Plan Strategy.*

*In exceptional circumstances where it is demonstrated that the affordable housing requirement cannot be met, alternative provision must be made by the applicant, or an appropriate financial contribution in lieu must be agreed through a Section 76*

*Planning Agreement. Such agreements must contribute to the objective of creating mixed and balanced communities.*

*Proposals for the provision of specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly, Policy HOU11) will not be subject to the requirements of this policy.*

*Windfall sites will be encouraged for the development of affordable housing in suitable and accessible locations.*

*By exception, proposals for affordable housing could be permitted on land identified as open space, in accordance with Policy OS1, where it can be demonstrated that all of the following criteria have been met:*

- a) *a demonstrable need has been identified by the Northern Ireland Housing Executive*
- b) *the application is made by a registered Housing Association or the Northern Ireland Housing Executive*
- c) *the proposal will bring substantial community benefits that decisively outweigh the loss of the open space.*

*Development proposals will not be supported where lands have been artificially divided for the purposes of circumventing this policy requirement.*

The Justification and Amplification states that:

*The policy requires a minimum provision of 20% of units as affordable housing. Where up to date evidence indicates a requirement for a higher proportion of affordable housing, the council will expect developments to provide this. Where appropriate this may be indicated through key site requirements within the Local Policies Plan. It may also be secured through discussions with applicants on a case-by-case basis as part of the development management process.*

45. The Glossary associated with Part 2 of the Plan Strategy states that

*Affordable Housing – affordable housing is:*

- a) *Social rented housing; or*
- b) *Intermediate housing for sale; or*
- c) *Intermediate housing for rent,*

*that is provided outside of the general market, for those whose needs are not met by the market.*

*Affordable housing which is funded by Government must remain affordable or alternatively there must be provision for the public subsidy to be repaid or recycled in the provision of new affordable housing.*

### **Natural Heritage**

46. Given the size of the site and as an existing building is demolished the potential impact on the natural environment is considered.

## 47. Policy NH2 Species Protected by Law states:

*European Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm a European protected species.*

*In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:*

- a) there are no alternative solutions; and*
- b) it is required for imperative reasons of overriding public interest; and*
- c) there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- d) compensatory measures are agreed and fully secured.*

*National Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.*

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect the, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

## 48. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states that:

*Planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- a) priority habitats*
- b) priority species*
- c) active peatland*
- d) ancient and long-established woodland*
- e) features of earth science conservation importance*
- f) features of the landscape which are of major importance for wild flora and fauna*
- g) rare or threatened native species*
- h) wetlands (includes river corridors)*
- i) other natural heritage features worthy of protection including trees and woodland.*

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature.*

*In such cases, appropriate mitigation and/or compensatory measures will be required.*

## Access and Transport

49. The application proposes alteration to an existing access onto the Gravelhill Road.
50. Policy TRA1 - Creating an Accessible Environment states that:

*The external layout of all development proposals will incorporate, where appropriate:*

- a) *facilities to aid accessibility e.g. level access to buildings, provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions*
- b) *user friendly and convenient movement along pathways and an unhindered approach to buildings*
- c) *priority pedestrian and cycling movement within and between land uses*
- d) *ease of access to car parking reserved for disabled or other users, public transport facilities and taxi ranks.*

*Public buildings will only be permitted where they are designed to provide suitable access for customers, visitors and employees.*

*Access to existing buildings and their surroundings should be improved as opportunities arise through alterations, extensions and changes of use.*

*Submission of a Transport Assessment Form (TAF) and a Design and Access Statement may also be required to accompany development proposals.*

51. Policy TRA 2 – Access to Public Roads states:

*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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, the location and number of existing accesses and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.*

52. The justification and amplification states that:

*For development proposals involving a replacement dwelling in the countryside, where an existing access is available but does not meet the current standards, the Council would encourage the incorporation of improvements to the access in the interests of road safety.*

53. Parking is required for the proposed development. Policy TRA7 – Car Parking and Servicing Arrangements states:

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

*Beyond areas of parking restraint, a reduced level of car parking provision may be acceptable in the following circumstances:*

- a) where, through a Transport Assessment or accompanying Travel Plan, it forms part of a package of measures to promote alternative transport modes*
- b) where the development is in a highly accessible location well served by public transport*
- c) where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking*
- d) where shared car parking is a viable option*
- e) where the exercise of flexibility would assist in the conservation of the historic or natural environment, would aid rural regeneration, facilitate a better quality of development or the beneficial re-use of an existing building.*

*Proposals involving car parking in excess of the Department's published standards will only be permitted in exceptional circumstances, subject to the submission of a Transport Assessment outlining alternatives.*

*A proportion of the spaces to be provided will be reserved for people with disabilities.*

*Car parking proposals should include an appropriate number of reserved electric charging point spaces and their associated equipment.*

*Where a reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.*

## **Flooding**

54. A drainage assessment is submitted with the application. Policy FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states:

*A Drainage Assessment (DA) will be required for development proposals that exceed any of the following thresholds:*

- a) a residential development of 10 or more units*

- b) *a development site in excess of 1 hectare*
- c) *a change of use involving new buildings and/or hard surfacing exceeding 1,000 square metres in area.*

*A DA will also be required for any development proposal, except for minor development, where:*

- *it is located in an area where there is evidence of historical flooding.*
- *surface water run-off from the development may adversely impact on other development or features of importance to nature conservation, archaeology or historic environment features.*

*A development requiring a DA will be permitted where it is demonstrated through the DA that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere. If a DA is not required, but there is potential for surface water flooding as shown on the surface water layout of DfI Flood Maps NI, it remains the responsibility of the developer to mitigate the effects of flooding and drainage as a result of the development.*

*Where the proposed development is also located within a fluvial flood plain, then Policy FLD1 will take precedence.*

## Regional Policy and Guidance

### Regional Policy

55. The SPPS was published in September 2015. It is the most recent planning policy, and it is stated at paragraph 1.5 that:

*The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.*

56. Paragraph 2.1 of the SPPS recognises that an objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being.

57. Paragraph 3.6 of the SPPS states:

*planning authorities should make efficient use of existing capacities of land, buildings and infrastructure, including support for town centre and regeneration priorities in order to achieve sustainable communities where people want to live, work and play now and into the future. Identifying previously developed land within settlements including sites which may have environmental constraints (e.g. land contamination), can assist with the return to productive use of vacant or underused land. This can help deliver more attractive environments, assist with economic regeneration and renewal, and reduce the need for green field development.*

58. Paragraph 3.8 of the SPPS states:

*that 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 interest of acknowledged importance.*

59. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.
60. The site is proposed to be developed for housing development. It is stated at paragraph 6.136 that:

*The policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. This approach to housing will support the need to maximise the use of existing infrastructure and services, and the creation of more balanced sustainable communities.*

### **Retained Regional Guidance**

61. Whilst not policy, the following guidance documents remain material considerations.

#### Creating Places

62. The policy requires the guidance in the Creating Places – Achieving Quality in Residential Developments’ (May 2000) to also be considered.
63. The guide is structured around the process of design and addresses the following matters:
- the analysis of a site and its context;
  - strategies for the overall design character of a proposal;
  - the main elements of good design; and
  - detailed design requirements.
64. Paragraph 7.16 provides guidance on separation distances stating:
- Where the development abuts the private garden areas of existing properties, a separation distance greater than 20 metres will generally be appropriate to minimise overlooking, with a minimum of around 10 metres between the rear of new houses and the common boundary.*
65. Paragraphs 5.19 – 5.20 provides guidance on the level of private open space provision as follows:

*Provision should be calculated as an average space standard for the development as a whole and should be around 70 square metres per house or greater. Garden sizes larger than the average will generally suit dwellings for use by families. An area less than around 40 square metres will generally be unacceptable.*

#### Development Control Advice Note 8 - Housing in Existing Urban Areas

66. Paragraph 4.10 states that:

*Planning Service will expect applicants and designers to carry out an appraisal of the local context, which takes into account the character of the surrounding area; and new development should respect the architectural, streetscape and landscape character of the area.*

### Assessment

#### **Housing in Settlements**

##### Policy HOU 1 – New Residential Development

67. This application is for 13 residential units within the Settlement Development Limit of Long Kesh. The policy test of Policy HOU1 is met.

##### Policy HOU3 - Site Context and Characteristics of New Residential Development

68. The application site involves the redevelopment of a site originally comprised of a detached dwelling and detached garage with a large expanse of land to the rear. The surrounding developed land contains a mix of detached and semi-detached housing of medium to high density plots with in-curtilage parking.

69. The proposal comprises 13 no. dwellings (5no. detached and 8no. semi-detached) with detached garages and associated site work plus pumping station. The dwellings vary slightly in size and design but are typical of a suburban residential context.

70. The form and general arrangement of the buildings are characteristic of those built in the surrounding area within the Settlement Development Limit of Long Kesh.

71. The plot sizes and general layout proposed is consistent with and comparable with other built development in the general vicinity of the site.

72. Based on a review of the information provided, it is considered that the character of the area would not be significantly changed by the proposed residential development, and it is considered that the established residential character of the area would not be harmed by either the form or scale of the development

proposed.

73. The layout of the rooms in each of the units, the position of the windows and the separation distances also ensures that there is no unacceptable overlooking into the private amenity space of neighbouring properties.
74. The separation distances between the existing and proposed developments are acceptable and would minimise any overlooking from existing properties.
75. The buildings are not dominant or overbearing and no loss of light would be caused.
76. Having regard to this detail and the relationship between the buildings in each plot and considered the guidance recommended in the Creating Place document, criteria (a) of policy HOU3 is met.
77. With regard to criteria (b), the application site is not within any buffer zones surrounding any Historic Monuments or close to any Listed Buildings or structures. The proposal would not harm any features of the archaeological or historic environment.
78. There is a band of trees along the southwestern boundary. The site layout details that these trees are to be retained and the ecological information details that an exclusion zone around them for their protection will be incorporated during construction.
79. No other landscape characteristics/features have been identified that require integration into the overall design and layout of the development and as such all the requirements of policy HOU3 are met.

#### Policy HOU4 - Design in New Residential Development

80. The layout as shown on the proposed site plan demonstrates that there are a number of different house types proposed. A description of these house types is outlined below. They propose different house types with similar design themes running throughout.
  - Sites 1 and 7 are four bedroom two-storey detached dwellings with a two storey return to the rear.
  - Site 2 is a two-storey four bedroom detached dwelling with a two storey front porch.
  - Site 3 is a four bedroom two storey semi-detached dwelling.
  - Site 4 is a three bedroom two-storey semi-detached dwelling.
  - Site 5 is a four bedroom two-storey detached dwelling with a two-storey front porch and a single storey rear return.

- Site 6 is a four bedroom two-storey detached dwelling with a two-storey rear return.
  - Sites 8 and 9 are four bedroom two-storey semi-detached dwellings with a two-storey rear return.
  - Sites 10 and 11 are three bedroom two-storey semi-detached dwellings.
  - Site 12 is a three bedroom two-storey semi-detached dwelling.
  - Site 13 is a three bedroom two-storey semi-detached dwelling.
81. The external material finishes include all roofs to be finished with black non-profiled concrete interlocking roof tiles; external walls to be finished in red/brown facing brick with feature soldier course over door and window openings; white uPVC windows and white fascia, soffit and rainwater goods. These are acceptable for the site and its location in the urban context.
82. The size and design of the buildings means that they are not dominant or overbearing. This in combination with the separation distances between the properties will ensure that no unacceptable loss of light to any adjacent property will arise.
83. The layout of the rooms in each of the units, the position of the windows along with the separation distance also ensures that there is no overlooking into the private amenity space of neighbouring properties.
84. The site is located adjacent to existing residential development. This proposal would not conflict with the surrounding land uses.
85. The proposed layout is consistent with the form of housing found in the surrounding area. The proposed dwellings all face towards the road network and in curtilage parking spaces are provided for each dwelling.
86. Each dwelling will be provided with their own private rear amenity space. The provision of private amenity varies by plot ranging from a minimum of approximately 85 square metres up to 145 square metres which is consistent with the guidance set out in Creating Places that the average amenity space standard for the development as a whole should be around 70 square metres per dwelling and not less than 40 square metres for any individual dwelling.
87. The variety of house types are designed to current building control requirements to provide accommodation that is wheelchair accessible for persons with impaired mobility. The proposed design and finishes are considered to draw upon the mix of materials and detailing exhibited within the surrounding area and will ensure that the units are as energy efficient as possible.
88. For the reasons outlined above, criteria (a), (e) and (f) of policy HOU 4 are met.
89. There is no requirement for the provision of local community or neighbourhood facility for this scale of development. Criteria (c) of policy HOU 4 is met.

90. Boundary treatments around and within the site are proposed to separate each unit and details of these are provided on the site layout plan. There is a mixture of fencing and boundary walls. These are acceptable for this type of development in the urban context.
91. Landscaped areas are proposed as part of the overall development. The site layout plan details the proposed landscaping to the area with the existing trees to be retained to the boundaries and new planting within the overall site. The proposed landscaping uses appropriate spaces of planting, and it softens the visual impact of the development. For the reasons outlined above, criteria (b) of policy HOU 4 are considered to be met.
92. With regard to criteria (d) the proposal is for 13 units on a site measuring 0.81 hectares which is not considered to be overdevelopment, and in line with policy HOU4.
93. The proposed development will provide a residential density not significantly lower than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area. The average unit size as outlined earlier in the report exceeds space standards set out in supplementary planning guidance.
94. The internal road layout provides for safe and convenient access through the site and the provision of dropped kerbs and tactile paving will also serve to meet the needs of mobility impaired persons. Adequate and appropriate provision is also made for in curtilage parking which meet the required parking standards. Criteria (g) and (h) of policy HOU4 are met.
95. The careful delineation of plots with appropriate fencing and privacy walls will serve to deter crime and promote personal safety. Criteria (i) is met.
96. Provision is available for householder waste storage within the driveways of each dwelling and its safe collection can be facilitates without impairment to the access manoeuvrability of waste service vehicles. Criteria (k) is met.

#### Policy HOU10 - Affordable Housing

97. Policy HOU10 requires a 20% affordable housing provision. In the context of the proposed scheme, this equates to 3 units.
98. The agent has confirmed that sites 10, 11 and 12 are the proposed affordable housing units. The affordable housing units should be constructed and ready for occupation before the seventh residential unit to ensure the affordable housing requirement is met.
99. A Section 76 agreement will be submitted for the Councils consideration that details that 3 units for affordable provision is to be provided within the proposed housing development.
100. The affordable housing tests associated with Policy HOU10 of the Plan Strategy are therefore capable of being met subject to this provision being secured and

agreed through a Section 76 Planning Agreement.

### Natural Heritage

101. The application site is not within or adjacent to any designated areas and there are no watercourses or streams within or adjacent to the site. The existing building is however proposed to be demolished and there are three young saplings within the site that would need to be removed in order to accommodate the proposed development.

102. A Biodiversity Checklist and Bat Roost Potential Survey were submitted in support of the application dated January 2024 and completed by Black Dog Ecology.

103. In the report the summary of results states:

*'There is a single dwelling structure present on the site which was assessed for roosting potential and determined to offer negligible roosting potential for bats due to the well maintained and well-sealed condition of the structure exhibiting no potential features or weaknesses for bats to exploit in order to establish a roost. No evidence of bat activity or presence was detected such as droppings, urine staining or feed remains.*

*There are 3 trees located within the main body of the site which will need to be removed in order to facilitate proposed development works (2x immature sycamore and 1x grey willow). All three trees were deemed to offer negligible roosting due to their size and age there were no noticeable or suitable features present.*

*The site is bordered by raised banks on the north south and east boundary. Each of these boundaries exhibits mature trees particularly the southern boundary which has 13 mature trees (mainly beech). While these trees would likely offer suitable roosting potential, they are not planned to be felled or removed, the trees are to be retained with only vegetation clearance occurring on the banks in order to facilitate works. As such, due to their planned retention, these have not been assessed for roosting potential. As such suitable mitigation measures will be put in place to create exclusion zones to protect any suitable features and retain these trees.'*

104. In the report it is further stated:

*'In conclusion, no roosts were identified on site on the dwelling proposed for demolition, which has been designated as negligible for roosting potential, or the three trees proposed for removal. Mature trees along the boundaries of the site are to be retained and suitable mitigation has been suggested in order to create exclusion zones.*

*No other priority or protected species were identified on site and no evidence of their activity or presence was found. The proposed development site does not occur in or near any designated or non-designated sites and is therefore not considered to pose a risk of impact to any protected areas or species.'*

105. The above information was sent to NIEA Natural Environment Division (NED) for consultation. They responded and advised that:

*'NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns.'*

106. In their explanatory note they state:

*'NED is content that the site has been appropriately assessed and data presented is representative of the ecological composition of the site.'*

*Based on the information provided, NED is content that the proposed development is unlikely to have any significant impact on the local natural environment. NED is content that the proposed development is compliant with the planning policies in place that relate to the protection of natural heritage features.'*

107. Having regards to the content of the submitted reports and the advice of NED, and for the reasons outlined above, it is considered that the proposed development will give rise to no significant adverse effects on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby and as such policies NH2 and NH5 of the Plan Strategy are met.

### **Access Movement and Parking**

108. The P1 Form indicates that the proposal involves the construction of a new access to the public road for both vehicular and pedestrian use.
109. Access to the site will be via the Gravelhill Road. The detail associated with the application indicates that all dwellings will have at least two in-curtilage car parking spaces.
110. DfI Roads have not expressed any concerns in relation to the detailed layout, access and arrangement of the parking and final PSD drawings have been returned.
111. Based on a review of the detail submitted with the application and advice from DfI Roads it is considered that the proposed complies with Policy TRA1 of the Plan Strategy in that the detail demonstrates that an accessible environment will be created through the provision of footways.
112. It is also considered that the development complies with policy TRA2 of the Plan Strategy in that the detail submitted demonstrates that the creation of a new access will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.

113. The proposal is also considered to comply with policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided so as not to prejudice road safety or inconvenience the flow of traffic.

### **Planning and Flood Risk**

114. In accordance with policy FLD 3 a Drainage Assessment was submitted and throughout the application additional information from Lisbane Consultants has also been submitted with regards to the drainage for consideration.
115. DfI Rivers Agency have been consulted on the application and have no objections and provided a standard condition to be attached to the decision if approved.
116. DfI Rivers commented that:

*'Rivers Directorate, while not being responsible for the preparation of the Drainage Assessment, accepts its logic and has no reason to disagree with its conclusions.'*

*It should be brought to the attention of the applicant that the applicant that the responsibility for justifying the Drainage Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors.*

*The Drainage Assessment has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year event including an allowance for climate change and urban creep could be contained within the attenuation system, when discharging at existing green field runoff rate, and therefore there will be no exceedance flows during this event. Further assessment of the drainage network will be made by NI Water prior to adoption. However, in order to ensure compliance with LDP 2032, Rivers Directorate requests that the Planning Authority includes the following Condition as part of its planning permission if granted.*

*Condition – Prior to the construction of the drainage network, the applicant shall submit a final drainage assessment, complaint with FLD 3 and Section 16 of the LDP 2032, to be agreed with the Planning Authority which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event including an allowance for climate change and urban creep.'*

117. Information submitted with the application indicates that water connection and foul sewerage will be through the public mains. NI Water was consulted and confirmed that there is available capacity at the Waste-Water Treatment Works and there is a public foul sewer within 20 metres of the proposed development boundary which can adequately service the proposal.
118. Water Management Unit have also been consulted on the application and advise that it has considered the impacts of the proposal on the surface water

environment and on the basis of the information provided is content with the proposal.

119. Based on a review of the information and advice received from DfI Rivers, Water Management Unit and NI Water, it is accepted that the proposal complies with policies FLD 3 of the Plan Strategy.

### Recommendation

120. The application is presented with a recommendation to approve subject to conditions and to the Section 76 planning agreement to ensure that the developer fulfils his obligations with regards to the delivery of affordable housing in accordance with the requirements of policy HOU10 of the Plan Strategy.
121. A total of three affordable housing units are required and should be constructed and ready for occupation before the seventh residential unit to ensure the affordable housing requirement is met.

### Conditions

122. The following conditions are recommended:
123. The vehicular accesses, including visibility splays and any forward sight distance shall be provided in accordance with Drawing No. 23-115-A10d, bearing the LCCC Planning Office date stamp 05 February 2025 prior to the occupation of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
- Reason: To ensure there is a satisfactory means of access in the interest of road safety and the convenience of road users.
124. The access gradients shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.
- Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
125. 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. 23-115-A10d, bearing the Department for Infrastructure determination date stamp 25 February 2025.

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

126. No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved drawing no. 23-115-A10d, bearing the date stamp 05 February 2025, to provide adequate facilities for parking and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking within the site.

127. Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility splays, forward sight lines or access shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant's expense.

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

128. No dwelling(s) shall be occupied until that part of the service road, which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of (each phase / the development).

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

129. Notwithstanding the provisions of the Planning General Development Order (Northern Ireland) Order 2015, no buildings, walls or fences shall be erected, nor hedges, nor formal rows of trees grown in (verges/service strips) determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.

130. Notwithstanding the provisions of the Planning General Development Order (Northern Ireland) Order 2015 no planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500 mm shall be carried out in (verges/service strips) determined for adoption.

Reason: In order to avoid damage to and allow access to the services within the service strip.

131. Prior to the construction of the drainage network, the applicant shall submit a final drainage assessment, compliant with FLD 3 and Section 16 of LDP 2032, to be agreed with the Planning Authority which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event including an allowance for climate change and urban creep.

Reason: In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk

from the development to elsewhere.

132. If any retained tree is removed, uprooted or destroyed or dies it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

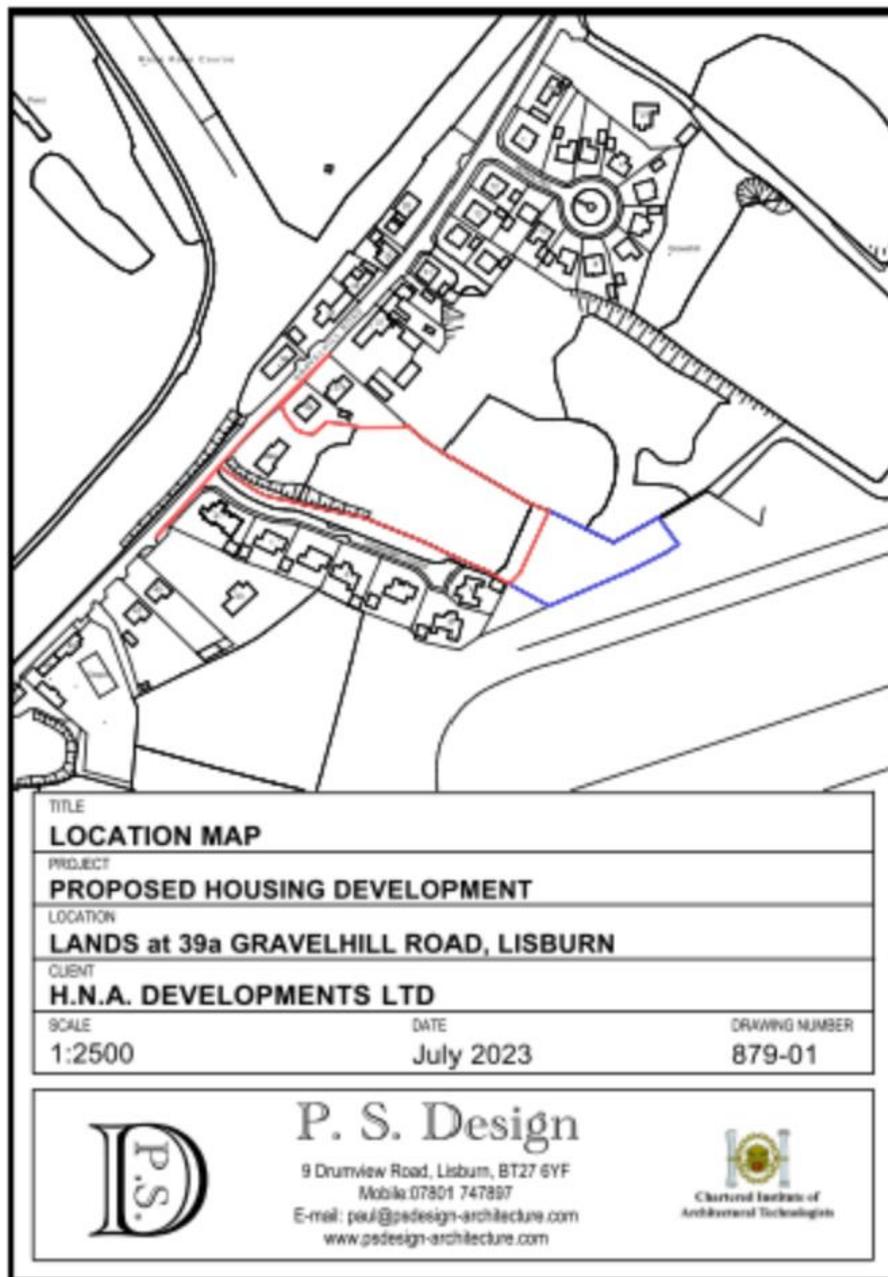
133. All hard and soft landscape works shall be carried out in accordance with Drawing No. 09B published to the Planning Register on 20<sup>th</sup> March 2025 and the approved details. The works shall be carried out no later than the first available planting season after occupation of the first dwelling.

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

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

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

### Site Location Plan – LA05/2023/0623/F



## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	7 <sup>th</sup> April 2024
Committee Interest	Local Application
Application Reference	LA05/2024/0513/F
Date of Application	4 <sup>th</sup> July 2024
District Electoral Area	Castlereagh South
Proposal Description	Proposed residential development comprising 9no. dwellings (1no. detached and 8no. semi-detached) including all other associated site works (change of house type to plots nos. 39-45 of Planning approval reference: LA05/2023/0292/F)
Location	Lands south of Mealough Road, west of Saintfield Road, approximately 65m north east of 9 Mealough Rise and 65m north east of 32 Mealough Drive, Carryduff (part of residential zoning CF 03/05)
Representations	None
Case Officer	Louise O'Reilly
Recommendation	<b>APPROVAL</b>

### Summary of Recommendation

1. This is a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee as the application is subject to a Section 76 planning agreement.
2. It is recommended that planning permission is granted as the proposal is in accordance with the requirements of policies HOU1, HOU3 and HOU4 and of Part 2: Operational Policies of the Lisburn and Castlereagh City Council Plan Strategy 2032 (subsequently referred to as the Plan Strategy) in that the detailed layout and design of the proposed building creates a quality residential environment and when the building is constructed, it will not adversely impact on the character of the area. The development will also not have a detrimental

- impact on the amenity of existing residents in properties adjoining the site by reason of overlooking or dominance/ loss of light.
3. Furthermore, the density is not significantly higher than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area.
  4. The proposal is considered to be an exception to policy HOU10, in that the applicant has demonstrated that the proposal will result in social housing with greater accessibility to shops and services in Carryduff as well as provide a greater quantum and mix of affordable housing than would have been achieved on one, resulting in a wider community benefit. This will be subject to a Section 76 Planning Agreement.
  5. The proposal complies with Policies NH2 and NH 5 of the Plan Strategy in that it is demonstrated that the development is not likely to harm a European protected species nor is it likely to result in the unacceptable adverse impact on, or damage to known habitats, species or features of Natural Heritage Importance.
  6. The proposed complies with Policy of TRA1 the Plan Strategy in that the detail demonstrates that an accessible environment will be created through the provision of footways and pedestrian paths.
  7. It is also considered that the development complies with Policies TRA2 and TRA3 of the Plan Strategy in that the detail submitted demonstrates that the access will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.
  8. The proposal is considered to comply with Policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided so as not to prejudice road safety or inconvenience the flow of traffic.
  9. The proposed development complies with policy tests set out in policies FLD 1 and FLD 3 of the Plan Strategy in that although part of the site lies within the 1 in 100-year fluvial flood plain, it has been demonstrated that the proposed built development is located out of the floodplain and as such can be deemed an appropriate exception to policy. It has also been shown that the detail submitted demonstrates that adequate drainage can be provided within the site to service the proposal and that there is sufficient capacity within the existing wastewater treatment works to service the development.

## Description of Site and Surroundings

### Site

10. The site is located within the wider Mealough Development, Mealough Road, Carryduff. The application site is located within the eastern portion of the site and is accessed via an existing internal road which serves the existing dwellings constructed to date and the wider site under construction.
11. The boundaries of the site are undefined on the ground, however the area has been cleared and the southern section is currently being utilised for the storage of building materials.
12. The topography of the land falls from the north to the south and the west to the east.

### Surroundings

13. To the east is the Carryduff River and beyond is the A24 Saintfield Road.
14. The surrounding area comprises residential dwellings already constructed to the north, west and south. Within the immediate vicinity of the Mealough Development is Lets Go Hydro, NI Water facility under construction and agricultural land to the west.

### **Proposed Development**

15. The application is for full planning permission for the erection of a 9no. dwellings, 1no. detached and 8no. semi-detached) including all other associated site works (change of house type to plots nos. 39-45 of Planning approval reference: LA05/2023/0292/F)
16. The following documents are submitted in support of the application:
  - Drainage Assessment
  - Planning Statement

### **Relevant Planning History**

17. The following planning history is relevant to the site:

Reference Number	Description	Decision
LA05/2023/0292/F	Proposed residential development comprising 81 dwellings, including open space and landscaping, and all associated site and access works (amendment to approval Y/2009/0114/F)	Granted 4 <sup>th</sup> April 2024
LA05/2022/0086/F	Erection 27 dwellings and associated site works (amendment to approval Y1999/0114/F)	Granted 27 <sup>th</sup> October 2022
Y/2019/0288/O	New Suburban Village with mixed use centre	Granted 10 <sup>th</sup> May 2004
Y/2009/0114/F	Erection 126 Dwellings access Roads and open space	Approved March 2019
Y/2009/0034/F	Road improvements, Mealough/Saintfield Road junction	Approved April 2011
Y/2005/0339/RM	Erection 350 dwellings and associated car parking	Appeal allowed December 2006

**Consultations**

18. The following consultations were carried out:

Consultee	Response
Dfl Roads	No objection
DFI Rivers	No objection
LCCC Environmental Health	No objection
NI Water	No objection

Consultee	Response
NIEA Water Management Unit	No objection
Northern Ireland Housing Executive	No objection

**Representations**

19. At the time of writing this report, no representations had been received.

**Local Development Plan**

20. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on Planning applications regard must be had to the requirements of the local development plan and that the determination of applications must be in accordance with the plan unless material considerations indicate otherwise.

**Plan Strategy 2032**

21. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

22. In accordance with the transitional arrangements the Local Development Plan is the Plan Strategy and the Carryduff Local Area Plan 1988-1993. Draft BMAP remains a material consideration.
23. When the Carryduff Local Plan was adopted, the area subjected to this application was excluded from the settlement limit.
24. The site was subsequently brought within the settlement limit of Carryduff in draft BMAP.
25. At the public enquiry into draft BMAP the PAC considered that too much land had been zoned for residential development at that time. Subsequently within the up to date plan this site is not zoned for residential use.
26. The site forms part of a wider residential zoning (CF 03/05) in the last revision to draft BMAP which benefits from varying planning approvals including Y/2009/0114/F which covers the subject site. The draft housing designation in draft BMAP has significant material weight given the associated planning history.
27. Application LA05/2023/0292/F amended the original planning permission for a much larger development (Y/2009/0114/F). LA05/2023/0292/F altered the layout and arrangement of the buildings, without increasing the total number of units. This application seeks a change of house type for 9 no. dwellings.
28. The following strategic policies for Housing and Sustainable Development are set out in Part 1 of the Plan Strategy.
29. Strategic Policy 01 – Sustainable Development states that:

*The Plan will support development proposals which further sustainable development including facilitating sustainable housing growth; promoting balanced economic growth; protecting and enhancing the historic and natural environment; mitigating and adapting to climate change and supporting sustainable infrastructure.*

30. Strategic Policy 03 – Creating and Enhancing Shared Space and Quality Places states that:

*The Plan will support development proposals that contribute to the creation of an environment which is accessible to all and enhances opportunities for shared communities; has a high standard of connectivity and supports shared use of public realm. Good quality housing that supports more balanced communities must offer a variety of house types, sizes and tenures to meet different needs.*

*Creating shared neighbourhoods should provide opportunities for communities to access local employment, shopping, leisure, education and community facilities.*

31. Strategic Policy 05 – Good Design and Positive Place Making states that:

*The Plan will support development proposals that incorporate good design and positive place-making to further sustainable development, encourage healthier living, promote accessibility and inclusivity and contribute to safety. Good design should respect the character of the area, respect environmental and heritage assets and promote local distinctiveness. Positive place-making should acknowledge the need for quality, place-specific contextual design which promotes accessibility and inclusivity, creating safe, vibrant and adaptable places.*

32. Strategic Policy 06 – Protecting and Enhancing the Environment states that:

*The Plan will support development proposals that respect the historic and natural environment and biodiversity. Proposals must aim to conserve, protect and where possible enhance the environment, acknowledging the rich variety of assets and associated historic and natural heritage designations. Proposals should respect the careful management, maintenance and enhancement of ecosystem services which form an integral part of sustainable development.*

33. Strategic Policy 07 – Section 76 Agreements states that:

*Development will be required to deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale, impact of the development and the sustainability of its location.*

*A developer will be expected to provide or contribute to the following infrastructure in order to mitigate any negative consequences of development:*

- a) improvements to the transport network, including walking and cycling routes, public transport or, where necessary appropriate parking provision*
- b) affordable housing*
- c) educational facilities and/or their upgrades*
- d) outdoor recreation*
- e) protection, enhancement and management of the natural and historic environment*
- f) community facilities and/or their upgrades*
- g) improvements to the public realm*
- h) service and utilities infrastructure*
- i) recycling and waste facilities.*

34. Strategic Policy 08 Housing in Settlements states that:

*The Plan will support development proposals that:*

- a) *are in accordance with the Strategic Housing Allocation provided in Table 3*
- b) *facilitate new residential development which respects the surrounding context and promotes high quality design within settlements*
- c) *promote balanced local communities with a mixture of house types of different size and tenure including affordable and specialised housing*
- d) *encourage compact urban forms and appropriate densities while protecting the quality of the urban environment.*

35. As this is an application for nine residential units the following operational policies in Part 2 of the Plan Strategy also apply.

### **Housing in Settlements**

36. As this application is for residential development policy HOU1 - New Residential Development states that:

*Planning permission will be granted for new residential development in settlements in the following circumstances:*

- a) *on land zoned for residential use*
- b) *on previously developed land (brownfield sites) or as part of mixed-use development*
- c) *in designated city and town centres, and within settlement development limits of the city, towns, greater urban areas, villages and small settlements*
- d) *living over the shop schemes within designated city and town centres, or as part of mixed use development.*

*The above policy applies to all residential uses as set out in Part C of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015 (or as amended).*

37. Policy HOU3 - Site Context and Characteristics of New Residential Development states:

*Planning permission will be granted for new residential development where it will create a quality and sustainable residential environment which respects the existing site context and characteristics. An overall design concept, in accordance with Policy HOU6 must be submitted for all residential proposals and must demonstrate*

*that a proposal draws upon the positive aspects of, and respects the local character, appearance and environmental quality of the surrounding area.*

*Proposals for residential development will be expected to conform to all the following criteria:*

- a) *the development respects the surrounding context, by creating or enhancing a local identity and distinctiveness that reinforces a sense of place, and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas*
- b) *archaeological, historic environment and landscape characteristics/features are identified and, where appropriate, protected and suitably integrated into the overall design and layout of the development.*

*For new residential development in areas of distinctive townscape character, including Conservation Areas and Areas of Townscape or Village Character, an increased residential density will only be allowed in exceptional circumstances.*

*All development should be in accordance with available published space standards.*

38. Policy HOU4 - Design in New Residential Development states:

*Proposals for residential development will be expected to conform to all the following design criteria:*

- a) *the design of the development must draw upon the best local architectural form, materials and detailing*
- b) *landscaped areas using appropriate locally characteristic or indigenous species and private open space must form an integral part of a proposal's open space and where appropriate will be required along site boundaries to soften the visual impact of the development and assist in its integration with the surrounding area*
- c) *where identified as a Key Site Requirement adequate provision is made for necessary local community facilities, to be provided by the developer*
- d) *residential development should be brought forward in line with the following density bands:*
  - *City Centre Boundary 120-160 dwellings per hectare*
  - *Settlement Development Limits of City, Towns and Greater Urban Areas: 25-35 dwellings per hectare*
  - *Settlement Development Limits of Villages and small settlements 20-25 dwellings per hectare.*
  - *Within the above designated areas, increased housing density above the indicated bands will be considered in town centres and those locations that benefit from high accessibility to public transport facilities*

- e) *a range of dwellings should be proposed that are accessible in their design to provide an appropriate standard of access for all. The design of dwellings should ensure they are capable of providing accommodation that is wheelchair accessible for those in society who are mobility impaired. A range of dwelling types and designs should be provided to prevent members of society from becoming socially excluded*
- f) *dwellings should be designed to be energy and resource efficient and, where practical should include integrated renewable energy technologies to minimise their impact on the environment*
- g) *a proposed site layout must indicate safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks; meet the needs of mobility impaired persons; and respect existing public rights of way*
- h) *adequate and appropriate provision is made for car and bicycle parking including where possible electric vehicle charging points*
- i) *the design and layout must not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance*
- j) *the design and layout should where possible include use of permeable paving and sustainable drainage*
- k) *the design and layout design must demonstrate appropriate provision is made for householder waste storage and its collection can be facilitated without impairment to the access and maneuverability of waste service vehicles*
- l) *the development is designed to deter crime and promote personal safety.*
- m) *Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.*

39. The Justification and Amplification states that

*Please note the Supplementary Planning Guidance on design of residential development that will support the implementation of this policy.*

40. It also states that:

*Accessible Accommodation*

*Design standards are encouraged to meet the varying needs of occupiers and be easily capable of accommodating adaptations. Developers should ensure that a range of dwelling sizes (including internal layout and the number of bedrooms) is provided to meet a range of housing needs that facilitate integration and the development of mixed communities.*

41. Given the scale of residential development public open space is not required as part of the proposed development.
42. As more than five dwellings are proposed there is a need to consider the requirement for affordable housing. Policy HOU10 - Affordable Housing in Settlements states that:

*Where the need for Affordable Housing is identified, through the Housing Needs Assessment on sites of more than 0.5 hectares or comprising of 5 residential units or more, proposals will only be permitted where provision is made for a minimum 20% of all units to be affordable. This provision will be secured and agreed through a Section 76 Planning Agreement.*

*All developments incorporating affordable housing should be designed to integrate with the overall scheme with no significant distinguishable design differences, in accordance with any other relevant policies contained within this Plan Strategy.*

*In exceptional circumstances where it is demonstrated that the affordable housing requirement cannot be met, alternative provision must be made by the applicant, or an appropriate financial contribution in lieu must be agreed through a Section 76 Planning Agreement. Such agreements must contribute to the objective of creating mixed and balanced communities.*

*Proposals for the provision of specialist accommodation for a group of people with specific needs (such as purpose built accommodation for the elderly, Policy HOU11) will not be subject to the requirements of this policy.*

*Windfall sites will be encouraged for the development of affordable housing in suitable and accessible locations.*

*By exception, proposals for affordable housing could be permitted on land identified as open space, in accordance with Policy OS1, where it can be demonstrated that all of the following criteria have been met:*

- a) *a demonstrable need has been identified by the Northern Ireland Housing Executive*
- b) *the application is made by a registered Housing Association or the Northern Ireland Housing Executive*
- c) *the proposal will bring substantial community benefits that decisively outweigh the loss of the open space.*

*Development proposals will not be supported where lands have been artificially divided for the purposes of circumventing this policy requirement.*

43. The Justification and Amplification states that:

*The policy requires a minimum provision of 20% of units as affordable housing. Where up to date evidence indicates a requirement for a higher proportion of affordable housing, the council will expect developments to provide this. Where appropriate this may be indicated through key site requirements within the Local Policies Plan. It may also be secured through discussions with applicants on a case-by-case basis as part of the development management process.*

44. The Glossary associated with Part 2 of the Plan Strategy states that:

*Affordable Housing – affordable housing is:*

- a) *Social rented housing; or*
- b) *Intermediate housing for sale; or*
- c) *Intermediate housing for rent,*

*that is provided outside of the general market, for those whose needs are not met by the market.*

*Affordable housing which is funded by Government must remain affordable or alternatively there must be provision for the public subsidy to be repaid or recycled in the provision of new affordable housing.*

### **Natural Heritage**

45. Given that the site forms part of a wider development, the potential impact on the natural environment is considered.
46. Policy NH2 – Species Protected by Law states that:

*European Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm a European protected species.*

*In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:*

- a) *there are no alternative solutions; and*
- b) *it is required for imperative reasons of overriding public interest; and*
- c) *there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- d) *compensatory measures are agreed and fully secured.*

*National Protected Species*

*Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.*

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

47. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states that:

*Planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- a) *priority habitats*
- b) *priority species*
- c) *active peatland*
- d) *ancient and long-established woodland*
- e) *features of earth science conservation importance*
- f) *features of the landscape which are of major importance for wild flora and fauna*
- g) *rare or threatened native species*
- h) *wetlands (includes river corridors)*
- i) *other natural heritage features worthy of protection including trees and woodland.*

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature.*

*In such cases, appropriate mitigation and/or compensatory measures will be required.*

### **Access and Transport**

48. The P1 Form indicates that access arrangements for this development involve the use of an existing unaltered access to a public road.
49. Policy TRA1 - Creating an Accessible Environment states that:

*The external layout of all development proposals will incorporate, where appropriate:*

- a) *facilities to aid accessibility e.g. level access to buildings, provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions*
- b) *user friendly and convenient movement along pathways and an unhindered*

- approach to buildings*
- c) *priority pedestrian **and cycling** movement within and between land uses*
  - d) *ease of access to car parking reserved for disabled or other users, public transport facilities and taxi ranks.*

*Public buildings will only be permitted where they are designed to provide suitable access for customers, visitors and employees.*

*Access to existing buildings and their surroundings should be improved as opportunities arise through alterations, extensions and changes of use.*

*Submission of a Transport Assessment Form (TAF) and a Design and Access Statement may also be required to accompanying development proposals.*

50. Policy TRA 2 – Access to Public Roads states:

*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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, the location and number of existing accesses and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.*

51. The justification and amplification states that:

*For development proposals involving a replacement dwelling in the countryside, where an existing access is available but does not meet the current standards, the Council would encourage the incorporation of improvements to the access in the interests of road safety.*

52. Policy TRA7 Car Parking and Servicing Arrangements in New Developments states that:

*Development proposals will provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to published standards<sup>33</sup> or any reduction provided for in an area of parking restraint designated in the Local Development Plan. Proposals*

*should not prejudice road safety or significantly inconvenience the flow of vehicles.*

53. Policy TRA8 - Active Travel Networks and Infrastructure Provision states that:

*Planning permission will only be granted for proposals where public transport, walking and cycling provision forms part of the development proposal.*

*A Transport Assessment/Travel Plan or, if not required, a supporting statement should indicate the following provisions:*

- a) *safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks*
- b) *the needs of mobility impaired persons; and respect existing public rights of way*
- c) *safe, convenient and secure cycle parking.*

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

### **Flooding**

54. Drainage must be designed to take account of the impact on flooding elsewhere. Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure states that:

*Development will not be permitted that impedes the operational effectiveness of flood defence and drainage infrastructure or hinder access for maintenance, including building over the line of a culvert.*

55. The initial proposal was for 29 no. dwellings and was subsequently reduced to 9 no. dwellings during the processing of the application. As the initial proposal exceeded 10 dwelling units a Drainage Assessment accompanied the submission. Policy - FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states:

*A Drainage Assessment (DA) will be required for development proposals that exceed any of the following thresholds:*

- a) *a residential development of 10 or more units*
- b) *a development site in excess of 1 hectare*
- c) *a change of use involving new buildings and/or hard surfacing exceeding 1,000 square metres in area.*

*A DA will also be required for any development proposal, except for minor development, where:*

- *it is located in an area where there is evidence of historical flooding.*
- *surface water run-off from the development may adversely impact on other development or features of importance to nature conservation, archaeology or historic environment features.*

*A development requiring a DA will be permitted where it is demonstrated through the DA that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere. If a DA is not required, but there is potential for surface water flooding as shown on the surface water layout of DfI Flood Maps NI, it remains the responsibility of the developer to mitigate the effects of flooding and drainage as a result of the development.*

*Where the proposed development is also located within a fluvial flood plain, then Policy FLD1 will take precedence.*

## Regional Policy and Guidance

### Regional Policy

56. The SPPS was published in September 2015. It is the most recent regional planning policy, and it is stated at paragraph 1.5 that:

*The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.*

57. Paragraph 2.1 of the SPPS recognises that an objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being.

58. It states that:

*planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland. Planning authorities should therefore simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society.*

59. Paragraph 3.6 of the SPPS states:

*planning authorities should make efficient use of existing capacities of land, buildings and infrastructure, including support for town centre and regeneration priorities in order to achieve sustainable communities where people want to live, work and play now and into the future. Identifying previously developed land within settlements including sites which may have environmental constraints (e.g. land contamination), can assist with the return to productive use of vacant or underused land. This can help deliver more attractive environments, assist with economic regeneration and renewal, and reduce the need for green field development.*

60. Paragraph 3.8 of the SPPS states:

*that 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.*

61. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.
62. The site is proposed to be developed for housing development. It is stated at paragraph 6.136 that:

*The policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. This approach to housing will support the need to maximise the use of existing infrastructure and services, and the creation of more balanced sustainable communities.*

### **Retained Regional Guidance**

63. Whilst not policy, the following guidance documents remain a material consideration.

#### Creating Places

64. The policy requires the guidance in the Creating Places – Achieving Quality in Residential Developments’ (May 2000) to also be considered.

65. The guide is structured around the process of design and addresses the following matters:

- the analysis of a site and its context;
- strategies for the overall design character of a proposal;
- the main elements of good design; and
- detailed design requirements.

66. Paragraph 7.16 provides guidance on separation distances stating:

*Where the development abuts the private garden areas of existing properties, a separation distance greater than 20 metres will generally be appropriate to minimise overlooking, with a minimum of around 10 meters between the rear of new houses and the common boundary.*

67. Paragraphs 5.19 – 5.20 provides guidance on the level of private open space provision as follows:

*Provision should be calculated as an average space standard for the development as a whole and should be around 70 square metres per house or greater. Garden sizes larger than the average will generally suit dwellings for use by families. An area less than around 40 square metres will generally be unacceptable.*

#### Development Control Advice Note 8 - Housing in Existing Urban Areas

68. Paragraph 4.10 states that:

*Planning Service will expect applicants and designers to carry out an appraisal of the local context, which takes into account the character of the surrounding area; and new development should respect the architectural, streetscape and landscape character of the area.*

## Assessment

### Housing in Settlements

#### Policy HOU 1 – New Residential Development

69. This application is for the change of house types for 9 residential dwellings within the settlement limit of Carryduff. The land on which this development is proposed has

been zoned for housing (CF 04/02) in draft BMAP. There is also a history of an extant planning permission for housing. As such, this is a suitable location for new residential development and the policy tests associated with Policy HOU1 are considered to be met.

#### Policy HOU3 - Site Context and Characteristics of New Residential Development

70. The lands to the north and west of the application site are partly built out and the proposed road infrastructure in part developed consistent with the extant planning permission. The new buildings are laid out to take account of this existing constraint of the road layout as constructed.
71. The scheme comprises one detached and eight semi-detached dwellings. Two house types are proposed of similar size and design but typical of a suburban setting. They broadly follow the general layout and arrangement of the previously approved scheme.
72. The form and general arrangement of the buildings are characteristic of those that have been built in the surrounding residential developments adjacent to the north and west of the site.
73. The plot sizes and general layout of the proposed development is consistent with and comparable with other built development in the general vicinity of the site.
74. Based on a review of the information provided, it is considered that the character of the area would not be significantly changed by the proposed residential development and it is considered that the established residential character of the area would not be harmed.
75. The layout of the rooms in each of the units, the position of the windows and separation distances to existing properties also ensures that there is no overlooking into the private amenity space of neighbouring properties. The buildings are not dominant or overbearing and no loss of light would be caused.
76. Having regard to this detail and the relationship between the buildings in each plot it is considered that the guidance recommended in the Creating Places document and that criteria (a) of policy HOU3 met.
77. No other landscape characteristics/features have been identified that require integration into the overall design and layout of the development. This part of the policy is met.

#### Policy HOU4 - Design in New Residential Development

78. Two house types are proposed, 8no. semi-detached, 3 bedroom , 5 person dwellings and 1 no. detached, 3 bedroom, 5 person dwelling.
79. House Type B9 Semi-detached – Sites 39, 40, 41, 42, 43, 44, 45 & 127:
- 3 Bed – 5 person
  - Ridge Height: 8.2m from FFL
  - Width: 5.5m
  - Depth: 8.8m
  - Floor space: 81.4m<sup>2</sup>
80. House Type B9a Detached – Site 128:
- 3 Bed – 5 person
  - Ridge Height: 8m from FFL
  - Width: 5.8m
  - Depth: 8.9m
  - Floor space: 81.32m<sup>2</sup>
81. Amenity space provision for each of the site is as follows:
- Site 39: 162.8m<sup>2</sup>
  - Site 40: 139.8m<sup>2</sup>
  - Site 41: 152.9m<sup>2</sup>
  - Site 42: 153.6m<sup>2</sup>
  - Site 43: 145m<sup>2</sup>
  - Site 44: 169m<sup>2</sup>
  - Site 45: 81.9m<sup>2</sup>
  - Site 127: 80.5m<sup>2</sup>
  - Site 128: 71m<sup>2</sup>
82. The amenity space provision exceeds the recommend 70m<sup>2</sup> as set out in supplementary planning guidance Creating Places. Sufficient useable space is provided as well as space for domestic use including bin storage with access to the road via the side driveway for bin collections. It is considered that criteria (k) is met.
83. The proposed finished of the dwellings include grey brickwork, grey cedar cladding, white render, render door surround, grey coloured windows and slate grey concrete roof tiles. The proposed finishes are deemed acceptable and are considered to draw upon the materials and detailing exhibited within the surrounding area and will ensure that the units are as energy efficient as possible. It is considered that criteria (a) and (f) are satisfied.
84. The proposed height, scale and massing of the dwellings are acceptable. Sufficient separation distances, the proposed layout working with the existing topography of the site and the height, orientation of the dwellings considering the sun path from east to west and the suitable height, scale and massing of the proposed dwellings ensure that no loss of light or overshadowing to an unacceptable degree shall result.

85. In terms of overlooking between the proposed dwelling, windows in the side elevations are for a ground floor WC, a secondary high level living room window and stairs/landing window at first floor level. The proposed floorplans, the position of the windows along with the separation distance, ensure that there is no inter-overlooking to an unacceptable degree between the proposed dwellings or their associated private amenity space.
86. The land fall from north to south and west to east. This results in the semi-detached dwellings being stepped down with the topography of the site. Retaining structures are required between the gardens and driveways and the rear gardens of the proposed dwellings. The proposed dwellings sit elevated to those sites 29-34 directly adjacent to the east, with level differences between 3.7 metres and 2.5 metres.
87. Graded banking, boundary treatments of retaining walls with 1.8m high timber fencing above, tree planting of *Betula Pendula*, *Malus Baccata* (Sweet Parade) and *Pyrus Calleryana* (Redspire) of height of 3 and 3.5 to 4.25 metres in height to provide screening and separation distances ranging between 26.6 metres and 32.5 metres between the proposed dwellings and those approved in sites 29-34 will ensure that no overlooking to an unacceptable degree shall result to prospective residents of sites 29-34.
88. Sites 45, 127 and 128 lie adjacent to the west of site 27. The proposed level difference ranges between 1-2 metres. Retaining structures with 1.8 metre timber fence above are proposed. Whilst the separation distances range between 10.4 metres and 11.9 metres, the orientation of the dwellings to one another will ensure that overlooking to an unacceptable degree to the prospective residents of site 27 shall not result. In light of the above criteria (b) and (i) have been met.
89. In consideration of the above, I am satisfied that the scale and massing of the proposal within the site context and also the streetscape is acceptable, and it will not cause adverse effects towards adjacent buildings in terms of overshadowing or overdominance.
90. In respect of security and natural surveillance, all of the dwellings outlook onto the road. Site 128 is a corner site which benefits from dual frontage. Criteria (l) is considered to be met.
91. All of the proposed dwellings follow a building line which reflects the curvature of the road, with grassed areas to the front providing soft landscaping and braking up the built form and hard standing, with driveways to the side providing in curtilage parking for two vehicles.
92. In terms of density as the proposal seeks to change the house type from that of detached dwellings to semi-detached this will increase the density in this section of the site, however the proposed density is not significantly higher than that found in the established residential area and the proposed pattern of

development constructed to date and is in keeping with the overall character and environmental quality of the established residential area and the wider Mealough Development which is currently under construction. The average unit size exceeds space standards set out in supplementary planning guidance. The proposal satisfies criteria (d).

93. There is no requirement for public open space due to the scale of the development. Likewise, there is no requirement for the provision of a local community or neighbourhood facility. The site is accessible to a number of shops and other neighbourhood facilities in Carryduff. Criteria (c) is met.
94. The internal road layout provides for safe and convenient access around the site which will also serve to meet the needs of mobility impaired persons. Adequate and appropriate provision is also made for parking which meets the required parking standards. Criteria (g) and (h) are considered to be met.
95. For the reasons outlined above, it is accepted that the development complies with the policy tests associated with Policy HOU4 of the Plan Strategy.
96. The detail submitted demonstrates how the proposal respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, design and finishes and that it does not create conflict with adjacent land uses or unacceptable adverse effect on existing properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

#### Policy HOU8 – Protecting Local Character, Environmental Quality and Residential Amenity in Established Residential Areas

97. The design of the proposed dwellings are considered to be in keeping with the existing dwellings constructed to date in terms of height, scale and massing and the site layout plan demonstrates a density and ratio of built form to open space that is appropriate to planning policies and is consistent with that found in the immediate vicinity.
98. The separation distance between the proposed dwellings and their relationship with the existing residential dwellings constructed to date and its existing boundaries is adequately addressed and respected by this proposal. Therefore, it will not create conflict or unacceptable adverse effects in terms of overlooking, loss of light, overshadowing, noise or other disturbance.
99. In consideration of the above, I am satisfied that the proposal complies with Policy HOU8.

#### Policy HOU10 – Affordable housing in settlement

100. Policy HOU10 requires a 20% affordable housing provision. In the context of the most recent planning approval LA05/2023/0292/F for 81 dwelling units, under the LCCC Plan Strategy, this equated to 17 dwelling units. This current application was submitted for 29 no. dwellings, however, has been reduced to 9 no. dwellings through the processing of the application.
101. This is due to an agreement being reached by the applicant, with the owner of lands at 28 to 34 Ballynahinch Road, Carryduff, which benefits from planning permission for 18 no. dwellings consisting of 10 dwellings and 8 apartments. This off-site provision combined with the proposed 9 no. dwelling units subject of this application will deliver a total of 27 no. dwelling units.
102. The 9 no. dwelling units were indicated by the applicant under application LA05/2023/0292/F to be for co-ownership/intermediate housing. The 18 no. dwellings are indicated to be for intermediate and social housing provision.
103. The 18 no. dwellings at 28-34 Ballynahinch Road, are to be in lieu of the 8 no. dwelling units required, along with the 9 no. dwellings to make up the required 17 for the 20% affordable housing under application LA05/2023/0292/F.
104. Therefore, this would provide 10 no. additional units, thus exceeding the 20% requirement for affordable housing required for the change of house type application LA05/2023/0292/F which required 17 dwelling units.
105. The applicant's case is put forward on the basis that policy HOU10 allows for:  
  
*'exceptional circumstances where it is demonstrated that the affordable housing requirement cannot be met, alternative provision must be made by the applicant, or an appropriate in lieu must be agreed through a Section 76 Planning Agreement. Such agreements must contribute to the objective of creating mixed and balanced communities'.*
106. The application site forms part of the larger Mealough development with extant permission sufficient to deliver and exceed the minimum 20% requirement for affordable housing within this development. However, the applicant has put forward the case that as the wider development has been ongoing and established prior to the requirement for the minimum 20% requirement for affordable housing, that the service management fees and costs associated with the wider infrastructure upgrades would result in significant additional upfront costs to any Housing Association retrospectively introduced to the site and would result in unsustainable future running costs. No evidence of service management costings has been provided to back up this claim. This argument is not given significant weight in this assessment.
107. The applicant also claims that the ultra-modern house type and design of the approved large dwellings within Mealough is established, and existing residents have bought into that concept. Social housing would not be character with wider development of housing and housing would not be tenure blind. This argument

is considered to be contrary to policy HOU 10, in that the policy specifically states that ‘All developments incorporating affordable housing should be designed to integrate with the overall scheme, with no significant distinguishable design differences’. This is further reiterated within the justification and amplification text, that affordable housing should be delivered through mixed tenure developments which offer a high quality of design and to help promote community cohesion and sustainable neighbourhoods. The argument that the provision of social housing would not be in character with the wider development is nullified, as the policy aims to deliver mixed tenure alongside one another in a mix house types. The provision of the 9 no. affordable housing for co-ownership within Mealough, the subject of this application exhibits the same characteristics in terms of plot size, house types, design as would provision for social housing. Therefore, the argument that it would be out of character is not accepted.

108. The applicant has stated that the Mealough Development has limited accessibility to public transport or services within walking distance, stating that studies have shown that social housing occupants traditionally have lower levels of car ownership and that as such future families/occupants could be disadvantaged in accessing essential services if the social housing is provided within Mealough. The applicants case considers the provision of 18 no. affordable housing units at 28-34 Ballynahinch Road, location as being closer to shops, doctors, creches, schools, services and public transport in comparison to the Mealough development. The applicant also argues that this, combined with the provision of 10 no. dwelling units over and above the 20% requirement represents an exception to the policy and wider community benefit than the current agreement.

109. In terms of the argument of accessibility, the social housing being located at 28-34 Ballynahinch Road, would be more accessible for those future occupants who would not have access to a car. The table below shows a comparison in the time it would take to walk to the listed services from both locations.

<b>Destination</b>	<b>28-34 Ballynahinch Road</b>	<b>Mealough Development</b>
<b>Surgery</b>	3 min (0.1 mile)	25 min (1.1 miles)
<b>Lidl</b>	3 min (0.1 mile)	24min (1 mile)
<b>Library</b>	6 min (0.2 mile)	25 min (1.1 miles)
<b>Bus stop</b>	<1min (50 yards)	1 min (0.2 mile)

110. The 28-34 Ballynahinch Road, location would be considerably more accessible for those without access to a vehicle with the listed services being just minutes walk-away. In comparison the Mealough site, with the exception of the bus stop is significantly further from shops and services. Those without access to a vehicle would be disadvantaged in terms of accessibility to shops and services.

111. Therefore, affording this greater weight and considering the additional gain in terms of both quantum and the mix of affordable housing provision that will be provided, on balance, in this instance the proposal is deemed an exception to Policy HOU10 and subject to an amended Section 76 Planning Agreement, the proposal is considered to be acceptable.
112. None of the nine dwellings proposed should be occupied until the apartments at 28-34 Ballynahinch Road are constructed and available for occupation as social rented accommodation.

### **Natural Heritage**

113. This application is for a change of house type only from that approved under file reference LA05/2023/0292/F. The site is currently being developed to both the north and west of this application site.
114. Large areas of the site have already been cleared to provide internal roads infrastructure associated with the wider development of the site. The proposal site has been cleared and the southern portion of the site has been utilised for storage of building materials.
115. Given the current condition of the site and ongoing construction works it was not necessary to reconsult NIEA with what is a change of house type application.
116. That said the developer will have to have cognisance to the Wildlife order when carrying out any works should the application be approved.
117. For the reasons outlined, the proposed development will give rise to no significant adverse effects on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby and as such Policy NH5 of the Plan Strategy is capable of being met.

### **Access and Transport**

#### TRA1 – Creating an Accessible Environment

118. The P1 Form indicates that the proposal does not involve the construction of a new access to the public road.
119. The road layout as proposed is the same as that approved under the previous application LA05/2023/0292/F and Y/2009/0114/F. It is not shown to be amended in anyway and part of this road has already been implemented.
120. DfI Roads have not identified any concerns in relation to the detailed layout, access and arrangement of the parking associated with the change of house type plots and have advised in their consultation response that the application does

not require a determination under The Private Streets Order 1980 and the Private Streets (Amendment) (Northern Ireland) Order 1992 as the street was previously determined under Application Reference Y/2009/0114/F.

121. Based on a review of the detail submitted with the application and advice from DfI Roads it is considered that the proposed complies with the SPPS and Policy TRA1 of the Plan Strategy in that the detail demonstrates that an accessible and safe environment will be created through the provision of footways and pedestrian crossing points.

#### TRA2 – Access to Public Roads

122. It is also considered that the development complies with policy TRA2 of the Plan Strategy in that regard has been given to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.

#### TRA7 – Carparking and servicing arrangements in new developments

123. The proposal is also considered to comply with policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided so as not to prejudice road safety or inconvenience the flow of traffic.

#### TRA8 – Active Travel Networks and Infrastructure Provision

124. The proposal continues to provide for connectivity to active travel networks and as such, policy tests associated with TRA8 continue to be met.
125. Based on a review of the information and the advice received it is considered that the proposal satisfies the policy tests associated with policy TRA8 of the Plan Strategy.

### **Flooding and Drainage**

126. A Flood Risk and Drainage Assessment (DA) dated June 2024 by Marrac Design was submitted in support of the application. Following consultation with DfI Rivers, DFI Rivers confirmed that their response to LA05/2023/0292/F remained applicable.
127. NI Water in a response received on 25<sup>th</sup> February 2025 confirmed no objection to the proposal.
128. Water Management Unit were also consulted and advised they were content subject to standing advice and conditions.

129. Based on a review of the information provided and the advice received from both DfI Rivers, NI Water and Water Management Unit, it is considered that the proposed development is being carried out in accordance with the requirements of policies FLD3 of the Plan Strategy.

### **Historic Environment and Archaeology**

130. Archaeological conditions were attached to the previous history of approval under application Y/2009/0114/F. Under application LA05/2023/0292/F, the agent submitted evidence that they had complied with these conditions and that the relevant conditions had been discharged from the previous approval. The records have been verified and are accurate.
131. HED were consulted under application reference LA05/2023/0292/F and in a response dated the 26 January 2024 they stated that:

*HED has reviewed related case records and the additional information submitted (under application LA05/2023/0292/F). The archaeology site works within the development area were undertaken in 2022 under licence AE/22/080. HED (Historic Monuments) has assessed the application and on the basis of the information provided, due to previous archaeological excavations, is content that the proposal is satisfactory to archaeological policy requirements.*

132. Given the above information that was verified under the previous approval LA05/2023/0292/F, HED was not consulted on this current proposal. Based on the information and consideration under the original approval, it is therefore contended that the proposed development complies with policies HE1, HE3 and HE4 of the Plan Strategy.

### **Consideration of Representations**

133. At the time of writing this report no representations has been received.

### **Recommendations**

134. The application is presented with a recommendation to approve subject to conditions and deed of variation to the Section 76 planning agreement to ensure that the developer fulfils his obligations with regards to the delivery of affordable housing in accordance with the requirements of policy HOU10 of the Plan Strategy.

135. None of the nine dwellings proposed should be occupied until the apartments at 28-34 Ballynahinch Road are constructed and available for occupation as social rented accommodation.

## Conditions

136. The following conditions are recommended:

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

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

- No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved Drawing No. 03 published on the Public Planning Portal on 4th July 2024 to provide adequate facilities for parking and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking.

- 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 that section of Drawing No: P115/R10-3p previously approved under application Ref No. Y/2009/0114/F, for the extent of this application, as shown on Drawing No. 03 published on the Public Planning Portal on 4th July 2024.

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

- The vehicular accesses, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 03 published on the Public Planning Portal on 4th July 2024 prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

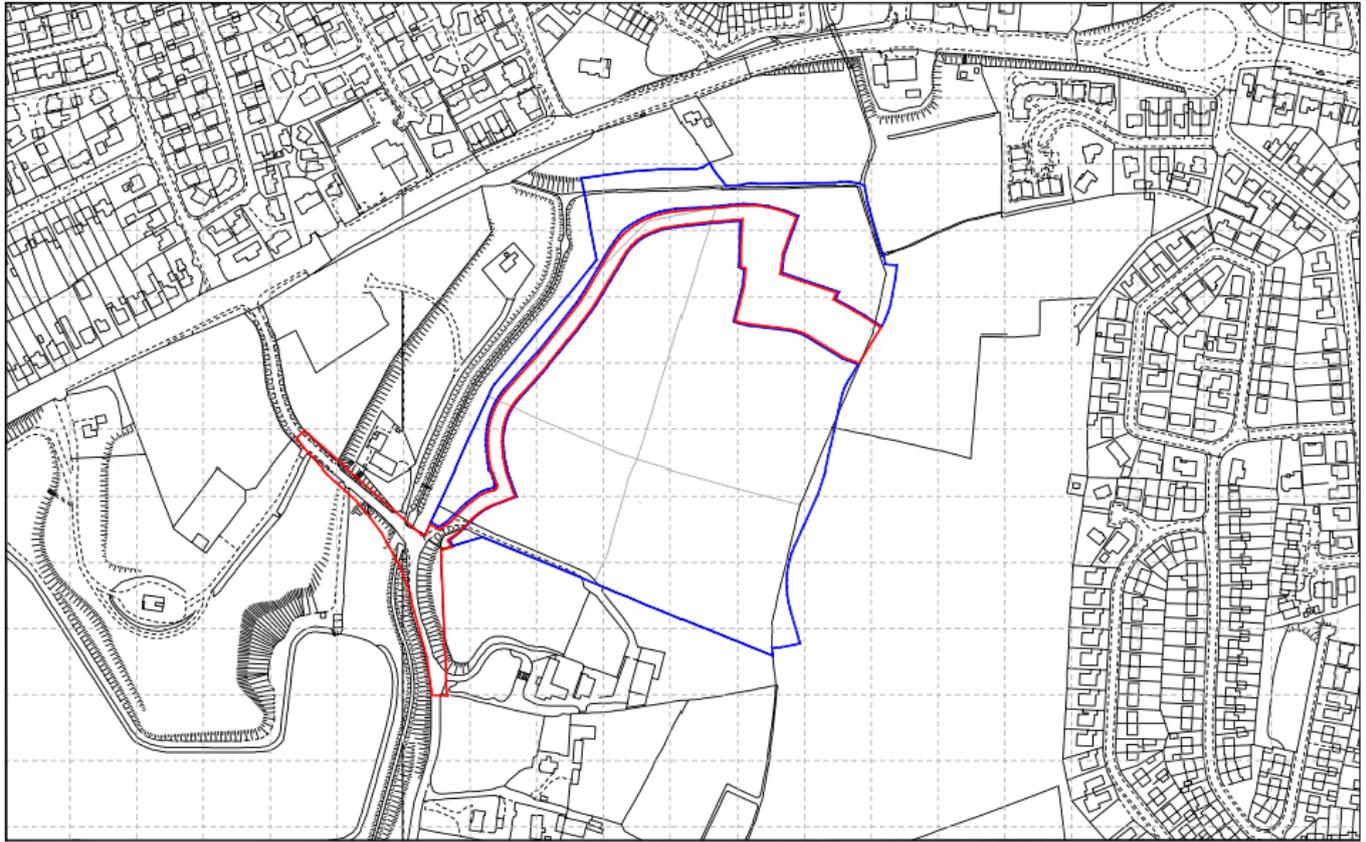
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

- The access gradients to the dwellings hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25)

maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

### Site location Plan – LA05/2024/0513F



<b>Formative</b> ARCHITECTS	FORMATIVE ARCHITECTS Ltd www.formative-architects.com office@formative-architects.com	MEALOUGH ROAD	
		Fraser Partners	Location Map
		Mealough Road	
		June 24	1:2500(A3) 00 PL01 24-014

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 2 – Statutory Performance Indicators – February 2025

## 1.0 **Background**

1. The Planning Act (Northern Ireland) 2011 sets out the legislative framework for development management in NI and provides that, from 1 April 2015, Councils now largely have responsibility for this planning function.
2. The Department continues to have responsibility for the provision and publication of official statistics relating to the overall development management function, including enforcement. The quarterly and annual reports provide the Northern Ireland headline results split by District Council. This data provides Councils with information on their own performance in order to meet their own reporting obligations under the Local Government Act (Northern Ireland) 2014.

### **Key Issues**

1. The Department for Infrastructure has provided the Council with monthly monitoring information against the three statutory indicators. A sheet is attached (**see Appendix**) summarising the monthly position for each indicator for the month of February 2025.
2. This data is invalidated management information. The data has been provided for internal monitoring purposes only. They are not validated official statistics and should not be publicly quoted as such.
3. Members will note that the performance against the statutory target for local applications for February 2025 was 41.2 weeks with performance year to date noted to be 37.4 weeks. There remains a focus on dealing with older planning applications. A total of 697 local applications have issued to date. This is 159 more than the number of applications received.
4. Our continued focus on reducing the number of older applications means it is unlikely that the Council will return to good performance for local applications in the short term, but the implementation of a structural review and an improvement plan should see an overall improvement against this target in the next business year.
5. It is important to note that legal challenges and ongoing resourcing pressures continues to impact on our ability to improve performance in relation to local applications.

	<p>6. There was no opportunity to perform in relation to major applications for February 2025. That said, performance year to date noted to be 61.2 weeks. The types of major applications that remain with the Unit are complex in nature and involve protracted consultation processes. These are being managed, and it remains in the work programme a target to bring at least one major application forward to Committee each month.</p> <p>7. The challenge in achieving good performance consistently can depend on a number of unrelated factors all of which can mask good performance generally. One significant factor is the requirement for many of the applications in this category to be accompanied with legal agreements. Our practice for dealing with agreements is under review.</p>	
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that the Committee notes the information in relation to the February 2025 Statutory Performance Indicators.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>There are no finance or resource implications.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	<p>Has an equality and good relations screening been carried out?</p>	<p>No</p>
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out</p> <p>This is a report outlining progress against statutory targets and EQIA is not required.</p>	
4.3	<p>Has a Rural Needs Impact Assessment (RNIA) been completed?</p>	<p>No</p>
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>This is a report outlining progress against statutory targets and RNIA is not required.</p> <p>.</p>	

<p><b>Appendices:</b></p>	<p>Appendix 2 – Statutory Performance Indicators – February 2025</p>
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## Statutory targets monthly update - February 2025 (unvalidated management information)

## Lisburn and Castlereagh

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	1	1	49.4	0.0%	60	49	32.6	12.2%	20	19	46.6	63.2%
May	2	1	59.2	0.0%	62	60	34.3	23.3%	32	42	33.6	81.0%
June	1	1	22.4	100.0%	44	73	32.0	31.5%	13	27	39.0	70.4%
July	1	1	197.8	0.0%	37	62	32.4	32.3%	14	21	50.0	61.9%
August	2	1	135.4	0.0%	50	62	27.7	32.3%	22	6	37.9	83.3%
September	0	2	64.2	0.0%	46	74	44.2	14.9%	21	28	59.6	60.7%
October	4	1	210.6	0.0%	44	49	29.4	28.6%	22	23	43.4	65.2%
November	1	2	53.7	0.0%	67	77	49.4	18.2%	26	24	25.8	87.5%
December	2	0	-	-	49	50	44.9	18.0%	12	31	88.6	61.3%
January	0	0	-	-	37	68	38.8	27.9%	21	12	60.0	41.7%
February	0	0	-	-	42	73	41.2	27.4%	19	17	27.3	88.2%
March	-	-	-	-	-	-	-	-	-	-	-	-
<b>Year to date</b>	<b>14</b>	<b>10</b>	<b>61.2</b>	<b>10.0%</b>	<b>538</b>	<b>697</b>	<b>37.4</b>	<b>24.4%</b>	<b>222</b>	<b>250</b>	<b>39.1</b>	<b>70.0%</b>

Source: NI Planning Portal

**Notes:**

1. DCs, CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 3 – Appeal Decision – LA05/2018/0862/F

## 1.0 **Background**

1. An application for a proposed infill site for 2 dwellings with detached garages on land between 26 and 30 Magheraconluce Road, Hillsborough was refused planning permission on 28 September 2023.
2. Notification that an appeal had been lodged with the Planning Appeals Commission was received on 29 January 2024.
3. The procedure followed in this instance was by way of written representation and commissioner's site visit. The site visit took place on 28 January 2025.
4. The main issues in this appeal are whether the development would be acceptable in principle in the countryside, integrate into the landscape, harm the rural character of the area, and prejudice road safety.
5. A decision received on 25 February 2025 indicated that the appeal was dismissed.

### **Key Issues**

1. The appeal site was located in a gap between dwellings at 26 and 30 Magheraconluce Road. It was part of a larger agricultural field which extended to the rear of both adjacent dwellings.
2. The Commissioner agreed that the building in the ribbon was the dwelling at 26 Magheraconluce Road to the southwest of the appeal site with a detached garage and the house at 30 to the northeast with an integral garage.
3. The Commissioner also accepted that the proposal engaged Policy COU8 as it would create a ribbon of development by filling the gap between the one-off houses at 26 and 30 Magheraconluce Road.
4. It was the Commissioners assessment that as there were only two qualifying buildings framing the gap in which the appeal site was located, it failed to meet a fundamental requirement of the exception to the prohibition of ribbon development as there is no substantial and continuously built-up frontage for the purposes of the policy.
5. The Commissioner highlighted that whilst Policy COU8 referred to the need to respect the existing pattern of development in terms of siting, design, size, scale, plot size and width of buildings along the frontage, Policy COU16 was concerned

with rural character in general and the pattern of settlement exhibited in the area. He explained whereas assessment of the exception in Policy COU8 is confined to the frontage, an assessment of the rural character and settlement pattern of an area must consider the wider locality and include both sides of the road.

6. He went on to explain that the surrounding area has a dispersed pattern of settlement comprising several farmsteads with associated outbuildings and various one-off dwellings. There are several instances where two dwellings are located adjacent to one another including Nos. 29 and 31 opposite the appeal site, but there are no other nearby instances of four dwellings in a row. When travelling along the Magheraconluce Road, the area has a distinct rural character.
7. He concluded that the gap which comprises the appeal site is important to preserve what remains of the rural character of this area. The appeal proposal would introduce two further identical dwellings and garages and would result in a line of four dwellings in a row. This would appear out of place in an otherwise rural area, would harm rural character and would not respect the traditional pattern of settlement which comprises dispersed one-off dwellings. The Council's and third parties' concern under criteria c) and e) were sustained.
8. The Commissioner highlighted significant concerns were raised by third parties regarding the safety of the proposed access to the public road. The access point sits in a dip in the road with bends to either side. Much of the time the application was with the Council was taken up with resolving this problem, with various amendments and consultations sent to the Department for Infrastructure (DfI) Roads. After various improvements to the access arrangements, DfI Roads replied on 14th June 2021 to advise that they had no objection to the proposal subject to conditions including provision of the access, visibility splays and forward sight distance and control of the gradient of the access.
9. The Commissioner was satisfied that the proposed access to the public road would not prejudice road safety or significantly inconvenience the flow of traffic. The concerns raised under criterion i) of Policy COU16 had been satisfactorily addressed.
10. Both the appellant and third parties complained that it took the Council over five years to finally determine the application. The appellant argued that an application lodged five years before Policy COU8 was adopted should not have been refused on the basis of it. They pointed out that the Council twice approved the application in the context of the emerging infill policy and said they were not at fault for the Council's procedural failures which resulted in both of these decisions being quashed. They said there was ample opportunity for the Council to issue an unassailable planning approval before it changed its policy. They claimed a legitimate expectation that their application would have been determined within a reasonable time.
11. The Commissioner took account of a recent judicial review decision for the same application and accepted that the delays in the decision-making process did not rest exclusively at the door of the Council because of the time taken by the applicant to satisfactorily address the roads issues. He accepted that the appellant could have brought a Section 60 appeal during most of the five-year period but chose not to. In the circumstances, the concerns raised by the appellant and third parties regarding the timescale of the application were sustained, nor would they outweigh the policy objections to the development.

12. The Commissioner addressed the weight to be attributed to the planning history and concluded that by its decision not to make a reserved matters application, but to apply for full planning permission for a larger development than that which could fall within the terms of the outline approval, the appellant re-opened the question of the principle of development. This would not have occurred had they simply complied with the terms of the outline approval in a reserved matters application. He accepted that the Council was entitled to attach greater weight to the new policy than to the planning history which related to a different and smaller development and he was not persuaded that the outline approval would outweigh the current policy objections to the proposal, or that it should be afforded determining weight in the appeal.

13. Members are advised to read the full decision. The matters highlighted are relevant to similar cases which have come in front of the Planning Committee before and are highlighted for the purpose of learning, particularly in those cases where administrative fairness and planning history are raised as material considerations.

2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>No cost claim was lodged by any party in this instance.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out</p> <p>This is a report updating the committee on a decision by the PAC and EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on a decision by the PAC and RNIA is not required.</p>	

**Appendices:**

Appendix 3 – Appeal Decision – LA05/2018/0862/F



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Lisburn & Castlereagh City Council

Our reference: 2023/A0104  
Authority  
reference: LA05/2018/0862/F  
25 February 2025

Dear Sir/Madam

**Re:**

**Appellant name: Glebe Homes Ltd**

**Description: Proposed infill site for 2 no dwellings with detached garages**

**Location: Between 26 & 30 Magheraconluce Road, Hillsborough**

Please find enclosed Commission decision on the above case. This is for your information only. Any additional documents will be returned.

Yours Sincerely,

Padraig Dawson  
PACWAC Admin Team



# Appeal Decision

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<b>Appeal Reference:</b>	2023/A0104
<b>Appeal by:</b>	Glebe Homes Ltd.
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Infill site for two dwellings with detached garages
<b>Location:</b>	Between 26 and 30 Magheraconluce Road, Hillsborough
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council
<b>Application Reference:</b>	LA05/2018/0862/F
<b>Procedure:</b>	Written representations and Commissioner's site visit on 28 <sup>th</sup> January 2025
<b>Decision by:</b>	Commissioner Gareth Kerr, dated 25 <sup>th</sup> February 2025

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## Decision

1. The appeal is dismissed.

## Background

2. A previous grant of outline planning permission for two infill dwellings in the gap between 26 and 30 Magheraconluce Road was made by Lisburn and Castlereagh City Council on 7<sup>th</sup> March 2017 (Ref: LA05/2016/1080/O). This approval related to a smaller site with some other important differences which I shall set out later. Standard conditions attached thereto indicated that the outline planning permission ran for five years and that a reserved matters application should have been submitted within three years. No reserved matters application was submitted.
3. The appellant acquired the site in January 2018. The full planning application subject to this appeal was submitted to the Council on 15<sup>th</sup> August 2018, while the outline permission remained live, and was finally determined by the Council on 28<sup>th</sup> September 2023. In the interim, amendments were made to the design and access arrangements over the course of the first three years. Then two Council decisions to grant planning permission for the development were quashed by the High Court following applications for judicial review by a third party and by the Council itself. Following a change in the policy context whereby the Council's Local Development Plan 2032 Plan Strategy was adopted in September 2023, the Council refused planning permission for the application now subject of this appeal.
4. At this point, a further judicial review was sought by the appellant. It was argued that it was both irrational, and a breach of a procedural legitimate expectation, for the Council to reverse its previous position on an application which was over five years old and to afford no weight to the planning history of the site. The High Court judgement *Glebe Homes Limited [2024] NIKB 42* delivered on 22nd May 2024, set

out a chronology of the events leading to the refusal of planning permission (which I need not repeat here) and ultimately refused leave to apply for judicial review of the Council's decision, mainly because judicial review is a remedy of last resort and the appellant had available, and had sought to avail of, an alternative remedy by appealing to the Commission. Although leave was refused, the judgement included comments on the grounds raised which will be of assistance in the determination of this appeal. I shall refer to them later. The parties' evidence in the appeal was submitted post the decision of the High Court, which was referenced in statements of case and rebuttals.

### **Preliminary Matter**

5. The refusal reasons on the Council's decision notice dated 28<sup>th</sup> September 2023 refer to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and policies within its "draft plan strategy (as modified by the Direction of the Department)". This draft plan strategy was afforded determining weight when the Council's Planning Committee considered the application and voted to refuse it on 4<sup>th</sup> September 2023. The Local Development Plan 2032 Plan Strategy (hereafter referred to as the PS) was formally adopted by the Council on 26<sup>th</sup> September 2023, two days before the decision notice was issued. However, the Council omitted to update the refusal reasons that had been presented to the Planning Committee.
6. In the Council's Statement of Case, it updated its reasons for refusal to refer to the adopted Plan Strategy rather than the SPPS and the draft version of the PS. The abandonment of any reliance on the SPPS and the draft PS does not result in any change to the substance of the reasons for refusal, nor does it prejudice other parties to the appeal as they had opportunity to respond to the change in rebuttal evidence. Accordingly, I shall determine the appeal based on the amended reasons for refusal set out in Appendix 6 of the Council's evidence.

### **Reasons**

7. The main issues in this appeal are whether the development would:
  - be acceptable in principle in the countryside;
  - integrate into the landscape;
  - harm the rural character of the area; and
  - prejudice road safety.

#### *Policy Context*

8. Section 45 (1) of the Planning Act (Northern Ireland) 2011 (the Act) states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.
9. The Schedule to the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 indicates that where a PS is adopted by a Council, the LDP now becomes a combination of the Departmental Development Plan (DDP) and the PS read together. Any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS. Previously retained policies, including those within Planning Policy Statement 21: Sustainable Development in the

Countryside, have now ceased to have effect within the Council area. Regional guidance in Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside continues to apply.

10. The Lisburn Area Plan 2001 (LAP) operates as the DDP for the area in which the appeal site is located. In it, the site falls within the green belt. The Council's evidence refers to both the 2004 and 2014 versions of the draft Belfast Metropolitan Area Plan 2015 (dBMAP). However, as the adoption of the 2014 version was declared unlawful in its entirety by the Court of Appeal in May 2017, no reliance can be placed upon it. Although not holding the status of a DDP, dBMAP 2004 can be a material consideration in certain instances. In it, the appeal site is also within the green belt. As the operational policies now contained within the PS make no distinction between green belts and the remainder of the countryside, the green belt designations in both the LAP and dBMAP 2004 are of no consequence in the appeal. There are no other provisions in the LAP or dBMAP that are material to the determination of the appeal. The appeal should be determined in accordance with the provisions of the PS unless material considerations indicate otherwise.
11. Policy COU1 of the PS indicates that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. To establish the principle of development, a housing proposal must meet one of the specific operational policies for residential development as set out in policies COU2 to COU10. Any proposal for development in the countryside will also be required to meet all of the general criteria set out in policies COU15 and COU16.
12. Policy COU8 of the PS is entitled "Infill/Ribbon Development". It states that planning permission will be refused for a building which creates or adds to a ribbon of development. Exceptionally, there may be situations where the development of a small gap, sufficient to accommodate 2 dwellings within an otherwise substantial and continuously built up frontage, may be acceptable. For the purpose of this policy a substantial and continuously built up frontage is a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway. The proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development. Buildings forming a substantial and continuously built up frontage must be visually linked.
13. Policy COU15 of the PS refers to integration and design of buildings in the countryside. It states that in all circumstances, proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and of an appropriate design. Seven criteria are set out where a new building will not be permitted, a number of which were raised by third parties including:
  - a) it is a prominent feature in the landscape;
  - f) the design of the building is inappropriate for the site and its locality; and
  - g) ancillary works do not integrate with their surroundings.
14. Policy COU16 is entitled "Rural Character and other Criteria". It states that in all circumstances, proposals for development in the countryside must be in accordance

with and must not cause a detrimental change to, or further erode the rural character of an area. Nine criteria are indicated where new development proposals will be unacceptable. Of particular relevance to this appeal are:

- a) it is unduly prominent in the landscape;
- c) it does not respect the traditional pattern of settlement exhibited in that area;
- d) it mars the distinction between a settlement and the surrounding countryside, or otherwise results in urban sprawl;
- e) it has an adverse impact on the rural character of the area;
- h) the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character; and
- i) access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

#### *The Appeal Site, Surroundings and Proposal*

15. The appeal site is located in a gap between dwellings at 26 and 30 Magheraconluce Road. It is part of a larger agricultural field which extends to the rear of both adjacent dwellings. The land slopes down quite steeply towards the road which forms the south eastern side of the site. The level difference between the road and the rear boundary is some 12 metres. Most of the former roadside hedge has been removed, the site has been largely stripped of topsoil and a hardcored entrance and level platform have been created. This has left a cut embankment to the rear up to 4 metres in height. The site also includes a strip of land on the opposite side of the road for the provision of forward visibility.
16. The dwelling at 26 Magheraconluce Road to the south west of the appeal site is single storey with a detached garage. The house at No. 30 to the north east is also single storey and has an integral garage. There are two further single storey houses on the opposite side of the road. All of the above properties occupy relatively large plots. Beyond No. 30 to the north east is a public car park serving the nearby Harry Ferguson Memorial Garden which is identified as a visitor attraction in the PS. The section of the Magheraconluce Road serving the appeal site and the above neighbouring properties is somewhat twisty and undulating.
17. The appeal proposal is for two single storey infill dwellings with detached double garages. They would be sited on the levelled platform area of the site, generally in line with the properties on either side. The buildings would share a common design with grey rendered walls, projections in dark grey natural stone and a flat tiled or slated roof. There would be a paired entrance towards the eastern corner of the site, a visibility splay of 2.4m x 87m across the site frontage to the south west and 90m of forward visibility provided on the opposite side of the road to the north east. There would be new hedge planting to the front and rear boundaries of the site, between the two plots and to the rear of the improved forward visibility. Heavy standard trees would be planted in groups close to the new boundaries.

#### *Principle of Development*

18. The proposal engages Policy COU8 as it would create a ribbon of development by filling the gap between the one-off houses at 26 and 30 Magheraconluce Road. The policy includes an exception for the development of a small gap, sufficient to accommodate two dwellings within an otherwise substantial and continuously built up frontage. However, there can only be such a substantial and continuously built up frontage where there is a line of four or more buildings adjacent to the road, at

least two of which must be dwellings, and domestic ancillary buildings such as garages are expressly excluded. As there are only two qualifying buildings framing the gap in which the appeal site is located, it fails to meet a fundamental requirement of the exception to the prohibition of ribbon development as there is no substantial and continuously built up frontage for the purposes of the policy.

19. The appellant made no argument that the proposal complied with the Policy COU8 exception. Rather, their case rests upon the planning history of the site in the context of the five-year application process. These arguments will be considered below. In the evidential context, it is not disputed that the proposal fails to satisfy Policy COU8. Therefore, I need not comment on other matters raised by third parties in respect of this policy such as the development pattern, whether there is a visual linkage between Nos. 26 and 30, whether the site is a visual break and whether it would comply with the guidance for infilling gaps in the Building on Tradition design guide as this would be a nugatory exercise. The Council has sustained its second reason for refusal based on Policy COU8.

#### *Integration and Design*

20. Third parties argued that the dwellings would be prominent features in the landscape, contrary to criterion a) of Policy COU15. Concerns were also raised about the design of the buildings and the impact of ancillary works including the amount of cut and fill required, with reference made to the Building on Tradition design guide. The site slopes up steeply from the road and would be challenging to develop without some degree of cut and fill. The design of the dwellings was amended during the course of the application from a split-level building to a bungalow. While the original proposal would have been built into the hill requiring less engineering of the slope, it would have presented a two-storey, highly-glazed gable to the road frontage, over 8 metres in height, and I agree with the Council that this design would have been inappropriate in this rural location.
21. The revised design on a single level is more in keeping with the dwellings on either side of the site and the critical view across the frontage would be broken up by variations in the ridge line, window openings with a vertical emphasis and the use of stone cladding to the porch and living room. The overall depth of the buildings is significant at over 12 metres from the front to rear doors. A narrower plan-form would have reduced the size of the level platform required to site the dwellings. The cut platform would require a 2 metre high retaining wall at the rear with a steep bank above until it meets the original field level. However, the cross sections indicate that no fill is required and much of the massing of the dwellings and garages will be below original ground level. While such ancillary retaining structures have the potential to be unsightly, they would be mostly screened by the buildings themselves and, due to the twisty nature of the road, views of the overall development would be limited to across the site frontage and a short distance to either side.
22. Looking up into the site from the public road, the dwellings would be partially screened by the initial slope as they would sit back on the platform, they would screen the unsightly retaining structures and they would benefit from the backdrop of rising landform to the rear. While the development would display some of the inappropriate features pointed out on page 113 of the Building on Tradition design guide, I judge that when account is taken of the nature of the site and its surrounding context, the overall design and external finishes facing the road would be acceptable

for this location. Existing hedges to the side boundaries would aid integration and while the development would not rely on the new landscaping proposed, it would, in time, provide significant further screening from public views. Accordingly, the proposal would satisfy Policy COU15. The third parties' concerns regarding integration and design have not been sustained.

*Rural Character and Other Criteria*

23. The Council's third reason for refusal states that the proposal is contrary to Policy COU16 of the PS as the insertion of two new buildings in the gap would not respect the traditional pattern of settlement and contribute to urban sprawl, harming the character of this countryside location. Its evidence refers to the failure to meet the exception test in Policy COU8, but provides no analysis of what the existing settlement pattern is, or how the proposal would not respect it. A third party argued that the proposed development would destroy the rural character of the area by creating a line of four detached houses and suburbanising an agricultural field which had a beautiful and substantial hedgerow. They also point out that Nos. 26 and 30 are the only two road frontage houses along a 1.3km stretch of this side of the Magheraconluce Road.
24. While Policy COU8 refers to the need to respect the existing pattern of development in terms of siting, design, size, scale, plot size and width of buildings along the frontage, Policy COU16 is concerned with rural character in general and the pattern of settlement exhibited in the area (my emphasis). Whereas assessment of the exception in Policy COU8 is confined to the frontage, an assessment of the rural character and settlement pattern of an area must consider the wider locality and include both sides of the road.
25. During my site visit, I observed that the surrounding area has a dispersed pattern of settlement comprising several farmsteads with associated outbuildings and various one-off dwellings. There are several instances where two dwellings are located adjacent to one another including Nos. 29 and 31 opposite the appeal site, but there are no other nearby instances of four dwellings in a row. When travelling along the Magheraconluce Road, the area has a distinct rural character. With the exception of the defined settlements of Annahilt and Magheraconluce (also known locally and referred to by third parties as the Poundburn), the most developed section of the Magheraconluce Road is the area where the appeal site is located as it has several road frontage dwellings on both sides of the road. The gap which comprises the appeal site is important to preserve what remains of the rural character of this area. The appeal proposal would introduce two further identical dwellings and garages and would result in a line of four dwellings in a row. This would appear out of place in an otherwise rural area, would harm rural character and would not respect the traditional pattern of settlement which comprises dispersed one-off dwellings. The Council's and third parties' concerns under criteria c) and e) are sustained.
26. The Council further argued that the development would contribute to urban sprawl, contrary to criterion d). Policy COU16 links the concept of urban sprawl with marring the distinction between a settlement and the surrounding countryside. The Justification and Amplification to the Policy states that landscapes around settlements have a special role to play in maintaining the distinction between town and country. The principle of drawing a settlement limit is partly to promote and partly to contain new development within the settlement limit to maintain that

distinction. Proposals that mar this distinction or create urban sprawl will be considered unacceptable. I also note that Strategic Policy 09 – Housing in the Countryside in Part 1 of the PS states that the Plan will support development proposals that *inter alia* b) resist urban sprawl in the open countryside which mars the distinction between the rural area and urban settlements (my emphasis).

27. The use of the word “which” in the above policy, read together with the text of Policy COU16, indicates that urban sprawl would occur where development took place in the countryside close to a defined settlement limit. This could cause it to read as an extension of the settlement and would mar the distinction between the settlement and the surrounding countryside. In the case of the appeal site, the nearest settlement of Drumlough is approximately 1km to the north west, while the settlement of Magheraconluce (on the same road) is over 1.5km to the north east. As the appeal development is not close to a defined settlement, it would not mar the distinction between a settlement and the surrounding countryside or otherwise result in urban sprawl as it is understood from the terminology in the PS. The Council has not sustained its objections under criterion d) of Policy COU16.
28. Third parties raised concerns regarding other matters covered by Policy COU16. In light of my conclusions regarding integration above, I do not consider that the development would be unduly prominent in the landscape. Therefore, the proposal would satisfy criterion a). Whilst I acknowledge that significant ancillary works would be required, as most of the engineering works and retaining structures would be screened by the buildings themselves, they would not adversely impact on the rural character of the area. The development would not offend criterion h).
29. Significant concerns were raised by several third parties regarding the safety of the proposed access to the public road. The access point sits in a dip in the road with bends to either side. Because of this alignment, there was particular concern regarding forward visibility, that is, the degree of intervisibility between vehicles using the access and the road itself. Development Control Advice Note 15: Vehicular Access Standards, which continues to apply post adoption of the PS, states, “In particular, a vehicle waiting on the priority road to turn right into the access must be able to see oncoming traffic and be seen by following traffic.” Due to the dip in the road at the access and its curvature with a hedge close to the road edge, there was a danger that a vehicle waiting to turn right into the site could not be seen when approaching from the north east. Much of the time the application was with the Council was taken up with resolving this problem, with various amendments and consultations sent to the Department for Infrastructure (DfI) Roads.
30. The site boundary was extended to include a strip of land on the opposite side of the road to improve the forward visibility. The hedge was to be removed and the land sloped down from the road to field level creating a wider verge across which oncoming traffic could see a vehicle waiting in the dip to turn right. An additional forward sight line was to be provided across the site frontage in a south westerly direction so that the driver of a vehicle waiting to turn into the site could see past the next bend for any oncoming traffic. Longitudinal sections were drawn up to demonstrate that there was a clear line of sight for 87 metres in both directions in the vertical plane. After various improvements to the access arrangements, DfI Roads replied on 14<sup>th</sup> June 2021 to advise that they had no objection to the proposal

subject to conditions including provision of the access, visibility splays and forward sight distance and control of the gradient of the access.

31. The works to provide the improved forward visibility have already been undertaken and at my site visit, I observed that the removal of the roadside hedge and setting back of the fence line on the south eastern side of the road behind a gently sloping bank provides a reasonable view of the road ahead when travelling from the north east. While care must still be taken because of the bends and undulations in the road, it is now possible to see in advance if a car is waiting to turn right into the site entrance. Based on my on-site observations and the advice of the statutory consultee, I am satisfied that the proposed access to the public road would not prejudice road safety or significantly inconvenience the flow of traffic. The concerns raised under criterion i) of Policy COU16 have been satisfactorily addressed. As a safe access could be secured by the imposition of conditions if the appeal was allowed, these matters would not warrant the withholding of planning permission.
32. While several of the concerns raised under Policy COU16 have not been sustained, the Council's and third parties' concerns under criteria c) and e) have been sustained. The Council has sustained its third reason for refusal insofar as it relates to the pattern of settlement and rural character.

*The Length of the Planning Application Process*

33. Both the appellant and third parties complained that it took the Council over five years to finally determine the application. The appellant argued that an application lodged five years before Policy COU8 was adopted should not have been refused on the basis of it. They pointed out that the Council twice approved the application in the context of the emerging infill policy and said they were not at fault for the Council's procedural failures which resulted in both of these decisions being quashed. They said there was ample opportunity for the Council to issue an unassailable planning approval before it changed its policy. They claimed a legitimate expectation that their application would have been determined within a reasonable time. Third parties argued that the application should have been refused long before it was under the previous policy.
34. Humphreys J addressed these matters in the appellant's Judicial Review. He said that it was not a case where the council have failed to make any decision. It made two previous decisions both of which were successfully challenged by way of judicial review on the basis of procedural impropriety. He found that the applicant could, at any time, have invoked its right under Section 60 of the 2011 Act to appeal against the non-determination of its application to the Commission. He also noted that the delays in the decision-making process did not rest exclusively at the door of the council because of the time taken by the applicant to satisfactorily address the roads issues. He said that all parties consented to the quashing of the two decisions to grant permission and on each occasion the Council re-determined the application without culpable delay. He therefore concluded that there was no basis to argue that there was a breach of the procedural legitimate expectation.
35. Having studied the facts and chronology of the case in detail, I agree with the Court's reasoning. The Council cannot be held responsible for the delay in reaching a final determination as it made efforts to resolve the design and access issues and then issued a total of three decisions. The majority of the delay can be attributed to the

preparation of amended plans by the appellant to satisfy the road safety concerns. While third parties are entitled to challenge decisions on points of law, these challenges were ultimately responsible for the remainder of the delay in the application process. The appellant could have brought a Section 60 appeal during most of the five year period, but chose not to. In the circumstances, the concerns raised by the appellant and third parties regarding the timescale of the application cannot be sustained, nor would they outweigh the policy objections to the development.

*The Weight to be Attributed to Emerging Policy*

36. The appellant accepts the legal requirement that regard must be had to the LDP, so far as material to the application, and to any other material considerations. They also accept that decision-makers may give weight to emerging policies, depending on their stage of preparation. However, they point out that planning policy is not a straitjacket that must be slavishly adhered to in all circumstances and state that when the Planning Committee decided to refuse planning permission for the development on 4<sup>th</sup> September 2023, Policy COU8 was not quite adopted.
37. While I must have regard to the policy prevailing at the date of this appeal decision, the Court addressed the question of whether the Council's decision might have been different before and after the adoption of the PS. Humphreys J pointed out that planning policy is not legislation and said it is "entirely misguided" to presume that it cannot apply retroactively. He made reference to the Joint Ministerial Statement dated January 2005 which dealt with issues of prematurity. Paragraph 22 thereof stated, "Where a plan is at the draft plan stage, but no objections have been lodged to relevant proposals then considerable weight should be attached to those proposals because of the strong possibility that they will be adopted and replace those in the existing plan."
38. Humphreys J reasoned, "It is therefore clear that even when a decision maker is considering an application in light of an extant plan, the policies in an emerging plan can be taken into account and, indeed, may have determinative weight. This will particularly be so when the emerging plan is at an advanced stage of the process and no objections have been lodged to the particular proposal under consideration. It is therefore inaccurate to suggest that the decision on the instant application would have been different on 25 September 2023, the day before the LDP was adopted, than it was on 28 September. By November 2022 the PAC had reported on the LDP and by June 2023 the DfI had issued its direction to adopt. The planning committee met and considered the application on 4 September, prior to the LDP adoption, but when the plan process was at a very advanced stage. Moreover, by the time the council issued its decision on the application, the LDP was adopted... The LDP therefore has statutory primacy subject to other material considerations. When a decision is quashed by a court and redetermined, the material considerations to be taken into account at the time of redetermination are those which exist at the date of the redetermination. To assert that somehow the council ought to have applied the former policy CTY8 of PPS 21 is to misunderstand the legal principles engaged. In fact, to have done so, would have rendered the decision susceptible to judicial review."
39. The Council's evidence stated that no weight was afforded to the former Policy CTY8 of PPS 21. This is not strictly the case as the still extant policy was set out in

some detail in its report to the Planning Committee, but it was ultimately concluded that determining weight should rest with the new Policy COU8. Later in his judgement, Humphreys J stated, "The weight to be attached to any consideration is a matter of planning judgement." He then said, "The decision to accord determining weight to policy COU8 was an entirely rational one for the reasons outlined in the planning officer's report. The draft Plan Strategy was, by that time, at a very advanced stage, having been subject to the rigours of a PAC examination and was subject to a Dfl direction to adopt. The policy in question had not been the subject of any objection. The decision to proceed on this basis is unimpeachable."

40. If this was the case when the Planning Committee considered the application on 4<sup>th</sup> September 2023, then it is beyond question that the relevant policy for determining the principle of the development in this appeal decision is that of COU8 in the PS. As set out above, there is no substantial and continuously built up frontage for the purposes of the policy now prevailing. The proposal's failure to meet this fundamental requirement of the policy must attract substantial weight in the decision. As required by Section 6 (4) of the Act, the determination must be made in accordance with the PS unless material considerations indicate otherwise. The Appellant's concerns about the weight attributed to the then emerging plan by the Council would not justify a contrary decision.

*The Weight to be Attributed to the Planning History*

41. The planning history, which includes an outline approval for two dwellings in the gap, is a material consideration to be weighed in the overall planning balance. The key question in this appeal is whether the outline approval outweighs the proposal's failure to satisfy the policies now prevailing. The appellant considers that it should while the Council and third parties say otherwise.
42. At this point, it is necessary to deal with an objection raised by third parties. They were of the view that the outline planning approval expired, three years after it was granted, in March 2020 and that it was wrong to give it any weight after this point. Section 62 of the Act addresses the duration of outline planning permission. It requires that such permissions are granted subject to conditions that application is made for approval of any reserved matter within three years of the date of the grant of outline planning permission and that the development must be begun by whichever is the later of five years from the date of outline approval or two years from the final approval of reserved matters. A planning authority may substitute different periods for the three, five and two year periods referred to above as it considers appropriate.
43. Outline approval LA05/2016/1080/O contained the standard time condition referred to in Section 62. The effect of this is that there was a three year period for submission of reserved matters, but the permission itself ran for five years and was capable of being afforded weight during this time. Although no reserved matters application could be made after 7<sup>th</sup> March 2020, the outline permission did not fully expire until March 2022. I do not accept the third parties' argument that no weight could be given to the outline approval after March 2020.
44. Furthermore, because planning applications can take some time to determine, it is normally accepted that if an application is lodged while a previous approval remains live, the planning history can be afforded weight in the determination even if it

- becomes time-expired during the processing of the subsequent application. As the application now subject to appeal was made on 15<sup>th</sup> August 2018, within both the three and five-year periods specified on the outline approval, I consider that it was capable of being a material consideration until the Council finally determined the application, and also in this appeal against that determination. Although the High Court determined that the Council's decision to accord no weight to the 2017 permission could not be said to be irrational, I find merit in the appellant's argument that it remains material because of when the full application was made.
45. The Appellant pointed out that the Council attached weight to the planning history of the site in its June 2022 Committee Report (even though the five-year period had expired by that point), but in its September 2023 report, it was stated that no weight should be given to the outline approval. I consider that this latter approach was wrong because the application had been made while the outline permission was extant. I consider the outline approval to be a material consideration in the appeal. The question is whether it outweighs the policy objections to the proposal and whether determining weight should be attached to it. To answer this question requires an examination of the differences between the outline approval and the appeal proposal. In doing so, I turn again to the analysis undertaken by the High Court which compared the 2018 application with the outline permission.
46. Humphreys J stated, "It is, however, evident that the applicant made a commercial decision to pursue a fresh full planning application rather than rely on the extant outline permission and make an application for reserved matters. Presumably this was because it was believed or expected that some enhanced permission would be granted by this route. An examination of the respective applications reveals that the applicant's 2018 application was quite different from the outline consent:
- (i) The application was for a site measuring 0.53 hectares whilst the outline consent was based on a 0.39 ha site;
  - (ii) The site was extended again by the amendment made in June 2019;
  - (iii) The full planning application was for development outside the red line of the outline grant;
  - (iv) The proposed development was for properties with ridge heights higher than those for which outline planning was granted.
- It could not be said, therefore, that the full planning application was in accordance with the outline permission or that, in some way, it fulfilled the same role as a reserved matters application."
47. I would add to the above points that the outline approval did not include provision for garages at the dwellings and the buildings shown on the approved concept plan were of a much smaller footprint with a bigger gap between them.
48. By its decision not to make a reserved matters application, but to apply for full planning permission for a larger development than that which could fall within the terms of the outline approval, the appellant re-opened the question of the principle of development. This would not have occurred had they simply complied with the terms of the outline approval in a reserved matters application. Although the length of time it took to reach a final determination was much longer than could reasonably have been foreseen, the delays were caused by the actions of all of the parties rather than one in particular. I consider that as new material considerations became apparent during the period when the application was under consideration,

particularly the progression of the draft PS towards adoption, the Council was entitled to attach greater weight to the new policy than to the planning history which related to a different and smaller development. As the proposal before me does not mirror the outline approval, but is a larger development on a larger site, I am not persuaded that the outline approval would outweigh the current policy objections to the proposal, or that it should be afforded determining weight in the appeal. The appellant's arguments concerning the planning history of the site are not sustained.

#### *Administrative Fairness*

49. The appellant stated that the Council sprung their change of stance at the last moment, leaving them in an invidious position. They said they purchased the land at full market value and made an application in good faith, which the Council approved on two occasions. Then, five years later, the Council made a belated and unannounced U-turn which seeks to render the land worthless. They go on to state that it is clearly in the public interest that applicants are treated fairly and transparently by the planning system. They claim that the final act in the Council's decision making process was not transparent, that it was procedurally and administratively unfair and that it blindsided the appellant. In response, the Council stated that the appellant had appointed an agent to manage the application process and the onus was on them to follow its progress and seek clarification from officers as necessary.
50. In support of their argument, the appellant made reference to the case of *Belfast City Council v PAC [2018] NIQB 17* which concerned a proposal for purpose built managed student accommodation in Belfast. In that decision, McCloskey J stated that applicants should be treated on a "cards face up" basis throughout the application process. This entails, fundamentally, knowing the case which he has to meet. Being taken by surprise in any material respect is antithetical to this principle.
51. The above case principally concerned the acceptability of amended details at appeal stage, but a key matter raised by the appellant was that they had been ambushed because in months of previous discussions, the Council had never raised with them issues of scale and overshadowing. I note that the policy context for these considerations did not change during the course of the application and appeal. In contrast, there has been a substantial change in the policy context for infill development in Lisburn and Castlereagh during the course of the application before me. Whilst the principles of procedural fairness set out by McCloskey J must be acknowledged, the change in policy context here makes the two examples materially different.
52. I am unable to adjudicate on the Council's procedures for communication with the applicant, but I note that the appellant did have the opportunity to argue against the recommendation to refuse planning permission before the Planning Committee. While the length of time it took the Council to reach a final determination is regrettable, the blame for this cannot solely rest with it. During the course of the application, it was known that the PS was progressing towards adoption and I see nothing in the Belfast City Council case law referred to by the appellant that would prevent the Council from giving weight to its new policy in its final decision. The appellant's concerns about administrative fairness are not sustained and any loss of land value is not a determining matter in the appeal.

*Other Issues Raised by Third Parties*

53. A third party raised issues regarding Environmental Impact Assessment (EIA) of the development. EIA is a tool for assessment of the significant effects of a development proposal on the environment. The third party argued that the enlarged development site fell within Schedule 2 Category 10(b) "Urban development projects, including the construction of shopping centres and car parks" of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 and that it met the applicable threshold as the area of the development exceeds 0.5 hectare. He stated that this category applies to housing development regardless of whether it is located within a settlement or the countryside. He referred to a European Commission document entitled "Interpretation of Definitions of Project Categories of Annex I and II of the EIA Directive" (2015) which highlights the wide scope and broad purpose of EIA. Drawing from case law including *Commission v Spain [C-332/04]*, it states that in relation to project location, an urban development project should be seen as a project that is urban in nature regardless of its location. The Council considered that the proposal did not fall within Schedule 2 and therefore no screening determination was required or undertaken.
54. The Council provided no evidence why the proposal would not fall within Schedule 2 Category 10 (b) of the EIA Regulations. Applications for housing development within settlements are frequently subject to screening determinations if they exceed the 0.5 hectare size threshold and in line with the wide scope and broad purpose of the Directive and the interpretation provided by the courts, I see no reason why an application for two houses in the countryside would not fall to be screened under Schedule 2. I judge that the third party's concerns regarding the Council's approach are well founded. While the proposal should have been screened by the Council, this does not automatically mean that it would be found to be EIA development as this would only be the case if it was found likely to have significant effects on the environment when assessed against the selection criteria.
55. Regulation 4 of the EIA Regulations prohibits the Council and the PAC from granting planning permission for EIA development unless an EIA has been carried out in respect of that development. A development falling within Schedule 2 is only EIA development if it has been screened and found likely to have significant effects on the environment. While the Council's failure to carry out screening to determine whether the proposal is EIA development was a procedural error, its ultimate decision to refuse the application without screening for EIA was not a breach of the prohibition in Regulation 4 as this relates only to the granting of permission. Neither does it preclude my consideration of the appeal. Therefore, I do not accept the third party's contention that the Council's decision was unlawful. However, if I was minded to grant planning permission for the development at appeal stage, I would need to make a screening determination as to whether the proposed development is EIA development.
56. The third party also referred to Regulation 32 of the EIA regulations which concerns unauthorised EIA development. When the Council granted approval for the second time on 16<sup>th</sup> August 2022, the developer promptly removed the hedge on both sides of the road and excavated a large volume of material from the site to create the entrance and level platform. Fill was placed in the field opposite where the forward visibility was created. The third party alleged that wildlife and waste offences were committed and reported these to the Council and other relevant authorities. He

states that the works undertaken constitute unauthorised EIA development. Another third party stated that these works began at 8am on the morning of the Planning Committee meeting before permission was actually granted.

57. While any works without planning permission are at the developer's own risk, it seems likely that the majority of the works were undertaken while planning permission was in place (before being quashed). The amount of money said to be invested in this work would not weigh in favour of granting planning permission for the development if it is contrary to policy. The Council stated that it has an on-going enforcement investigation into the engineering works on the site and that it considers it not expedient to pursue enforcement action in respect of the filling of the land in the field opposite as this has improved forward sight distance for road users along this part of Magheraconluce Road. However, the Council's exercise of its enforcement functions is not a matter that I can adjudicate on in this appeal. Expediency is solely a matter for the Council. Neither can I comment on alleged offences that may have occurred under non-planning legislation.
58. The third party further referred to Regulation 43 of the EIA Regulations which refers to objectivity and bias. He alleged political bias in the decision to grant outline approval. I am unable to resolve the dispute as to the merits of the outline approval in this appeal, but I note that the application was recommended for approval by officers when assessed under the policy prevailing at that time and that a family member of the applicant declared an interest and withdrew from the discussion of the application. I have been given no evidence of bias by the decision makers. With regard to the full application now subject to appeal, I note from the background papers that the former owner was involved in a meeting with Council officers regarding the application in his role as an elected representative, but there is no evidence that this engagement influenced the decisions of the Planning Committee. The fact that the application was ultimately refused is not suggestive itself of any bias on the part of the Planning Committee.
59. A third party stated that the plot was refused planning permission in 1988 and that neighbours were informed the site would never be passed. There were, in fact, two applications for outline permission for a dwelling withdrawn in 1988 and 1990. The reasons for their withdrawal are not known. Planning policy has changed several times since then and applications must be determined on their merits against the applicable policy at the time. The outline planning permission for two infill dwellings in the gap granted in March 2017 is a material consideration in the appeal as set out above.
60. A third party alleged that the excavation works have impacted on the water table and resulted in water running out of the field along the back of an adjacent property. He did not specify which adjacent property. During my site visit, on a dry day following a period of rainfall, I observed a field drain in the cut embankment running like a waterfall. Water from the field above was soaking the site and running onto the road below. Another field drain pipe was suspended in mid-air where the cut had been made in the bank. Although this is a far from ideal situation, it would not weigh against the granting of planning permission.

*Conclusion*

61. There is no dispute that the appeal proposal would not satisfy the relevant Policy COU8 in the PS. Therefore, it is not acceptable in principle in the countryside. It would also harm the rural character of the area for the reasons set out above. While the planning history of the site is a matter to be weighed into the final determination, the differences between the outline approval and the appeal proposal are such that it would not outweigh the policy objections to the proposal. Neither would any of the appellant's other arguments justify the granting of planning permission not in accordance with the LDP. Accordingly, the Council has sustained its first reason for refusal based on Policy COU1. As all three reasons for refusal and the related third party concerns have been sustained to the extent specified and are determining, the appeal must fail.

This decision is based on the following drawings:-

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>	<b>Received by Council</b>
01/1	Location Map	1:2500	04 Jun 2019
02F	Site Layout	1:500	01 Dec 2020
03B	Sketch Plans	1:100	19 Aug 2020
04B	Garage Sketch Plans	1:100	25 Aug 2020
05	Site Layout (showing forward visibility)	1:500	19 Apr 2021
06	Cross Sections (forward visibility)	1:200	19 Apr 2021
07	Longitudinal Sections (forward visibility)	1:100	19 Apr 2021

**COMMISSIONER GARETH KERR**

**List of Documents**

Planning Authority:-	A	Statement of Case Lisburn and Castlereagh City Council
	B	Rebuttal Statement Lisburn and Castlereagh City Council
Appellant:-	C	Statement of Case Les Ross Planning
	D	Rebuttal Statement Les Ross Planning
Third Party:-	E	Statement of Case Thomas Dykes

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 4 – Appeal Decision – LA05/2019/1077/F

## 1.0 **Background**

1. An application for a proposed park and ride car park (126 car parking spaces) and all associated lighting, drainage, landscaping, site access off the A26, pedestrian link to existing Translink car park and all associated site works on land adjacent to and south east of Moira Train Station, Station Road, Moira, adjacent to and west of the A26 and between the Belfast to Dublin railway line to the north and the Lagan Navigation Canal to the south was refused planning permission on 29 February 2024.
2. Notification that an appeal had been lodged with the Planning Appeals Commission was received on 26 June 2024.
3. The procedure followed in this instance was by way of informal hearing at the request of the appellant team. The hearing took place on 22 October 2024.
4. The main issues in the appeal are whether the proposed development was acceptable in principle in the countryside and its impact on rural character.
5. In a decision received on 28 February 2025 the Commission confirmed that the appeal was allowed.

### **Key Issues**

1. The main issue in this appeal was whether the proposed development could be accessed onto a Protected Route.
2. The A26 Glenavy Road is a Protected Route, an A-class road and part of the trunk road network. The Commissioner confirmed in his report that policy TRA 3 stated that ‘the Council will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes...’. It also stated that in all cases, the proposed access must be in compliance with the requirements of Policy TRA 2.
3. It was not disputed that the appeal development would take access onto a Protected Route outside of a settlement limit. Therefore criterion (iii) of Policy TRA 3 applied.
4. The Commissioner reported that the Council accepted the Appellant’s arguments that the appeal development could not reasonably be accessed from a new access onto Station Road as the provision of the required visibility splays would have an adverse impact on features of the historic environment, particularly, Lady’s Bridge and the canal bank. Furthermore, the provision of a new access onto Station Road

at the suggested point would have required substantial level changes (with the consequential visual impact) and the closure of a pedestrian access point and a public right of way, which are outside of the Appellant's control. In the evidential context, the Commissioner concurred that a new access could not be reasonably achieved onto Station Road.

5. In the evidential context, the Commissioner was satisfied that even if Station Road was an adjacent minor road and access could be taken through the Translink P&R site to Station Road, and visibility splays were to be improved to the uncontested figure of 2.4m x 70m, the necessary works would likely have an adverse impact on the Scheduled Monument. He also concluded that major works would be required to the railway infrastructure and as satisfied that access could not be reasonably achieved from an existing access from an adjacent minor road. He was satisfied this requirement of the policy had been satisfactorily addressed.
6. The Commissioner, having satisfied himself that it was not reasonable to take a new access onto Station Road (as the nearest adjacent minor road) or through the Translink car park access, then concluded that the only feasible access would be from the A26, which is a Protected Route. He accepted this was contrary to policy, harm would be limited as there are no road safety concerns arising and the Scheduled Monument would not be impacted by the proposal.
7. In addition he weighed the following material considerations advanced by the Appellant in the planning balance:
  - a. The proposal would contribute to the strategic aims of the Regional Development Strategy 2035 (RDS) and those of the PS by providing sustainable infrastructure and supporting a change to travel modes by reducing car usage and encouraging the use of public transport via the utilisation of Moira Train Station and the existing P&R facility;
  - b. Consistent with the RDS, it would help to reduce the carbon footprint whilst improving air quality by decreasing car usage;
  - c. There is no persuasive evidence that the appeal proposal would unduly interfere with or significantly inconvenience the movement of traffic along the protected route or that it would have an unacceptable adverse impact on the surrounding road network.
  - d. There is a need for such a facility in this area; and
  - e. The proposal involves the closing up of an existing field gate access onto the A26 and is in compliance with DCAN15.
8. The Commission in reaching its decision gave significant weight to a number of material considerations not all of which were in front of the Members at the time the planning application was decided. The policy point was not disputed by any party. Again the careful weighing of material considerations was critical in the decision making process. Members are requested to note the learning in respect of weighing all the facts in the decision-making process and to seek advice from all the parties in reaching a decision.

2.0

### **Recommendation**

It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.

3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>No cost claim was lodged by any party in this instance.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out</p> <p>This is a report updating the committee on a decision by the PAC and EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on a decision by the PAC and RNIA is not required.</p>	

<b>Appendices:</b>	Appendix 4 – Appeal Decision – LA05/2019/1077/F
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# Appeal Decision

Planning Appeals Commission  
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<b>Appeal Reference:</b>	2024/A0035.
<b>Appeal by:</b>	Nigel Herdman.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Proposed Park and Ride car park (126 car parking spaces) and all associated lighting, drainage, landscaping, site access off the A26, pedestrian link to existing Translink car park and all associated site works.
<b>Location:</b>	Lands adjacent to and south east of Moira Train Station, Station Road, Moira, adjacent to and west of the A26 and between the Belfast to Dublin railway line to the north and the Lagan Navigation Canal to the south.
<b>Planning Authority:</b>	Lisburn & Castlereagh City Council.
<b>Application Reference:</b>	LA05/2019/1077/F.
<b>Procedure:</b>	Informal Hearing on 22 <sup>nd</sup> October 2024.
<b>Decision by:</b>	Commissioner Kieran O'Connell, dated 28 <sup>th</sup> February 2025.

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## Decision

1. The appeal is allowed, and full planning permission is granted, subject to the conditions set out below.

## Reasons

2. The main issue in this appeal is whether the proposed development can take access onto a Protected Route.
3. The appeal site is situated in the countryside, south and east of Moira Train Station and its existing Park and Ride provision, operated by Translink (P&R). It occupies a flat, irregular-shaped area within a larger field, bordered by a railway line to the north and the Lagan Canal to the south. The A26 protected route lies to the east. Station Road is located to the west and it is the nearest minor road to the appeal site. The site is divided into two by a north-south canal feeder, which is a scheduled Monument. A culvert/bridge connects the two sections.
4. The site boundaries are largely undefined, save for the perimeter of a triangular section west of the canal feeder and parallel to the P&R, which is defined by mature trees and hedgerows with a high paladin fence behind. There is no direct access to the Train Station or its P&R from the appeal site. The eastern boundary of the host field adjacent to the A26 has a gated access. There is a hardcore area contiguous to the access gate. The southern field boundary runs along the Lagan Canal. The northern field boundary is defined by post and wire fencing and is

adjacent to a service strip to the railway embankment (approximately 3-4m high) beyond. This service strip takes access from the A26.

5. To the west, the appeal site is situated approximately 50m from Station Road, which is around 3-4m higher than the appeal site. There is no direct access to Station Road. A public towpath and dense mature vegetation separate the appeal site from Station Road and are outside of the Appellant's control. Development south of the site and the Lagan Canal comprises holiday cottages and a guest house with two accesses, one from the A26 and the other from Station Road. The village of Moira is located approximately 1km to the south, while junction 9 of the M1 Motorway is approximately 400m from the site. North of the site, beyond the train station along Station Road, the area comprises farm dwellings, a former restaurant and some overflow parking from use of the train station. Station Road connects to the western side of the A26, between Lisnabilla Road and Magheramesk Lane on its eastern side.
6. There are several built heritage features located along Station Road within proximity to the appeal site. These comprise listed buildings, scheduled monuments, monuments in state care and structures recorded on the Industrial Heritage Record as listed below. The Appellant has also provided a copy of a Scheduled Monument Consent granted on 20<sup>th</sup> April 2020 for the construction of a new bridge over the feeder channel and extension of the railway station P&R (as now proposed).

Listed buildings:-

- HB19/03/049 - Moira Station, Station Road, Moira, Craigavon, Co Armagh - Grade B+
- HB19/03/013 - Railway bridge over canal Station Rd Moira Craigavon Co Armagh - Grade B

State Care Monument:-

- Moira Station Site (ref to HB19/03/049 and IHR site 00062:176:1 and 6 for details) Station Building, Waiting Room, Signal Box, Walling & Crane.

Scheduled Monuments

- ANT/DOW067:501/009:500 - Lady's Bridge, Station Road, Moira, County Down – Scheduled
- ANT/DOW067:501/009:500 - Lagan Canal, Reach 11 - Section 14 - Scheduled

Structures recorded on the Industrial Heritage Record:-

- IHR 00062:176:00 - Moira Station site - GNR Main Line Belfast - Border
- IHR 00062:176:01 – Moira Station - GNR Main Line Belfast - Border
- IHR 00062:176:05 - Level Crossing - GNR Main Line Belfast – Border
- IHR Ref: IHR 00062:176:04 - Goods Shed - GNR Main Line Belfast – Border
- IHR 00062:176:03 – Milepost - GNR Main Line Belfast – Border
- IHR 00062:176:06 - Moira Signal Box - GNR Main Line Belfast – Border
- IHR 00062:176:02 – Aqueduct - GNR Main Line Belfast – Border
- IHR 00062:150:00 – Bridge - GNR Main Line Belfast – Border
- IHR 02680:018:00 – Bridge - Lagan Canal

7. Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP) so far as material to the application and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
8. The Lisburn and Castlereagh City Council Local Development Plan 2032 Plan Strategy (PS) sets out the strategic policy framework for the Council area. In line with the transitional arrangements set out in the Schedule to the Planning (Local Development Plan) Regulations (NI) 2015 (as amended), the Local Development Plan (LDP) now becomes a combination of the Departmental Development Plan (DDP) and the PS read together. In accordance with the subject legislation, any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS.
9. The Lisburn Area Plan 2001 (LAP) operates as the DDP for the area, with the draft Belfast Metropolitan Area Plan 2004 (dBMAP) remaining a material consideration in certain circumstances. Within the LAP and dBMAP, the appeal site is located within the countryside, outside of any settlement limit and within greenbelt. The LAP contains no policies relevant to the appeal proposal. It directs to the Planning Strategy for Rural Northern Ireland, which was superseded by Planning Policy Statement 21 – ‘Sustainable Development in the Countryside’ (PPS 21). The greenbelt designation also has been superseded by the rural policies within PPS 21. The dBMAP also indicates that the appeal site is within proximity to an archaeological site and monument in state care. It does not contain any policies material to the appeal development.
10. As a new PS has been adopted in this council area, in accordance with paragraph 1.9 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), the previously retained policies, such as the Planning Policy Statements, now cease to have effect. Accordingly, there is no conflict between the DDP and the PS.
11. Policy COU 1 of the PS is titled ‘Development in the Countryside’. It states that there are a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The appeal development does not fall into any of the specified types of development listed under the prescribed policies (COU 2-14). However, Policy COU 1 goes on to state that *‘there are a range of other non-residential development proposals that may in principle be acceptable in the countryside. Such proposals must comply with all policy requirements contained in the operational policies, where relevant to the development’*.
12. Policy COU 1 also requires that any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU 15, ‘Integration and Design of Buildings in the Countryside’ and COU 16, ‘Rural Character and Other Criteria’, however, no concerns have been raised regarding these policies.
13. Policy TRA 9 of the PS relates to ‘Park and Ride/Park and Share Car Parks’. It states that planning permission will be granted for a new or an extension to an existing Park and Ride/Park and Share car park, where they meet an identified

need agreed by the Department. Its Justification and Amplification also indicates that Park and Ride schemes should be sited close to junctions on the motorway and along the trunk road network, ideally within settlement development limits and at public transport interchanges. It further recognises that there may be occasions where a countryside location is needed for such development. In this instance, the Council does not dispute that Policy TRA 9 is met as they accept that the proposal meets a transport need and is located close to a motorway junction and along the trunk road network. This is in despite of approval LA05/2021/1245/F for a similar proposal on the western side of Station Road (approved August 2024). The issue of need for the proposal was raised by a third party at application stage, but there is scant evidence, if any, to substantiate this objection. In any event, from my on-site observations, there were around 60 cars parked along Station Road because the existing P&R was at capacity, so I concur with the Council on need.

14. The Council's and Third Party's concerns relate to policies TRA 2 and TRA 3 of the PS. Policy TRA 2 titled 'Access to Public Roads' 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) it will not prejudice road safety or significantly inconvenience the flow of vehicles, and b) it does not conflict with Policy TRA 3 'Access to Protected Routes'. The Council's concerns relate solely to criterion b.
15. The A26 Glenavy Road is a Protected Route, an A-class road and part of the trunk road network. Policy TRA 3 states that *'the Council will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes...'*. It also states that in all cases, the proposed access must be in compliance with the requirements of Policy TRA 2.
16. There is no dispute that the appeal development would take access onto a Protected Route outside of a settlement limit. Therefore criterion (iii) of Policy TRA 3 applies. It states that permission will only be granted *'for other developments which would meet the criteria for development in the countryside where access cannot be reasonably achieved from an adjacent minor road. Where this cannot be achieved, proposals will be required to make use of an existing vehicular access onto the Protected Route*.
17. The Council's concerns under Policy TRA 3 are that *'it has not been demonstrated that the proposal cannot reasonably use an existing or new access on the Station Road or that an existing vehicle access onto the A26 Glenavy Road is used'*. Policy TRA 3 does not specifically define what is meant by: *'cannot be reasonably achieved from an adjacent minor road'*. Nevertheless, on plain reading, the wording affords discretion to the decision maker to adjudicate on instances when such an access could be difficult to obtain. In this case, the Appellant has presented evidence as to why he believes that access cannot be obtained from Station Road either by creating a new access or by using the existing Translink train station/P&R access.
18. Despite the wording of their refusal reason, at the hearing, the Council accepted the Appellant's arguments that the appeal development could not reasonably be accessed from a new access onto Station Road as the provision of the required visibility splays would have an adverse impact on features of the historic environment, particularly, Lady's bridge and the canal bank. Furthermore, the

provision of a new access onto Station Road at the suggested point would require substantial level changes (with the consequential visual impact) and the closure of a pedestrian access point and a public right of way, which are outside of the Appellant's control. In the evidential context, I concur that a new access cannot be reasonably achieved onto Station Road for the reasons outlined.

19. Regarding the second clause which requires the utilisation of an existing access, the dispute centres on whether this can be achieved by using the existing Translink P&R access onto Station Road. Whilst the Council argued this access could be used, the Appellant contends that it could not for the following reasons:
- The appeal site is not physically "adjacent to" Station Road;
  - It is a separate access with separate land ownership constraints;
  - It would require works to be undertaken on third-party land over which the Appellant has no control;
  - It would require the existing car park to be reconfigured and the loss of parking spaces closest to the train station;
  - There would be traffic management problems due to unofficial parking;
  - Visibility splays at this access are already substandard (uncontested);
  - Major works would be required to improve this access even to a (uncontested) reduced standard of 2.4m x 70m;
  - These works would have an adverse impact on the Lady's Bridge, a heritage asset and would require significant works to the railway tracks, level crossing, barriers, footbridge and buildings to the north;
  - Station Road is not wide enough to provide a right-turning lane, which would be required for the volume of cars using the site, and
  - The junction of the Station Road with the A26 is not suitable for intensification without significant improvement. There is insufficient capacity to exit from it, and there is no safe means to turn right into it.
20. In addition to the reasons identified above, at the hearing, the parties provided email correspondence they had received separately from the Department for Communities' Historic Environment Division (HED). Having reviewed same and from my own on site observations, I consider the Appellant's correspondence with HED to provide the most comprehensive understanding of the potential impacts. It states that alterations to the existing access to provide visibility splays of 2.4m x 70m (illustrated in Appendix B of the Appellant's Heritage Statement) would require the following works to Lady's Bridge Scheduled Monument: -
- The demolition of the parapet walls of the scheduled bridge;
  - Either raising the road on either side of the hump in the bridge or demolishing the arch to remove the hump to allow for visibility;
  - Widening the bridge on both sides with modern construction to allow for a 6.0m wide carriageway and 2.0m wide footpaths;
  - Widening the approach road from Moira;
  - Relocating some of Translink's apparatus at the level crossing for visibility, including widening the gates, and
  - Erection of new 1.1m high parapet walls or railings.
21. The Appellant's correspondence from HED, one dated 16<sup>th</sup> October 2024, stated, *'The preliminary proposals as shown in your email dated 10 September 2024 would have a permanent detrimental impact upon the historic fabric of the scheduled monument, and therefore it would be very difficult for HED Scheduled*

*Monument Management Team to Consent these works. In order for us to consider reviewing the proposals in detail, HED would require a robust justification of the strategic need of such extensive alteration of Lady's Bridge, along with a full exploration and dismissal of all other site locations and options for the proposed Moira Train Station Park and Ride. In such an instance, any proposals to alter the bridge would be subject to extensive design and form detail'. Further correspondence dated 18<sup>th</sup> October 2024, stated: 'I can confirm that the works you describe to the scheduled monument would constitute direct adverse impacts upon the monument contrary to Policy HE1 of the Plan Strategy (and of course in absence of SMC they would also be illegal).'*

22. The Council's email to HED dated 21<sup>st</sup> October 2024 is scant in detail. However, it reaffirms the Appellant's position, stating that *'the alternative access arrangement is ... substantially different, more impactful upon the scheduled monument (Lady's Bridge), and does not have SMC (Scheduled Monument Consent). So, on face value, it would be contrary to Policy HE 1 of the Plan Strategy'*.
23. In the evidential context, I am satisfied that even if I were to determine Station Road to be an adjacent minor road and access could be taken through the Translink P&R site to Station Road, and visibility splays were to be improved to the uncontested figure of 2.4m x 70m, the necessary works would likely have an adverse impact on the Scheduled Monument. Furthermore, major works would be required to the railway infrastructure. In such circumstances, it would not be reasonable, in my judgement, to require the Appellant to upgrade the existing access to a standard that would still fall short of normal requirements whilst resulting in impacts upon historic environment features. Nor would it be reasonable to expect the Appellant to carry out the necessary works to the railway infrastructure. In these particular circumstances, I am satisfied that access cannot be reasonably achieved from an existing access from an adjacent minor road. Therefore, this requirement of the policy has been satisfactorily addressed.
24. Given my conclusions above consideration must be also given to whether the development can avail of an existing vehicular access onto the A26. Policy TRA 3 recognises that where access cannot be achieved from an adjacent minor road, proposals will be required to make use of an existing vehicular access onto the Protected Route. The Appellant argued that the appeal site has an existing access onto the A26 from a field gate. They stated that this access has a commercial use. However, there is no certificate of lawful use/development or planning permission to that effect. Nor was such a use evident from my onsite observations.
25. The Appellant further argues that Policy TRA 3 (iii) does not exclude field gates from qualifying as an access for the purposes of the Department's Design Manual for Roads and Bridges (DMRB) standards. They state that whilst Policy TRA 2 excludes field gates as being an access, that is expressed as being *"for the purposes of this policy"* (Policy TRA 2) and cannot be read across to Policy TRA 3. Even if I were to agree that policies TRA 2 and TRA 3 should not be read together, the appeal proposal would use a new and improved access to the north of the field gate. The Appellant confirmed at the hearing that the provision of the new access would result in the closing of the field gate which currently provides access to the appeal site. This can be controlled by way of planning condition in the event of approval. The appeal proposal fails to comply with the provisions of Policy TRA 3 (iii) and the related provisions of Policy TRA 2 (b).

26. The Appellant argues that if the appeal development is found contrary to policy, this need not be fatal to the overall outcome of the appeal. The Appellant cites (*Regina v Rochdale Borough Council ex parte Milne [2000] EWHC 650*) to support his position that a decision-maker may conclude that “*the plan is complied with as a whole even if there has been a minor technical breach of the policies contained within it*”. The Appellant also argues that this development represents an exception to policy and that there are material considerations in its favour that outweigh any policy objections as outlined above.
27. The Appellant contends that the only substantive policy issue is that the proposal does not make use of an existing access onto the A26 but instead provides a relocated and improved access. He further contends that planning policy is not a straitjacket to be slavishly followed and cites ‘*in the matter of an application by Stewart for judicial review [2003] NICA 4*’ for consideration. I concur that policy is not intended to be a straitjacket. However, policy is written in the public interest to protect interests of acknowledged importance, and it cannot be set aside without good reason. If a decision maker chooses not to follow a policy, then they must give sound and clear-cut reasons why not, in order that the recipient of the decision knows why the decision was being made as an exception to the policy and the grounds upon which the decision was taken.
28. The preamble to part two of the PS states that ‘*the purpose of these operational policies is to ensure the orderly and consistent development of land in accordance with the plan objectives contained in Part One of the Plan Strategy. The determination of planning applications must be in accordance with the provisions of the Plan Strategy and these operational policies unless material considerations indicate otherwise*’ (emphasis added). Additionally, the Council’s second reason for refusal states that Policy TRA 2(b) of the PS has not been met or that ‘*an exception to the policy is demonstrated*’ (emphasis added). While Policy TRA 2 does not say ‘*an exception to the policy is demonstrated*’, this does, however, infer that the Council recognises that there can be occasions where exceptional circumstances or material considerations could outweigh their policy concerns.
29. In the evidential context before me, I am satisfied that it is not reasonable to take a new access onto Station Road (as the nearest adjacent minor road) or through the Translink car park access for the reasons indicated above. Given the constraints to accessing the appeal site from Station Road, the only feasible access would be from the A26, which is a Protected Route. This is contrary to policy, although harm would be limited as there are no road safety concerns arising and the scheduled monument would not be impacted by the proposal.
30. In addition, the following undisputed material considerations advanced by the Appellant must be weighed into the overall planning balance:
- The proposal would contribute to the strategic aims of the Regional Development Strategy 2035 (RDS) and those of the PS by providing sustainable infrastructure and supporting a change to travel modes by reducing car usage and encouraging the use of public transport via the utilisation of Moira Train Station and the existing P&R facility;
  - Consistent with the RDS, it would help to reduce the carbon footprint whilst improving air quality by decreasing car usage;
  - There is no persuasive evidence that the appeal proposal would unduly interfere with or significantly inconvenience the movement of traffic along the

- protected route or that it would have an unacceptable adverse impact on the surrounding road network.
- There is a need for such a facility in this area; and
  - The proposal involves the closing up of an existing field gate access onto the A26 and is in compliance with DCAN15.
31. In the specific circumstances of this case, which are unlikely to recur, these considerations outweigh the policy failure and, in my judgment, justify allowing the appeal, subject to conditions as discussed below.
32. A third party raised concerns at application stage using policy within PPS 21 and PPS 3, but they have been superseded by the PS. The substantive issues are addressed above. Additional concerns were raised regarding the impact the appeal development would have on their access to the A26, mainly the left-hand side filter lane crossing the entrance and the need for a right-turn pocket on the A26. The filter lane was removed during the processing of the application and a right turn lane has now been proposed on the A26 to access the appeal site. As such, I have no persuasive evidence to suggest that their access would be rendered unsafe because of the appeal development. I am reinforced by DfI Roads not raising any road safety concerns with the proposal from a design perspective. Flooding and drainage concerns were also raised at application stage, however, neither the Council, DfI Rivers, nor NI Water raised any objections on these matters and I have limited evidence to cast doubt on their findings. These issues would not justify the withholding of planning permission.
33. For the reasons given above, I conclude that the Council has not sustained its objections under Policy TRA2 or TRA 3 of the PS. The appeal is therefore allowed.
34. Conditions would be necessary to ensure that a safe access is put in place prior to the commencement of development as would a condition to ensure the provision of a pedestrian access to Moira Train Station is in place prior to the appeal development becoming operational. This is to ensure that the necessary means of access to the train station is delivered. The provision of hard surface areas to provide adequate facilities for parking and circulating within the site is also necessary. There is no need for a condition relating to the gradient of the access as it is relatively flat with no abrupt change of slope. Given the presence of numerous features of the historic environment within and near the appeal site, a developer-funded programme of archaeological works would be required to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ. A condition would be necessary requiring a programme of archaeological work to be agreed by the Council prior to any site works or development taking place.
35. There was no objection to the proposal from NIEA in respect to its impact upon protected species. However, given the location adjacent to the Lagan Canal and its feeder, a condition requiring the submission of a final Construction Environmental Management Plan (CEMP), retention of existing vegetation and lighting plan prior to the commencement of development would be necessary to prevent adverse impacts on, inter alia, any protected species and the aquatic environment. As there are two badger setts within the appeal site, a condition is required to provide 25m badger protection zones as a buffer between these setts and development activity. An amended landscaping plan is also required to

provide appropriate native species trees/shrubs to provide cover/screening around both mammal tunnel entrances. An invasive species management plan is also necessary owing to the presence of Giant Hogweed on site. Prohibition of development activity or vegetation clearance by machinery and during the bird breeding season is also necessary.

### Conditions

1. The development hereby approved shall not become operational until the pedestrian access to Moira train station indicated on the site layout plan, Drawing No.03C (13/108C/PL04F), date stamped received by the Council on 29<sup>th</sup> July 2022, has been provided for in full. The pedestrian access shall be retained thereafter.
2. The vehicular access, including visibility splays, and right turning pocket shall be provided in accordance with Drawing No. 06/A (18-131-P-100 Rev B) date stamped received by the Council 25<sup>th</sup> November 2021 prior to the commencement of any other development hereby permitted. Such splays shall be retained and kept clear thereafter.
3. The proposal shall not become operational until the existing field gate onto the A26 has been permanently closed.
4. The proposal shall not become operational until hard surfaced areas have been constructed in accordance with Drawing No.03C (13/108C/PL04F) date stamped received by the Council on 29<sup>th</sup> July 2022 to provide adequate facilities for parking and circulating within the site. No part of these hard-surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.
5. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Council.

The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
  - Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
  - Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
  - Preparation of the digital, documentary and material archive for deposition.
6. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 5 above.
  7. 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 5. These measures shall be implemented, and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works or as otherwise agreed in writing with the Council.

8. No development activity, including ground preparation or vegetation clearance, shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The approved CEMP shall be implemented in accordance with the approved details, and all works on site shall conform to the approved CEMP unless otherwise approved in writing by the Council. The CEMP shall include the following:
  - a) Details of all proposed excavations and construction areas;
  - b) Details of pollution prevention measures to be employed during the construction and operational phases, including details of the establishment of a 10m buffer zone to the pond on site and to adjacent watercourses;
  - c) A Site Drainage Management Plan, including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
  - d) Mitigation measures for badgers, otters and other protected wildlife, including temporary fencing, protection from open excavations, toolbox talks for contractors, etc;
  - e) Details of the construction of an appropriate mammal tunnel for badgers under the link road;
  - f) Details of measures to ensure adequate drainage of the of the proposed mammal tunnel;
  - g) Details of measures for the protection of retained trees, including root protection area at least as far as crown spread.
  
9. No development, including ground preparation or vegetation clearance, shall take place until there has been submitted to and approved by the Council a revised hard and soft landscaping scheme. The landscaping scheme shall show details of all hard landscaping, details of new planting with appropriate native species of trees/shrub providing cover/screening around mammal tunnel entrances and show details of trees and hedgerows to be retained along the site boundaries and the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme of planting, as finally approved, shall be carried out in accordance with the appropriate British Standard or other recognised codes of practice during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.
  
10. No development activity, vegetation clearance, disturbance by machinery, dumping or storage of materials (except for the hand planting of trees and shrubs) shall take place within the 25 metres of existing badger sett entrances indicated on drawing No. 13/108C/PL06B dated 19<sup>th</sup> Aug 2021 unless an appropriate Wildlife Licence has been obtained from NIEA. Any proposed tree and hedgerow planting within the badger protection zone shall be carried out using hand tools only and under the supervision of a competent ecologist.
  
11. No tree, hedgerow or other vegetation clearance shall take place between the 1<sup>st</sup> of March and the 31<sup>st</sup> of August inclusive unless a competent ecologist has undertaken a detailed check for active bird's nests in the hedgerows, trees or other vegetation immediately before works commence and provided written confirmation that no nests are present/birds will be harmed and there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Council within 6 weeks of works commencing.

12. There shall be no external lighting on the site until a Lighting Plan has been submitted to and approved in writing by the Council. The approved plan shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Council. The Plan shall include the following:
- Details of measures to mitigate the impacts of artificial lighting on bats and other wildlife, e.g. timing of lighting, use of low-level lighting, screens, hoods, cowls etc.
  - A horizontal illuminance contour plan (isolux drawing) showing predicted light spillage across the site;
  - Badger protection areas, wildlife corridors and retained hedgerows to be kept free from any artificial lighting.
13. No development activity, including ground preparation or vegetation clearance, shall take place until an Invasive Species Management Plan (ISMP) has been submitted to and approved in writing by the Council. The Plan shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Council. The Plan shall include:
- Details on the location and extent of all plants on site, which are listed under Schedule 9, Part II, of the Wildlife Order ;
  - Details of the proposed programme of treatments to manage or remove invasive species, including the timings of proposed actions and follow-up treatments;
  - Details of appropriate on or off-site disposal of all materials to be disposed of;
  - Details of post-treatment survey and checks to ensure any recurrence is recorded and treated appropriately.
14. The development shall be begun before the expiration of five years from the date of this permission.

This decision is based on the following drawing: -

Drawing No.	Title	Scale	Council date stamped received
01A (13/108C/PL01A)	Site Location Plan	1/2500	01 Oct 2021
02B (13/108C/PL02B)	Survey as Existing	1/500	01 Oct 2021
03C (13/108C/PL04F)	Site Layout	1/500	29 July 2022
05C (13/108C/PL05C)	Site Sections	1/200	01 Oct 2021
06/A (18-131-P-100 B)	Proposed Site Access	1/250	25 Nov 2021
07 (18-131-P-101)	Forward Visibility Section	1/500	25 Nov 2021
(13/108C/PL06 B)	25m Exclusion Zone from Existing Badger Setts (confidential)	1/1250	19 Aug 2021

**COMMISSIONER KIERAN O'CONNELL**

**List of Documents**

Planning Authority: - Statement of Case and associated appendices by Lisburn & Castlereagh City Council.

Appellant: - Statement of Case and associated appendices by Mr. Eamonn Loughery Inaltus Limited.

Heritage Impact Statement and associated appendices by Mr. Simon Houston McCreanor & Co. Architects

Transport Statement and associated appendices by Mr. Richard Agus MRA Partnership Ltd

**List of Appearances**

Planning Authority:-	Mr. Mark Burns	Lisburn & Castlereagh City Council
	Ms. Gillian Milligan	Lisburn & Castlereagh City Council
	Mr. Stephen Cash	Dfl Roads
	Mr. Brian Finley	Dfl Roads

Appellant:-	Mr. Conor Fagan KC	
	Mr. Eamonn Loughery	(Inaltus Limited)
	Mr. Richard Agus	(MRA Partnership Ltd)
	Mr. Simon Houston	(McCreanor & Co. Architects)
	Mr. Paul McCreanor	
	Mr. Nigel Herdman	
	Mrs. Cheryl Herdman	

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 5 – Appeal Decision – LA05/2022/0980/O

## 1.0 **Background**

1. An application for a proposed site for a single detached dwelling, within the development limit of Lisburn at lands to the rear of 18 Hillside Crescent Lisburn was refused planning permission on 25 June 2024.
2. Notification that an appeal had been lodged with the Planning Appeals Commission was received on 25 October 2024. The procedure followed in this instance was written representation with Commissioner’s site visit on 20 February 2025.
3. The main issues in the appeal are whether the proposal respects the character of the surrounding area and would have an unacceptable impact on the amenity of residents living in neighbouring dwellings.
4. A decision received on 27 February 2025 indicated that the appeal was dismissed.

### **Key Issues**

1. The Commissioner described the character of the immediate area was comprised mainly of the semi-detached and detached red brick and rendered chalet and single storey bungalows fronting onto the road in a linear settlement pattern.
2. The Commissioner concluded the siting and form of the proposed development would introduce a development which that would not be fronting onto the public road of Hillside Crescent and therefore would represent back land development.
3. Accordingly, the Commissioner accepted that the proposed development would be out of keeping within the settlement pattern and local character of the established residential area.
4. The Commissioner also accepted the proposed development would not respect the local character of the immediate area or the established residential area, and that the proposed development was not appropriate in terms of the character of the site due to its layout.
5. The Council sustained its first and third reasons for refusal. There is limited learning arising from this decision but Members are asked to note how the Commissioner engaged with policy and concluded that the appeal be dismissed.

2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>No cost claim was lodged by any party in this instance.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out</p> <p>This is a report updating the committee on a decision by the PAC and EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on a decision by the PAC and RNIA is not required.</p>	

**Appendices:**

Appendix 5 – Appeal Decision – LA05/2022/0980/O



4th Floor  
92 Ann Street  
Belfast  
BT1 3HH

Phone: 028 908981055 (direct line)  
Phone: 028 9024 4710 (switchboard)  
Email: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)

Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)

Lisburn & Castlereagh City Council  
Local Planning Office

Our reference: **2024/A0076**  
Authority  
reference: **LA05/2022/0980/O**  
27 February 2025

Dear Sir / Madam

**Re:**

**Appellant name: Mr. Tony McClean**

**Description: Proposed site for a single detached dwelling, within the development limits of Lisburn area**

**Location: At lands to the rear of 18 Hillside Crescent, Lisburn, BT28 2BA**

Please find enclosed Commission decision on the above case.

Yours Sincerely,

Robert Reilly  
PACWAC Admin Team



# Appeal Decision

Planning Appeals Commission  
4<sup>th</sup> Floor  
92 Ann Street  
Belfast  
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<b>Appeal Reference:</b>	2024/A0076
<b>Appeal by:</b>	Mr Tony McClean
<b>Appeal against:</b>	The refusal of outline planning permission.
<b>Proposed Development:</b>	Proposed site for a single detached dwelling, within the development limits of Lisburn area
<b>Location:</b>	At lands to the rear of 18 Hillside Crescent, Lisburn, BT28 2BA.
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council.
<b>Application Reference:</b>	LA05/2022/0980/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 20 <sup>th</sup> February 2025
<b>Decision by:</b>	Commissioner Jacqueline McParland, dated 27 <sup>th</sup> February 2025.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposal respects the character of the surrounding area and would have an unacceptable impact on neighbouring amenity.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 indicates that in dealing with an application, regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that regard must be had to the LDP unless material considerations indicate otherwise.
4. The Council adopted the Lisburn and Castlereagh City Council Local Development Plan 2032 Plan Strategy (PS) on the 26<sup>th</sup> of September 2023. The PS sets out the strategic policy framework for the Council area. Pursuant to the transitional arrangements as set out in the Schedule to the Planning (Local Development Plan) Regulations (NI) 2015 (as amended), the Local Development Plan (LDP) now becomes a combination of the Departmental Development Plan (DDP), and the PS read together.

5. The Lisburn Area Plan 2001 (LAP) is the relevant DDP for this proposal. The draft Belfast Metropolitan Area Plan (2004) is not a DDP as it was never adopted, but in certain instances can be a material consideration. In both plans the appeal site is located within the settlement of Lisburn and on unzoned land. However, as settlement policies of the DDP are now outdated having been overtaken by policies of the PS, no determining weight can be attached to them. In accordance with the subject legislation, any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the latter. Therefore, it is the provisions in the PS that are material to the determination of the appeal.
6. Paragraph 1.11 of the Strategic Planning Policy Statement (SPPS) sets out that “Where a council adopts its PS, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.” As the Council has now adopted the PS, previously retained policies set out in the Planning Policy Statements (PPSs) have now ceased to have effect within this area.
7. Policy HOU 3 ‘Site Context and Characteristics of New Residential Development’ of the PS states that planning permission will be granted for new residential development where it will create a quality and sustainable residential environment which respects the existing site context and characteristics. An overall design concept, in accordance with Policy HOU6 must be submitted for all residential proposals and must demonstrate that a proposal draws upon the positive aspects of, and respects the local character, appearance and environmental quality of the surrounding area. The Council argue that the proposal is contrary to criterion a) of Policy HOU3 as the proposed development does not respect the surrounding context nor is appropriate to the character of the site in terms of layout.
8. Also Policy HOU8 ‘Protecting Local Character, Environmental Quality and Residential Amenity in Established Residential Areas’ of the PS states that planning permission will be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing where the criteria set out in Policies HOU3 and HOU4 (with the exception of Policy HOU4(d) – Density Bands), and all the additional criteria a) to c) are met. The Council argue that the proposal is contrary to criterion b) which requires that the pattern of development is in keeping with the local character, environmental quality and existing residential amenity of the established residential area (ERA).
9. The appeal site comprises of an irregular shaped plot which includes a large side and rear garden of No.18 Hillside Crescent, a detached chalet bungalow with rooms in the roof which occupies the site. It is constructed of red brick and has a sunroom attached to its northern elevation. There is a small garden outbuilding constructed in PVC and glass located to the northern side of the garden. There are spruce trees and leylandii trees approximately 5 metres in height and a 1.8 metre close boarded fence along the appeal site boundaries to the north and west. The frontage of the curtilage of No. 18A where it meets Hillside Crescent is narrow and located on the concave bend of the public road. The front garden consists mainly of a hard surface laid in tarmac with a vehicular access to the public road and a raised planted area located alongside the boundary to No. 16 Hillside Crescent. This hard surfaced area is also present to the south elevation of the dwelling

leading to a single storey red brick garage. A 1.8 metre close boarded fence is located along the appeal site boundary with No. 20, which tapers down to around 1 metre in height from the front elevation wall of No. 18 to the public road.

10. Drawing No. 02A, date stamped 11<sup>th</sup> June 2024 shows an illustrative concept plan for the proposed development. The appeal proposal would involve the demolition of the garage, the sunroom and the outbuilding within the curtilage of No. 18 Hillside Crescent. The proposed dwelling would be located to the north west of No. 18 sited at an angle with no frontage onto Hillside Crescent. The proposed new curtilage areas for the appeal development (493 metres squared) and No. 18 (462 metres squared) would be in keeping with the existing curtilage sizes within the immediate area which range from 342 metres squared to 545 metres squared. These proposed curtilages would provide adequate amenity space for both the existing residents of No. 18 and proposed residents of the appeal development. The raised planted area adjacent to No. 16 would be removed and this area together with part of the existing hard surfaced area would form the vehicular access approximately 3.2 metres wide from the proposed site to the public road. The frontage of No. 18 to Hillside Crescent would reduce as a result. The proposed access would also be located tight to the corner of the front elevation of No. 18.
11. The immediate area of Hillside Crescent is characterised by semi-detached and detached red bricked chalet and single storey bungalows, all of which front onto the public road. These types of houses and their layout fronting on to the road are the predominant character within the wider area of Benson Street, Innisfayle Park, Innisfayle Road, and Rathmore Avenue. The exception to this are the painted rendered single storey and two storey dwellings of Hillside Court, which are housing association units, located at the junction of Hillside Crescent and Benson Street. Whilst some of these units are laid out in a courtyard style pattern, the majority of these units also front on to Hillside Court, Hillside Crescent and Innisfayle Park. Accordingly, the character of the immediate area comprises mainly of the semi-detached and detached red brick and rendered chalet and single storey bungalows fronting onto the road in a linear settlement pattern.
12. The siting and form of the proposed development would introduce a development which would not be fronting onto the public road of Hillside Crescent and therefore would represent backland development. It would appear to be compressed into the existing streetscape when viewed on approach from the east along Hillside Crescent. Also, there would be a further narrowing of the frontage of No. 18 which, as it is located on a concave corner, was already one of the narrowest frontages within the immediate area. The subdivision of No. 18's front amenity area, the removal of its only planted area and further hard surfacing with the introduction of another driveway bounded by a close boarded fence, would result in a congested development pattern and lead to the proliferation of accesses in close proximity. Accordingly, the proposed development would be out of keeping within the settlement pattern and local character of the established residential area I have described above.
13. The appellant's reference to planning permission LA05/2017/1030/F does not assist his case given that it occupies a road frontage site and does not represent backland development. Furthermore, S/2007/1602/O granted planning permission under a different planning policy and by a different planning authority and as such

it is not on all fours with the appeal proposal before me. Accordingly, the proposed development does not respect the local character of the immediate area or the established residential area, nor is it appropriate in terms of the character of the site due to its layout. The Council has sustained its first and third reasons for refusal.

14. Policy HOU4 of the PS is entitled 'Design in New Residential Development'. Criterion i) requires proposals to conform so the design and layout must not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. The Council argues that the proposal would create a disturbance due to the proximity of the proposed driveway to the existing house at No. 18 Hillside Crescent. Drawing No.02A shows a driveway sited at an angle which crosses around half the front elevation of No. 18 approximately 3.2 metres in width adjacent to the front right hand corner of the dwelling at No.18. Given No. 18 is located in close proximity to the public road and at a concave corner location, the occupants of No. 18 would already experience headlights and noise of vehicles which approach from the east. Vehicles entering the proposed driveway from the south would do so at an angle, and I don't consider their headlights would shine directly onto the front elevation of No. 18. Consequently, I am not persuaded that the head lights and engine noise of vehicles entering the driveway of the proposed development would result in an unacceptable adverse impact to the residential amenity of No.18 Hillside Crescent. The Council has not provided any sufficient evidence as to why they believe that it would result in an unacceptable impact in this instance. Accordingly, the Council have not sustained its second reason for refusal relating to criterion i) of Policy HOU4 of the PS.
15. The third parties in letters to the Council consider that the proposal would result in overlooking and loss of light. Drawing 05A date stamped 11<sup>th</sup> June 2024, illustrates that the proposed dwelling would be around 5.5 metres from finish floor level and would have velux windows only at first floor level and no gable windows. Furthermore Drawing Nos. 4A and 03A date stamped 11<sup>th</sup> June 2024, show that the proposed dwelling would have a 1.8 metre close boarded fence surrounding its curtilage, a 22 metre separation distance with No. 16 and around a 10 metre rear amenity depth. The proposed dwelling would also be sited perpendicular to Nos. 8 and 10 Innisfayle Park directly adjacent to where their garages are sited side by side. There are 5 metre leylandii and spruce fir trees along this shared boundary within the appellants ownership. The siting, ridge height and retention of the existing boundaries could be conditioned in the event of an approval. Given these achievable distances and mitigating factors, I consider that the proposal would not have an unacceptable adverse impact on the existing properties of No. 16 Hillside Crescent, Nos. 8 and 10 Innisfayle Park and Nos. 4 and 6 Innisfayle Road by reason of loss of light and loss of privacy. The third parties' concerns in relation to impact on residential amenity are not upheld.
16. However, as the Council has sustained its first and third reasons for refusal, the appeal fails.

This decision is based on the following drawings:-

<b>Drawing Number</b>	<b>Title</b>	<b>Scale</b>	<b>Date Received by Council</b>
01A	Site Location Plan	1:1250	11th June 2024
02A	Proposed Block Plan	1:250	11th June 2024
03A	Block Plan - Surrounding Context	1:250	11th June 2024
04A	Proposed Site Block Plan - Showing Amenity	1:250	11th June 2024
05A	Concept Dwelling Only	1:100	11th June 2024

**COMMISSIONER JACQUELINE MCPARLAND.**

**List of Documents**

Planning Authority:- "A1" Statement of Case  
"A2" Rebuttal

Appellant:- "B1" Statement of Case  
"B2" Rebuttal

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 6 – Appeal Decision – LA05/2022/1103/F

## 1.0 **Background**

1. An application for the erection of a replacement garage with den over at 32 Breda Road Belfast was refused planning permission on 26 April 2023.
2. Notification that an appeal had been lodged with the Planning Appeals Commission was received on 23 May 2023.
3. The procedure followed in this instance was written representation with Commissioner's site visit on 22 January 2025.
4. The main issues in the appeal were whether the development would, be sympathetic with the built form and appearance of the existing property, whether it would detract from the appearance and character of the surrounding area and unduly affect the amenity of neighbouring properties.
5. A decision received on 13 February 2025 indicated that the appeal was dismissed.

## **Key Issues**

6. The proposed replacement garage with den over is located to the rear of the semidetached dwelling at 32 Breda Road Belfast.
7. The Commissioner noted that the Appellant did not provide a statement of case in support of his proposal but considered the merits of the appeal in the evidential context.
8. The Commissioner concurred with the Council and third parties that the size, scale, massing and two-storey garage and den would not be subordinate to the existing dwelling. In this regard, the Commissioner accepted the appeal development would be out of keeping with the character of the area.
9. The Commissioner further concluded that there would be insufficient separation distance between the proposal and No.34 to prevent overlooking into the rear of this property. The Commissioner considered this to be an unacceptable diminution of the privacy currently enjoyed by the residents of this dwelling.
10. The Council sustained its reasons for refusal. There is limited learning arising from this decision, but Members are asked to note how the Commissioner engaged with policy and concluded that the appeal be dismissed.

2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>No cost claim was lodged by any party in this instance.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	<p>Has an equality and good relations screening been carried out?</p>	<p>No</p>
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out</p> <p>This is a report updating the committee on a decision by the PAC and EQIA is not required.</p>	
4.3	<p>Has a Rural Needs Impact Assessment (RNIA) been completed?</p>	<p>No</p>
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on a decision by the PAC and RNIA is not required.</p>	

<p><b>Appendices:</b></p>	<p>Appendix 6 – Appeal Decision – LA05/2022/1103/F</p>
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Lisburn & Castlereagh City Council,  
Local Planning Office  
Via email

Our reference: 2023/A0009  
Authority  
reference: LA05/2022/1103/F  
13 February 2025

Dear Sir/Madam

Appellant name: Mr. Paul-Emile Kajugu  
Description: Erection of replacement garage with den over (amended plans)  
Location: 32 Breda Road, Breda, Belfast, BT8 7BU

Please find enclosed Commission decision on the above case.

Yours Sincerely,

Kathryn McCullough  
PACWAC Admin Team



# Appeal Decision

Planning Appeals Commission  
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<b>Appeal Reference:</b>	2023/A0009
<b>Appeal by:</b>	Mr. Paul-Emile Kajugu.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Erection of replacement garage with den over (amended plans).
<b>Location:</b>	32 Breda Road, Breda, Belfast, BT8 7BU.
<b>Planning Authority:</b>	Lisburn & Castlereagh City Council.
<b>Application Reference:</b>	LA05/2022/1103/F.
<b>Procedure:</b>	Written Representation with Commissioner's site visit on 22 <sup>nd</sup> January 2025.
<b>Decision by:</b>	Commissioner Kieran O'Connell, dated 13 <sup>th</sup> February 2024.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in each appeal are whether the development would:
  - be sympathetic with the built form and appearance of the existing property;
  - detract from the appearance and character of the surrounding area, and
  - unduly affect the amenity of neighbouring properties;
3. Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP) so far as material to the application and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. The Lisburn and Castlereagh City Council Local Development Plan 2032 Plan Strategy (PS) was published on 26<sup>th</sup> September 2023. It sets out the strategic policy framework for the Council area. In line with the transitional arrangements set out in the Schedule to the Planning (Local Development Plan) Regulations (NI) 2015 (as amended), the Local Development Plan (LDP) now becomes a combination of the Departmental Development Plan (DDP), and the PS read together. In accordance with the subject legislation, any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS. Supplementary Planning Guidance, Part A: Guidance for Residential Extensions and Alterations is also pertinent to my consideration.

5. The Belfast Urban Area Plan (BUAP) operates as the DDP for the area, with the draft Belfast Metropolitan Area Plan 2004 remaining a material consideration in certain circumstances. Within the BUAP and dBMAP, the appeal site is within the development limit of Castlereagh. Neither BUAP nor dBMAP contain any policies material to the appeal proposal.
6. As the PS has been adopted in this council area, in accordance with paragraph 1.9 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), the previously retained policies, such as the Planning Policy Statements, now cease to have effect. Accordingly, there is no conflict between the DDP and the PS.
7. Following the publication of the PS, the Council updated its reasons for refusal within its Statement of Case. Both the Appellant and Third Party were provided the opportunity to comment on the PS insofar as it related to the appeal development.
8. The proposed replacement garage with den over is located to the rear of the semi-detached dwelling at No.32 Breda Road. No.32 is attached to No.30 on the northern side and adjacent to No.34 on the southern side. Its rear garden is linear in shape and is enclosed by close-boarded fencing around 2.5m-3m in height and rises gently from the rear of the dwelling towards its eastern boundary. A modest single-storey garage is situated to the rear of the dwelling along the common boundary with No.34 which has a staggered two-storey extension to the rear. The appeal site backs onto a car repair yard beyond its eastern boundary and abuts the private gardens of No.30 and No.34 on its northern and southern sides. Part of the rear gardens to No.28 and No.30 appear to have been subsumed into the adjoining car repair yard.
9. Policy HOU7 of the PS is titled 'Residential Extensions and Alterations'. It states that Planning permission will be granted for a proposal to extend or alter a residential property where all of the four stated criteria (a) to (d) are met. In dispute are criterion:
  - a) the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area,
  - b) the proposal does not unduly affect the privacy or amenity of neighbouring residents,
  - d) sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.
10. The SPG Guidance for Residential Extensions and Alterations states that it 'seeks to provide a consistent basis against which to consider an extension and/or alteration to a dwelling house or flat, including those in multiple occupancy and any proposal for a domestic garage or an outbuilding'. It goes on to say that 'the guidance is intended to expand on the requirements of operational Policy HOU7 to advise home owners on how to extend or alter their property in a neighbourly manner that is sympathetic with the original property, respects the character and appearance of the surrounding area and contributes towards a quality environment.
11. The SPG provides specific guidance in relation to garages and other associated outbuildings. It states that '*buildings within the residential curtilage, such as, garages, sheds and greenhouses can often require as much care in siting and*

*design as works to the existing residential property. They should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the building from surrounding views’.*

12. The Council and Third Parties argue that the proposed scale, massing and design of the garage and den are not sympathetic with the built form and appearance of the existing property and will detract from the appearance and character of the surrounding area as its footprint would be significantly larger than the existing dwelling and garage (indicated as being 36sqm and 18sqm within the Case Officer’s Report). They further argue that there are no other garages of this scale and massing in the immediate area and contend that it would detract from the character and appearance of the surrounding area and set a precedent for similar development. The Council state that the proposed garage would be around 10m from the rear of No.32. It would be immediately to the rear (east) of the existing garage and run parallel to the fence boundary with No.34. Whilst the Council stated that the proposed footprint of the building would be 73.5sqm this would appear to be at odds with the dimensions set out on the Appellant’s floor plan and elevation drawing (04A). This drawing indicates that the footprint of the proposed garage would be smaller than otherwise indicated by the Council with dimensions of around 6.5m to the ridge and around 11m in length and 5m wide, with a single-storey return measuring 2.0m in length by 2.1m wide. The ground floor would be used as a garage with a single-storey WC. There is an internal staircase indicated providing access to the first floor which is split into four rooms comprising a landing area, gym room, games room, rest room and store. I consider the first floor use as a den to be a living area given the array of uses and activities that could take place within this area. Whilst the Appellant unhelpfully did not provide a Statement of Case in support of his proposal, in the evidential context before me and from my observations on site, I concur with the Council and Third Parties that the size, scale, massing and two-storey design of the proposed garage and den would not be subordinate to the existing dwelling. Nor would it be in scale with existing and adjoining buildings within nearby plots where ancillary buildings are of modest size and single storey design. In this regard, the appeal development would be out of keeping with this areas character. Furthermore, the siting of the garage, would, in my judgement, only serve to reinforce its sizable presence within the plot of No.32. The Council’s first reason for refusal and related concerns of the Third Parties are therefore sustained.
13. The Council’s second reason for refusal relates to the impact on the privacy and amenity of neighbouring residents in terms of overlooking, overshadowing and dominance. These concerns are shared by the Third Parties.
14. The SPG recognises that it is important that the amenity of all residents is protected from ‘unneighbourly’ extensions as these can cause problems through overshadowing/loss of light, dominance and loss of privacy. It states that the extent to which potential problems may arise is usually dependent upon the separation distance, height, depth, mass and location of an extension and window positions.
15. The SPG in respect of privacy states that except in the most isolated rural location, few households can claim not to be overlooked to some degree and that the protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment. It notes that it is a particularly

important consideration where an extension or alteration is proposed adjacent to existing properties. And that windows in side elevations and upper-floor windows all have the potential to cause overlooking problems. It further states that proposals should seek to provide reasonable space between buildings in order to minimise overlooking. Overlooking of gardens may be unacceptable where it would result in an intrusive, direct and uninterrupted view from a main room to the most private area of the garden, which is often the main sitting out area adjacent to the property, of your neighbours' house. The SPG indicates that as a general rule of thumb, this area is the first 3-4 metres of a rear garden, closest to the residential property.

16. The neighbouring dwelling at No.34, has a two-storey rear extension which extends approximately the same distance as the rear gable of the existing garage on the appeal site. I am satisfied from my observations that there would be no adverse impact on the residential amenity of No.34 by way of overlooking from any ground floor windows/doors. At first floor, apart from two roof lights, there are no windows proposed on the southern side elevation. Given the pitch of the roof and the floor level indicated on the drawings, these windows will not result in direct overlooking. However, given the first-floor windows on the front gable, which serve a landing and rest room, there would be insufficient separation distance between the proposal and No.34 to prevent overlooking into the rear of this property. From these windows there would be views towards the private amenity space and the rear and side windows of No.34. Additionally, the rear gable features two windows at first floor level for a gym and games room, which will also overlook No.34's rear garden leaving only a small central section not being overlooked. I consider this to be an unacceptable diminution of the privacy currently enjoyed by the residents of this dwelling.
17. From my onsite observations, the rear garden and plot to No.30 has diminished in size and appears to have been incorporated into the adjoining car repairs garage yard for vehicle storage, differing from the Appellant's plans. Nevertheless, I am satisfied that there would be no adverse overlooking from the first-floor gym and games room windows on the eastern gable elevation into No.30 as these would overlook the car repairs yard. There are two first-floor windows proposed on the western (front) elevation serving a stairwell and rest room, while there would be an awareness of these windows from No.30 given the positioning of the building and the oblique orientation of the windows, I am not persuaded that there would be an adverse impact on the residential amenity of No.30 from these windows. The northern (side) elevation contains a domestic door and three windows at ground-floor level serving a garage and w/c. I am satisfied that there would be no adverse overlooking of No.30 as a result of these ground-floor windows. At the first-floor level, two obscure glazed windows serving the gym and stairwell/landing as well as two rooflights are proposed. From my observations on site, there would be no direct overlooking from the two roof lights owing to the pitch of the roof and internal floor level. However, the two windows at first-floor level are orientated towards the rear garden of No.30 including the area immediately around its single-storey rear return door/windows and a free-standing single-storey garden room. This combined with the short distance to the common boundary and the rear of No.30 would in my judgement diminish the value of the remaining rear private amenity space at No.30 due to a perception of overlooking that would not be satisfactorily mitigated by the retention of the existing perimeter fence or by the use of obscure glazing.

18. Concerns regarding potential overlooking of No.36 and No.28 was also raised by the Third Parties; however, I am not persuaded that No.36 would be adversely impacted owing to the separation distances involved and the lack of first-floor level windows on the southern elevation. Additionally, the rear return to No.34 would also prevent any direct overlooking of the rear amenity space immediately adjacent to the dwelling and garage at No.36. Although first-floor windows on the western elevation would overlook a small easternmost section of No.36's rear garden, however, this would not be to a significant extent given the oblique viewing angle, the separation distance involved, and intervening fencing. As such, I am not persuaded that No.36 would be overlooked to an unreasonable extent. Regarding No.28, despite northern elevation windows, the separation distance from the appeal site, the intervening fencing, and single-storey garden room within the rear garden of No.28 and its smaller plot size collectively mitigate unreasonable overlooking. Turning to overlooking of properties on Saintfield Road, there is a sizable distance between the appeal proposal and these properties which are further separated from the appeal site by a car repairs yard which also lessens overlooking concerns to these properties. Nonetheless, the Councils and Third Parties concerns regarding overlooking and loss of privacy are sustained in so far as stated above.
19. The Council's and Third Parties' evidence raised concerns about dominance affecting neighbouring properties. The SPG to the PS states that 'dominance is the extent to which a new development adversely impinges on the immediate aspect or outlook from an adjoining property. Neighbouring occupiers should not be adversely affected by a sense of being 'hemmed in' by an extension. This can often result from the construction of a large blank wall. Dominance can be increased when the neighbouring property is at a lower ground level to the development site. Loss of light is usually a consequence of dominance. Two-storey rear extensions to semi-detached and terraced dwellings are usually very prominent when viewed from adjoining dwellings and can dominate outward views from adjoining ground-floor windows, appearing excessively large and overbearing. It is appropriate, however, to take account of the prevailing local environment'.
20. Turning to the impact on the dwelling at No.34 Breda Road, the height, length, scale and juxtaposition of the proposed garage adjacent to the common boundary of No.34 is such that it would dominate their outlook from the rear windows and garden. Furthermore, in my judgement, its size and scale are such that it would make the occupants feel hemmed in particularly given that No.34 has a two-storey rear return with windows at ground and first-floor level. Consequently, I consider the appeal development would be excessively large and overbearing when viewed from within this property and its rear amenity space. Additionally, whilst the appeal proposal is set back a short distance from the fence boundary with No.30, this is insufficient to adequately mitigate its sizable presence, furthermore, it would also impinge on the immediate aspect and outlook from habitable rooms within this property. From my observations on site, no other property would experience similar dominance issues. The Council's and related concerns of the Third Parties are therefore sustained.
21. The Council and Third Parties raised concerns regarding loss of light and overshadowing arising from the appeal development. Related to the issue of loss of light, a Third Party also contends that the appeal development would be in

breach of the angle tests for assessing loss of light. However, no evidence has been provided to that effect. Even if they had, these tests are predicated on the appeal development being an extension to a dwelling rather than a free-standing building set back within its plot as is the case in the appeal before me. I also note from the Council's evidence that they did not raise concern in this regard.

22. The SPG recognises that loss of light is usually a consequence of dominance, it also recognises that where an extension is poorly sited or badly designed it can cast a shadow that may reduce a neighbour's daylight and adversely affect their amenity to an unacceptable level. It further states that overshadowing to a garden area on its own will rarely constitute sufficient grounds to justify a refusal of permission. While some overshadowing of No.34's rear garden may occur in the evening due to the garage and dens size and location), I am not persuaded that it would be to an unacceptable level, nor will it significantly impact light in habitable rooms owing to the east to west path of the sun and No.34 being located on the southern side of the proposed garage. Similarly, for No.32 to the north, some overshadowing of the rear garden is expected again owing to the garage and dens size, but as the garage is set back from the common boundary fencing, I am not persuaded that there would be an unacceptable loss of light to windows within habitable rooms or garden. Consequently, the Council and Third Parties concerns on these matters have not been sustained.
23. The Council raised additional concerns relating to the loss of private amenity space. However, they did not quantify the extent of space that would be lost or the amount that would remain. Therefore, in the evidential context before me and from my observations, it appears that the appeal site would still have adequate rear garden space for outdoor recreation and provide space for storage of for example garden furniture, bikes, play equipment and bins and would not be overdeveloped. Consequently, I am not persuaded that this matter taken in isolation would merit the withholding of planning permission in this instance. The Council's concerns in this regard are not sustained.
24. The Third Parties expressed concerns that the appeal proposal may lead to the creation of a separate living unit or House in Multiple Occupation or Airbnb, increasing traffic and congestion in this area. The justification and amplification text to Policy HOU7 states that where permission is granted it will be subject to a condition that the extension will only be used for ancillary residential purposes in connection with the main dwelling and not as a separate unit of accommodation. Although the appeal proposal is for a garage, I am satisfied that an appropriately worded and enforced condition would deter unauthorised conversions. In any event, each planning application must be assessed on its own merits and within its evidential context and as I have no persuasive evidence before me that the intended use of the proposed garage and den would be for such purposes, as such, this matter is not determining in this instance.
25. The Third Parties expressed concerns about the Appellant's additional planning application for a similar development pending decision from the Council. However, no evidence has been presented regarding this planning application or its status. Consequently, I cannot give weight to its potential effects on the appeal proposal before me.

26. In conclusion, the appeal development fails to comply with Policy HOU7 of the PS and the related provisions of the SPPS. The Council's objections to the appeal development are sustained as specified above. Accordingly, the appeal must fail.

This decision is based on the following drawings: -

- 01 – Location Map, 1:2500 scale, date stamped by the Council on 23<sup>rd</sup> November 2022.
- 02A – Site Layout, 1:500 scale, date stamped by the Council 18<sup>th</sup> January 2023.
- 04A – Proposed elevations and floor plans, 1:100 scale, dated by the Appellant January 2023.

**COMMISSIONER KIERAN O'CONNELL**



<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 7 – Appeal Decision – LA05/2023/0087/O

## 1.0 **Background**

1. An application for the proposed infill dwelling and garage at 4a Magees Road, Tullyballydonnell, Lisburn was refused planning permission on 21 August 2023.
2. Notification that an appeal had been lodged with the Planning Appeals Commission was received on 20 September 2023.
3. The procedure followed in this instance was written representation with Commissioner's site visit on 17 February 2025. The main issues in the appeal are, whether the proposal was acceptable in principle as an infill opportunity and whether it would have an adverse impact on rural character of the area.
4. A decision received on 6 March 2025 indicated that the appeal was dismissed.

### **Key Issues**

5. The Commissioner identified the dwelling at No 4A, and the agricultural shed to the north of the appeal site formed a line of buildings along Magees Road in accordance with the policy. The Commissioner concluded that other dwellings along Magees Road in both directions were so far removed from the appeal site and with large intervening gaps that they could only be considered as sporadic development along the road and did not form part of a singular line of development. Furthermore, the agricultural sheds to the north of the site, were set considerably back off the road and are accessed onto Reford's Lane and thus did not form part of this line of development.
6. The Commissioner explained that policy COU8 required a substantial and continuously built-up frontage to be a line of four buildings, at least two of which must be dwellings. There were only two of the required four buildings along the frontage, only one of which is a dwelling. The Commissioner concluded that there was no substantial and continuously built-up frontage and subsequently there was no qualifying gap site to be filled.
7. The Council sustained its reasons for refusal. There is limited learning arising from this decision, but Members are asked to note how the Commissioner engaged with policy and concluded that the appeal be dismissed.

## 2.0 **Recommendation**

It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.

3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>No cost claim was lodged by any party in this instance.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	<p>Has an equality and good relations screening been carried out?</p>	<p>No</p>
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out</p> <p>This is a report updating the committee on a decision by the PAC and EQIA is not required.</p>	
4.3	<p>Has a Rural Needs Impact Assessment (RNIA) been completed?</p>	<p>No</p>
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on a decision by the PAC and RNIA is not required.</p>	

<p><b>Appendices:</b></p>	<p>Appendix 7 – Appeal Decision – LA05/2023/0087/O</p>
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Lisburn & Castlereagh City Council, Local  
Planning Office  
Via email

Our reference: 2023/A0058  
Authority  
reference: LA05/2023/0087/O  
6 March 2025

Dear Sir/Madam

**Appellant name: Peter Mobbs**

**Description: Proposed infill dwelling and garage**

**Location: 4A Magees Road, Tullyballydonell, Lisburn, BT28 2JE**

Please find enclosed Commission decision on the above case.

Yours Sincerely,

Kathryn McCullough  
PACWAC Admin Team



# Appeal Decision

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<b>Appeal Reference:</b>	2023/A0058
<b>Appeal by:</b>	Peter Mobbs
<b>Appeal against:</b>	The refusal of outline planning permission for a proposed infill dwelling and garage
<b>Location:</b>	4a Magees Road, Tullyballydonnell, Lisburn, BT28 2JE
<b>Planning Authority:</b>	Lisburn & Castlereagh City Council
<b>Application Reference:</b>	LA05/2023/0087/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 17 <sup>th</sup> February 2025
<b>Decision by:</b>	Commissioner Cathy McKeary, dated 6 <sup>th</sup> March 2025

## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle and whether it would have an adverse impact on rural character.
3. The appeal site consists of a roadside field which lies adjacent to a dwelling and detached garage No.4A Magees Road approximately 2.2Km West of Upper Ballinderry village. The appeal site is separated from the curtilage of No. 4A Magees Road by post and wire fencing and a mature band of conifer trees. Access to the appeal site is via a field gate to the north eastern corner of the site. The site slopes down towards the north east. Post and wire fencing approximately 1m high defines the western and northern boundaries. The eastern boundary abutting the roadside is comprised of shrubby vegetation and a ranch fence approximately 1m high. The boundary to the south consists of a band of mature conifer trees.
4. To the north of the site there is an agricultural shed sited gable onto Magees Road with hardstanding to the front. Beyond this is Refords Lane which runs parallel to the northern boundary of the appeal site. The character of the immediate surrounding area is predominantly rural, comprising of agricultural buildings, single dwellings and agricultural lands.
5. The Lisburn and Castlereagh City Council Local Development Plan 2032 - Plan Strategy (PS) has been adopted. In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations (NI) 2015 (as amended) the Local Development Plan now becomes a combination of the

Departmental Development Plan (DDP) and the Plan Strategy (PS) read together. In this appeal the Lisburn Area Plan 2001 is the relevant DDP. Again, in accordance with the subject legislation any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS.

6. In the DDP, the appeal site is located in the undesignated countryside. The site is within the Greenbelt in draft Belfast Metropolitan Area Plan 2004 (dBMAP). Greenbelt policies were overtaken by a succession of regional policies which, in this Council area, have now been superseded by those policies within the PS. There is no conflict between the DDP and the PS insofar as they relate to the proposal.
7. In accordance with paragraph 1.9 of the Strategic Planning Policy Statement (SPPS), as the Council has now adopted the PS the previously retained policies such as the Planning Policy Statements have now ceased to have effect within this Council District. Regardless of when the application was submitted to or determined by the Council, again, in line with the aforementioned legislation, the appeal must be considered and determined under the policies applicable at the time of the appeal decision. In this case the policies are within the PS. Guidance in Building On Tradition (BoT) remains applicable.
8. Policy COU1 of the PS states that there are a range of types of development which in principle are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. The acceptable residential development proposals are then set out in Policies COU2 to COU10. Policy COU1 also states that any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 and COU16. Policy COU8 which relates to infill/ribbon development is relevant to the appeal development.
9. Policy COU8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, it acknowledges that exceptionally, there may be situations where the development of a small gap, sufficient to accommodate 2 dwellings within an otherwise substantial and continuously built up frontage, may be acceptable. It goes on to state that for the purpose of this policy a substantial and continuously built up frontage is a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway.
10. The parties agree that buildings in the vicinity, which have a frontage onto Magees Road, have the potential to form a line of development and the substantial and continuously built up frontage for the purposes of Policy COU8. However, they do not agree on which buildings have the potential to do so. Nevertheless, in my judgement the dwelling at No 4A, and the agricultural shed to the north of the appeal site form a line of buildings along Magees Road in accordance with the policy. The dwellings along Magees Road in both directions are so far removed from the appeal site and with large intervening gaps that they can only be considered as sporadic development along the road and do not form part of a singular line of development. Furthermore, the agricultural sheds to the north of

the site, are set considerably back off the road and are accessed onto Reford's Lane and thus do not form part of this line of development.

11. With respect to the exceptions test within the policy, the buildings advanced as constituting an otherwise substantial and continuously built up frontage are the dwelling and garage at No. 4a and the agricultural shed. Policy COU8 requires a substantial and continuously built up frontage to be a line of four buildings, at least two of which must be dwellings. However, unlike the assessment for ribbon development, which notably differs in terms of qualifying buildings compared to what constitutes an otherwise substantial and continuously built up frontage, the exception test part of the policy excludes domestic ancillary buildings such as the garage to the rear of No. 4A. Notwithstanding the question of whether the agricultural shed has planning permission, there are only two of the required four buildings along the frontage, only one of which is a dwelling. Therefore, there is no substantial and continuously built up frontage and subsequently there is no qualifying gap site to be filled.
12. Furthermore, the dwelling at No. 4A and the agricultural building are not visually linked, as required by Policy COU8, when viewed travelling along Magees Road in either direction due to the large intervening band of mature conifers along the southern boundary of the appeal site. In this instance the proposal would add to an existing ribbon of development along Magees Road, in that there would be three buildings fronting a road and beside one another, corresponding to the description of what could constitute ribbon development in the justification and amplification of Policy COU8.
13. Policy COU8 also requires that the proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development. Both parties consider that the development pattern referred to is that of the wider area. However, in accordance with Policy COU8, establishing the pattern of development is limited to the buildings that constitute the frontage of development. In this case the frontage of development is the dwelling at No. 4A Magees Road and the adjacent agricultural shed. These buildings then determine the existing pattern of development to be respected.
14. There is dispute between the parties regarding the specific measurements of the site and frontage of No. 4A. However, it is apparent that the plot at No. 4A is considerably larger in area and has approximately double the frontage length of that of the agricultural shed. The appellant has provided detailed calculations of the average areas and frontages of nearby sites. These, however, do not wholly relate to the identified frontage of development. Furthermore, establishing the pattern of development is not solely a mathematical calculation using averages with "percentage margins of tolerance", but rather includes the application of planning judgement to assess the site on the ground and how it relates to the surrounding buildings and plots along the frontage in question.
15. The two qualifying buildings, due to differences in their form, orientation, siting and position in relation to each other and the size and width of their individual plots, do not provide a clear pattern of development which can be adhered to. The appellant considers that development of the appeal site with one dwelling in itself

- would not result in an adverse impact on the rural character of the area. I agree that, in itself, the proposal could not be considered to be contrary to the traditional pattern of development which is not clearly defined in this instance. However, the policy exception is for a small gap, sufficient to accommodate two dwellings. Where the proposal is only for one dwelling and where there is no substantial and continuously built up frontage, the proposal would fail to meet the exception test by not constituting a qualifying gap site. For the reasons given above, the appeal development would add to the existing ribbon along Magees Road, contrary to Policy COU8.
16. Policy COU16 states that a new development proposal will be unacceptable where criterion c) it does not respect the traditional pattern of settlement exhibited in that area and criterion e) it has an adverse impact on the rural character of the area. As stated above the pattern of settlement in the area is not clearly defined and therefore it cannot be said that the proposal would fail to respect it. Notwithstanding this, for the reasons given above the proposal would add to the existing ribbon of development on Magees Road, which would result in an adverse impact on the rural character of the area contrary to criterion e) of Policy COU16. The appellant's references to the BOT document do not overcome the proposal's failure to meet the policy requirements as stated above.
  17. The appellant has referred to "twin" approvals along Magees Road (application references LA05/2021/0571/O and LA05/2021/0572/O) which they consider demonstrate an inconsistent approach by the Council in relation to the application of infill policy. The Council has advised that these were considered under a different policy context i.e. Planning Policy Statement 21 – Sustainable Development in the Countryside. As such, the considerations and outcomes of these applications are not comparable to the proposal, which must be considered under the now prevailing policies of the PS.
  18. The appellant has stated that the proposed site would be for a member of their family, and their dependants, who is unable to afford a home in England, where she currently resides for work. However, the appellant has not advanced this argument in a manner which would outweigh the failure to meet the policies above. Furthermore, from the extent of information provided on this matter, I am not persuaded it would outweigh the policy objections to the appeal development. Overall, for the reasons given above the proposal is not one of the exceptions listed under Policy COU1.
  19. The appellant has referred to what they consider to be maladministration, procedural irregularities in other planning applications, irregularities in the adoption of the PS, and alleged improper behaviour and unfair/discriminatory treatment towards them by the Council and DfI Roads. These matters are between the parties and do not fall within the remit of the Commission in dealing with this appeal. It also would be inappropriate for the Commission to refer the appellant's concerns to any other bodies or to direct them on how to progress them.
  20. For the reasons given above and regardless of the lack of objections from consultees, the proposal is contrary to Policies COU1, COU8 and COU16, of the PS to the extent specified above. The Council's refusal reasons are sustained. Accordingly, the appeal must fail.

This decision is based on the following drawings:-

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>	<b>Date Received by the Council</b>
1 of 2	Site Location Map	1/2500 @A4	17 <sup>th</sup> May 2023
2 of 2	Site Layout Proposed	1/500 @A3	17 <sup>th</sup> May 2023

**COMMISSIONER CATHY MCKEARY**

**List of Documents**

Planning Authority:- Statement of Case by Lisburn and Castlereagh City Council  
Rebuttal by Lisburn and Castlereagh City Council

Appellant:- Statement of Case by Mr Peter Mobbs  
Rebuttal by Mr Peter Mobbs

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Decision
<b>Subject:</b>	Item 8 – Pre-application Notice (PAN) for a proposed mixed use development comprising retail units, 67 residential units, with access arrangements, car parking, amenity space, landscaping and all other associated site works at 24 Antrim Street, Lisburn.

1.0	<p><b><u>Background</u></b></p> <p>1. Section 27 of the Planning Act (Northern Ireland) 2011 requires a prospective applicant, prior to submitting a major application, to give notice to the appropriate Council that an application for planning permission is to be submitted.</p> <p><b><u>Key Issues</u></b></p> <p>2. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report sets out how the requirement of the legislation and associated guidance has been considered as part of the submission.</p>	
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that the Members note the information on the content of the Pre-application Notice attached and agree that it is submitted in accordance with the relevant section of the legislation and related guidance.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>There are no finance and resource implications.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out	
	This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. EQIA is not required.	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No

4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out.</p> <p>This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. RNIA is not required.</p>	
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<b>Appendices:</b>	<p><b>Appendix 8(a)</b> - Report in relation to LA05/2025/0140/PAN</p> <p><b>Appendix 8(b)</b> – LA05/2025/0140/PAN – PAN Form</p> <p><b>Appendix 8(c)</b> – LA05/2025/0140/PAN – Site Location Plan</p>
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### Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	07 April 2025
Responsible Officer	Conor Hughes
Date of Report	24 March 2025
File Reference	LA05/2025/0140/PAN
Legislation	Section 27 of the Planning Act (Northern Ireland) 2011
Subject	Pre-Application Notice (PAN)
Attachments	PAN Form and Site Location Plan

#### Purpose of the Report

1. The purpose of this report is to advise Members of receipt of a Pre-Application Notice (PAN) for an application for a proposed mixed use development comprising retail units, 67 residential units, with access arrangements, car parking, amenity space, landscaping and all other associated site works at 24 Antrim Street, Lisburn.

#### Background Detail

2. Section 27 of the Planning Act (Northern Ireland) 2011 requires that a prospective applicant, prior to submitting a major application must give notice to the appropriate council that an application for planning permission for the development is to be submitted.
3. It is stipulated that there must be at least 12 weeks between the applicant giving the notice (through the PAN) and submitting any such application.
4. The PAN for the above-described development was received on 26 February 2025. The earliest possible date for the submission of a planning application is week commencing 26 May 2025.

#### Consideration of PAN Detail

5. Section 27 (4) stipulates that the PAN must contain:  
**A description in general terms of the development to be carried out.**
6. The description associated with the FORM PAN1 is as described above.

7. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is considered that an adequate description of the proposed development has been provided.

**The postal address of the site, (if it has one).**

8. The postal address identified on the FORM PAN1 is as described above.
9. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that an adequate description of the location has been provided.

**A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site.**

10. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that a site location plan with the extent of the site outlined in red and submitted with the PAN form is sufficient to identify the extent of the site.

**Details of how the prospective applicant may be contacted and corresponded with.**

11. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10 it is noted that the FORM PAN1 as amended and associated covering letter includes details of how the prospective applicant may be contacted and corresponded with.
12. The Form PAN1 includes the name and address of the agent. Any person wishing to make comments on the proposals or obtain further information can contact the agent Turley, Hamilton House, 3 Joy Street, Belfast, BT2 8LE.
13. In addition to the matters listed above, regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

**A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates.**

14. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 that the FORM PAN 1 indicates that no environmental impact assessment determination has been made.
15. It is accepted that this reference is made without prejudice to any future determination being made or the applicant volunteering an Environmental Statement.

**A copy of any notice served by the Department under Section 26(4) or (6) i.e. confirmation (or not) of the Department's jurisdiction on regionally significant developments.**

16. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is considered that the form of development proposed is not specified in the Planning (Development Management) Regulations (Northern Ireland) 2015 as a major development (i.e. regionally significant) prescribed for the purpose of section 26 (1) of the Planning Act (Northern Ireland) 2011 and it is noted that consultation with the Department has not taken place.

**An account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take.**

17. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 the account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take has been provided.

The PAN form indicates that a public consultation event to include large boards setting out the proposals will be held with members of the design team in attendance. The event will take place between at 3pm on 03April 2025. The venue identified on the PAN form is Lisburn City Library, 23 Linenhall Street, Lisburn.

The event will be published in the Belfast Telegraph starting on 27 March 2025 and finishing on 28 March 2025.

A notification letter will issue to all properties within 100 metres of the site boundary. A website will be set up at [www.antrimstreetconsultation.com](http://www.antrimstreetconsultation.com) including a live chat function and online feedback form. A social media advertising campaign will be used to drive traffic to the project website.

Hard copies of materials will be made available via post to anyone unable to access digital materials and a consultation phonenumber and project email address will be made available and promoted on project leaflet and website.

A copy of the Notice has also issued to Elected Members of the DEA and others as identified on the PAN form on 03 March 2025.

### Recommendation

18. In consideration of the detail submitted with the Pre-Application Notice (PAN) in respect of community consultation, it is recommended that the Committee agrees the information is submitted in accordance with the legislation and related guidance.



[www.lisburncastlereagh.gov.uk/resident/planning](http://www.lisburncastlereagh.gov.uk/resident/planning)  
Lisburn & Castlereagh City Council, Civic Headquarters, Lagan Valley Island, Lisburn, BT27 4RL  
Tel: 028 9244 7300  
E-mail: [planning@lisburncastlereagh.gov.uk](mailto:planning@lisburncastlereagh.gov.uk)

### Proposal of application notice

### Planning Act (Northern Ireland) 2011

#### Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Are you an agent acting on behalf of the applicant?

- Yes
- No

#### Applicant Details

Name/Company

Title

First name

Surname

Company Name

#### Address

Address line 1

Address line 2

Address line 3

Town/City

BT1 2AB

Country

Northern Ireland

261

### Contact Details

Telephone number

Mobile number

Email address

### Agent Details

#### Name/Company

Company / Organisation

Turley

Title

Mr

First name

Gary

Surname

Dodds

#### Address

Address line 1

Hamilton House

Address line 2

3 Joy Street

Address line 3

Town/City

Belfast

Postcode

BT2 8LE

United Kingdom

**Contact Details**

Telephone number

02890723900

Mobile number

Email address

gary.dodds@turley.co.uk

Ref no.

**Site Address**

**Disclaimer:** Recommendations can only be based on the answers given to the questions.

If you cannot provide a postcode, then further details must be provided below for 'Description of site location' by providing the most accurate site description you can in order to help locate the site.

Number  Suffix

Property Name

Address Line 1

24 Antrim Street

Address Line 2

Town/city

Lisburn

Postcode

**Description of site location (must be completed if postcode is not known)**

Description

24 Antrim Street, Lisburn

Easting co-ordinates (x)

326495

364380

263

## Site Area

What is the area of the site?

0.4

Hectares

Please give a concise and accurate description of all elements of the proposed development that requires consent, including the purpose for which the land / buildings are to be used. Provide details of all buildings proposed and any ancillary works including access arrangements associated with the proposal. Please also include details of any demolition if the site falls within a designated area.

## Description of Proposed Development

Please give a brief description of the proposed development

Proposed mixed use development comprising retail units, circa 67 no. residential units, with access arrangements, car parking, amenity space, landscaping and all other associated site works.

Please indicate what type of application is being requested

- Outline permission  
 Full permission

## Floorspace Summary

Does the proposal include floorspace?

- Yes  
 No

What is the total gross floor space of proposed development (sq m)?

180

## Renewable Energy

Does your proposal involve renewable energy development?

- Yes  No

## Determinations

Has a determination been made as to whether the proposed development would be of Regional Significance?

- Yes  
 No

Has an Environmental Impact Assessment determination previously been made?

- Yes  
 No

## Details of Proposed Consultation

Please add separate details for each proposed consultation

Proposed public event: Public Information Event  
 Venue: Lisburn City Library, 23 Linenhall Street, Lisburn  
 Date and time: 03/04/2025 15:00

### Please add separate details for each publication used for the above consultation

Publication

Name of publication Belfast Telegraph  
 Proposed advert date start 27/03/2025  
 Proposed advert date finish 28/03/2025

Please specify details of any other consultation methods including distance from site for notifying neighbouring properties (e.g. 100m, 200m etc.) and method of notification (please include date, time and with whom)

Public information letters distributed to be issued to properties within a 100m radius of the application site.  
  
 Website to be set up at [www.antrimstreetconsultation.com](http://www.antrimstreetconsultation.com) (TBC) including a Live Chat function and online feedback form.

Details of any other publicity methods (e.g. leaflets, posters)

Social media advertising campaign will be used to drive traffic to the project website.  
  
 Hard copies of materials will be made available via post to anyone unable to access digital materials and consultation phone line and project email address made available and promoted on project leaflet and website.

## Details of Other Parties Receiving a copy of this PAN

Are there any other parties receiving a copy of this PAN?

Yes  No

Please state which other parties have received a copy of this Proposal of Application Notice

Details for elected member(s) for District Electoral Area

**Elected member(s) for District Electoral Area:**  
 Lisburn North DEA - Cllr Nicholas Trimble (UUP), Cllr Jonathan Craig (DUP), Cllr Nicola Parker (Alliance), Cllr Paul Burke (Sinn Féin), Cllr Gary Hynds (Independent), Cllr Pat Catney (SDLP).  
  
**Date notice served:**  
 03/03/2025

**Other(s):**  
 Lagan Valley MLAs Paul Givan MLA (DUP) Emma Little-Pengelly MLA (DUP) Michelle Guy MLA (Alliance) Robbie Butler MLA (UUP) David Honeyford MLA (Alliance)

**Date notice served:**  
 03/03/2025

**Other(s):**  
 Lagan Valley MP Sorcha Eastwood MP (Alliance)

**Date notice served:**  
 03/03/2025

### Authority Employee/Member

Are you/the applicant/applicant's spouse or partner, a member of staff within the council or an elected member of the council?

- Yes
- No

Are you/the applicant/the applicant's spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?

- Yes
- No

It is an important principle of decision-making that the process is open and transparent.

### Declaration

The information I / We have given is correct and complete to the best of my knowledge and belief.

I / We agree to the outlined declaration

Signed

Aoife Byrne

Date

03/03/2025

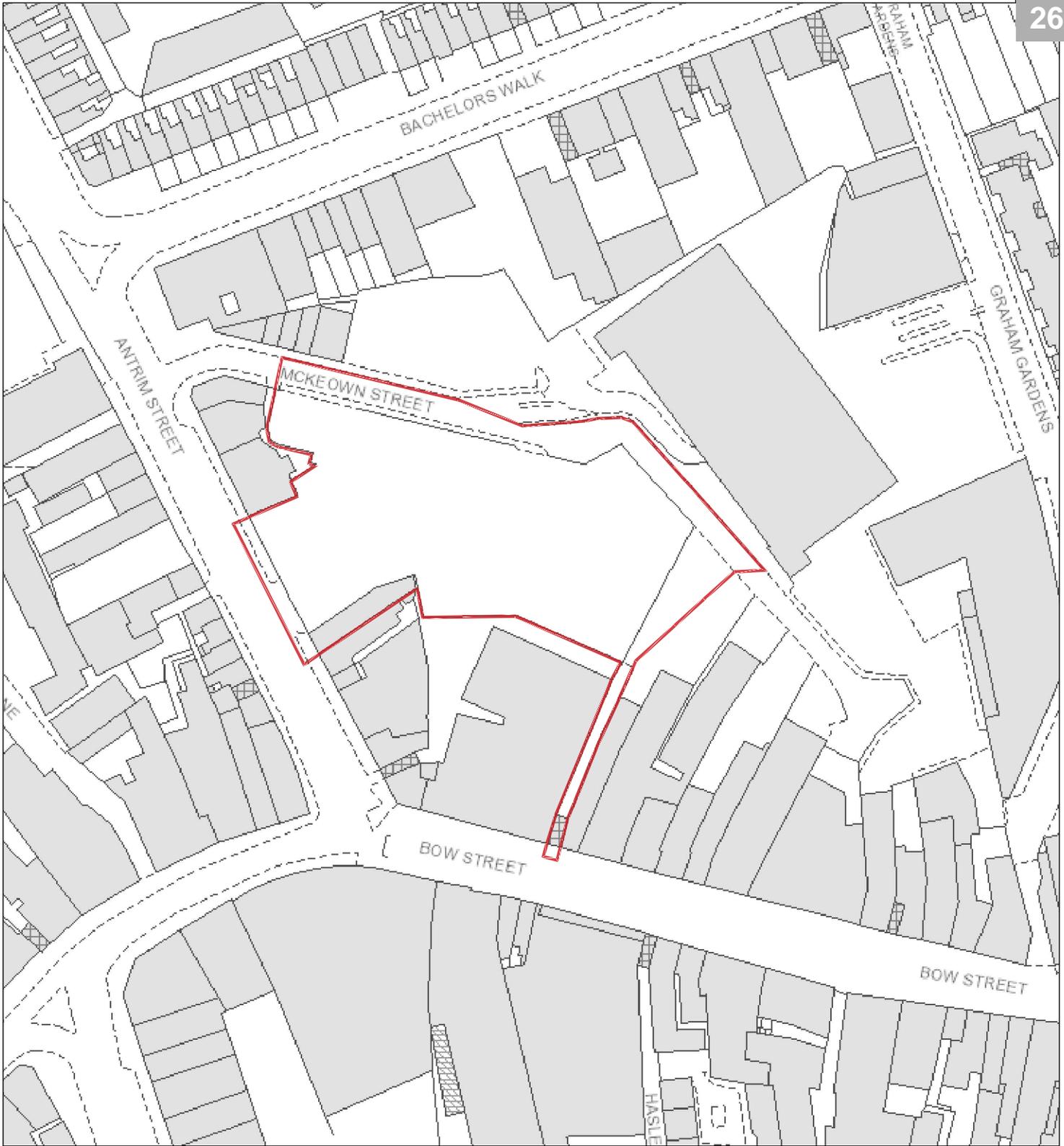
Amendments Summary

Incorrect end date on publication advertisement.

This information may be shared with other departments within the authority for the purposes of promoting investment. Please indicate by ticking the box below that you are providing your personal data on the basis of consent and are positively agreeing that it is shared with these departments and used for the purpose described, who may contact you and consider tailored support to meet your needs. Please note that availing of this service will have no influence on the planning process or the likelihood of you receiving planning permission.

I consent for my personal data to be shared with other departments within the authority





01

Site Location Map

Scale 1:1250 @ A4



			status	Planning	project	Lands at Antrim St, Lisburn	<b>studio<sup>4</sup>design</b> architecture   project management   principal designer 100 Patrick Street, Derry City, BT48 7EL T. +442871 262184 © Executive Studio 4D Architects Ltd 2017
			date	30.01.2025	client		
			scale	1/1250 @ A4	title	Site Location Map	
			drawn	gmc	job no.	JN 7985	
revision	date	drawn	description	checked	drawing no.	001	
					revision	PO	

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 9 – Notification by telecommunication operator(s) of intention to utilise permitted development rights

1.0	<p><b><u>Background</u></b></p> <ol style="list-style-type: none"> <li>1. The Council is notified by two operators, Openreach and Cornerstone, of their intention to utilise permitted development rights at four locations within the Council area to install communications apparatus.</li> <li>2. The installations consist of broadband and telecommunication apparatus, upgrades to existing radio base stations and alteration or replacement of a mast or antenna in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (Northern Ireland) 2015.</li> </ol> <p><b><u>Key Issues</u></b></p> <ol style="list-style-type: none"> <li>1. The notifications advise the Council of the location of the apparatus where they intend to utilise permitted development rights. Detail is also provided in relation to the nature and scale of the works proposed.</li> <li>2. Only the schedule of locations where the works are proposed has been appended to the report (<b>see Appendix</b>). However, the content of notifications detailed above are provided separately on decision time to assist Members in understanding the scope and nature of the proposed works.</li> <li>3. No comment is provided on the requirement for planning permission for the equipment listed. This letter is also referred to the enforcement section of the Unit. They will write separately to the operator should it be considered that the requirements of the Regulations cannot be met at any of the locations specified by either operator.</li> </ol>
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that Members note the detail of the notifications specific to the sites identified.</p>
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>There are no finance or resource implications.</p>

4.0	<b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out</p> <p>This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. EQIA not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out.</p> <p>This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. RNIA not required.</p>	

<b>Appendices:</b>	Appendix 9 – Notifications from an Operator in respect of intention to utilise permitted development rights
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### List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights April 2025 Planning Committee

	Applicant/Agents	Operator	Location	Summary of details	Date received
1.	Cornerstone	Vodafone	DOE Water Services, Covered Reservoir, Newtownbreda Road, Belfast	Removal of existing Ring Headframe at 15m. • Installation of proposed 5m Tower extension. • Installation of 6no. Antennas onto Tower extension. • Installation of 30no. ERS' onto Tower extension. • Installation of 2no. 300mm Microwave Dishes onto new Tower extension. • Installation of 2no. 600mm Microwave Dishes onto new Tower extension. • Internal refreshment of existing Cabin.	26/02/2025
2.	Openreach	BT	1 Ballyregan Drive, Dundonald	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	06/03/2025
3.	Openreach	BT	52 Manse Road, Carryduff	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	10/03/2025
4.	Cornerstone	WHP Telecoms Ltd	NI Water Magheramesk Reservoir, Hallstown Road, Upper Ballinderry	Proposed base station upgrade	11/03/2025

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 10 – Letter to Chief Executive in respect of the Planning Fee Regulations

1.0	<p><b><u>Background</u></b></p> <p>1. In a letter dated 13 March 2025, a Director for the Department for Infrastructure has written to advise that the Department has made a Statutory Rule entitled The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2025 (S.R. 2025 No 49) which comes into operation on 01 April 2025.</p> <p><b><u>Key Issues</u></b></p> <p>1. The purpose of this Statutory Rule is to amend the Planning (Fees) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 73) to apply an inflationary uplift of 2.1% across all fee categories.</p> <p>2. Several worked examples are provided that mean for example, the fee for:</p> <ul style="list-style-type: none"> <li>▪ An extension, improvement or alteration of a dwelling house will increase from £340 to £347;</li> <li>▪ The erection of a single dwelling house will rise from £1014 to £1,035; and</li> <li>▪ the erection of 50 dwelling houses will increase from £21,591 to £22,047.</li> </ul> <p>3. The Department indicates that this uplift in planning fees will assist councils and the Department in resourcing the delivery of their development management functions. The uplift in fees is without prejudice to a parallel project that will examine how to put the planning system on a more sustainable financial basis.</p> <p>4. A copy of the Rule can be viewed online at <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a></p> <p>5. The Department has also advised that it is updating the Development Management Practice Note 11 – Planning Fees, and this will be available to view as soon as possible following the commencement of the Regulations.</p>
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that Members note the detail of the planned uplift in planning fees.</p>
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>Inflationary uplift of approximately 2.1% overall across all planning application fee categories should result in a net planning fee increase as per the 2025/26 budget and was not allowed for in the estimates. However, Members will be aware that the level of</p>

	income is dependent on number of applications lodged and that this can vary from year to year.	
4.0	<b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out</p> <p>This is a report providing notification of Planning Fees Uplift. EQIA not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out.</p> <p>This is a report providing notification of Planning Fees Uplift. RNIA not required.</p>	

<b>Appendices:</b>	<p>Appendix 10 (a) – Letter from DfI in relation to Planning Fees</p> <p>Appendix 10 (b) - The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2025</p>
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Department for

**Infrastructure**

An Roinn

**Bonneagair**

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**Infrastructure**[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

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**Regional Planning Governance & Legislation**

Council Chief Executives

James House  
2-4 Cromac Avenue  
The Gasworks  
BELFAST  
BT7 2JA

Tel: 0300 200 7830

Email: [rosemary.daly@infrastructure-ni.gov.uk](mailto:rosemary.daly@infrastructure-ni.gov.uk)  
[julie.maroadi@infrastructure-ni.gov.uk](mailto:julie.maroadi@infrastructure-ni.gov.uk)

Your Ref:

Our Ref:

13 March 2025

Dear Chief Executives

**Planning Fees**

I am writing to advise you that the Department for Infrastructure has made a Statutory Rule entitled “The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2025” (S.R. 2025 No. 49), which comes into operation on 1 April 2025. The planning portal will be updated for this date.

The purpose of this Statutory Rule is to amend the Planning (Fees) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 73) to apply another yearly inflationary uplift of approximately 2.1% across all fee categories. This will mean that, for example, the fee for:

- an extension, improvement or alteration of a dwellinghouse will increase from £340 to £347;
- the erection of single dwelling house will rise from £1014 to £1035; and
- the erection of 50 dwelling houses will increase from £21,591 to £22,047.

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

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

The Department is also currently updating the Development Management Practice Note 11 (Planning Fees) and this will be available to view following commencement of the Regulations on 1 April 2025.

I trust you find this information helpful.

Yours sincerely

*Rosemary Daly*

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**ROSEMARY DALY**  
Director

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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STATUTORY RULES OF NORTHERN IRELAND

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**2025 No. 49**

**PLANNING**

**The Planning (Fees) (Amendment)  
Regulations (Northern Ireland) 2025**

*Made* - - - - *11th March 2025*

*Coming into operation* *1st April 2025*

The Department for Infrastructure makes the following Regulations in exercise of the powers conferred by sections 223(1), (9) and 247(1) of the Planning Act (Northern Ireland) 2011<sup>(1)</sup> and now vested in it<sup>(2)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2025 and shall come into operation on 1<sup>st</sup> April 2025.

**Amendment of the Planning (Fees) Regulations (Northern Ireland) 2015**

2.—(1) The Planning (Fees) Regulations (Northern Ireland) 2015<sup>(3)</sup> shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 8(1) (amount of reduced fees and refunds) for “£76” substitute “£78”.

(3) In regulation 9(1) (fees for applications for express consent to display advertisements) for “£226” substitute “£231”.

(4) In regulation 11 (fee for an application for planning permission for EIA development) for “£12,664” substitute “£12,924”.

(5) In regulation 12 (fees for applications for certificates of lawful use or development)—

(a) in paragraph (3)(b) for “£301” substitute “£307”; and

(b) in paragraph (4) for “£301” substitute “£307” and for “£15,050” substitute “£15,350”.

(6) In Schedule 1 (fees in respect of applications for planning permission or for approval of reserved matters)—

(a) in Part 1, in paragraph 4(2) and (3) for “£659” substitute “£673”; and

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(1) 2011 c.25(N.I.)

(2) S.R. 2016 No. 76 – see Article 8 and Part 2 of Schedule 5 of the Departments (Transfer of Functions) Order (Northern Ireland) 2016

(3) S.R. 2015 No. 73 as amended by S.R. 2015 No. 398 and S.R. 2019 No. 112 and S.R. 2023 No. 37 and S.R. 2024 No. 108

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- (b) for Part 2, substitute Part 2 as set out in the Schedule to these Regulations.
- (7) In Schedule 2 (fees for hazardous substances consent)—
- (a) for “£406” in each position where it occurs substitute “£414”;
  - (b) for “£508” substitute “£518”; and
  - (c) for “£810” substitute “£827”.

### Revocations

3. The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2024(4) are revoked.

Sealed with the Official Seal of the Department for Infrastructure on 11th March 2025.



*Rosemary Daly*  
A senior officer of the Department for  
Infrastructure

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## SCHEDULE

Regulation 2(6)(b)

SUBSTITUTION OF PART 2 OF SCHEDULE 1 TO THE  
PLANNING (FEES) REGULATIONS (NORTHERN IRELAND) 2015“PART 2  
SCALES OF FEES

<i>Category of Development</i>	<i>Fee payable</i>
1. All buildings (other than a single dwellinghouse).	Outline Applications £307 for each 0.1 hectare of the site area subject to a maximum of £12,280.
2. Single dwellinghouse.	Outline Applications £515.
3. The erection of a dwellinghouse.	(a) Reserved matters where the application is for a single dwellinghouse, £515;  (b) Full where the application is for a single dwellinghouse, £1,035;  (c) Full and reserved matters For 2 or more dwellinghouses— (i) where the number of dwellinghouses to be created by the development is 50 or fewer, £1,215 for two dwellinghouses and £434 for each additional dwellinghouse; (ii) where the number of dwellinghouses to be created by the development exceeds 50, £22,047; and an additional £129 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £323,133.
4. The extension, improvement or alteration of an existing dwellinghouse, including the erection of a building or the carrying out of other operations within the curtilage of a dwellinghouse for purposes ancillary to the enjoyment of the dwellinghouse as such, or the erection or construction of gates, fences, walls or other means of enclosure along a boundary or a curtilage of an existing dwellinghouse.	£347 for each dwelling.

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<i>Category of Development</i>	<i>Fee payable</i>
5. The erection of industrial, commercial, community and other buildings, other than dwellinghouses or buildings covered by category 4.	<p>Full and reserved matters</p> <p>(a) where no floor space is to be created by the development, £220;</p> <p>(b) where the area of gross floor space to be created by the development does not exceed 40 sq.m., £220;</p> <p>(c) where the area of the gross floor space to be created by the development exceeds 40 sq.m., but does not exceed 75 sq.m., £434;</p> <p>(d) where the area of the gross floor space to be created by the development exceeds 75 sq.m., but does not exceed 3,750 sq.m., £434 for each 75 sq.m. of that area;</p> <p>(e) where the area of gross floor space to be created by the development exceeds 3,750 sq.m., £21,700; and an additional £129 for each 75 sq.m., in excess of 3,750 sq.m., subject to a maximum in total of £322,915.</p>
6. The erection, alteration or replacement of plant and machinery including telecommunications/datacommunications equipment, a single wind turbine and wind farms.	<p>(a) where the site area does not exceed 5 hectares, £434 for each 0.1 hectare of the site area;</p> <p>(b) where the site area exceeds 5 hectares, £21,700; and an additional £129 for each 0.1 hectare in excess of 5 hectares, subject to a maximum in total of £322,915.</p>
7. The erection, on land used for the purposes of agriculture, of buildings to be used for agricultural purposes and for agricultural and commercial glasshouses.	£1,153 for each 500 sq.m. of floor space subject to a maximum of £15,287.
8. The winning and working of peat.	£2,294 for each 5 hectares of the site area subject to a maximum of £41,292.
9. (a) The winning and working of minerals (other than peat).	£444 per 0.1 hectare of the site area subject to a maximum of £49,728.
(b) The carrying out of any operations connected with exploratory drilling for oil or natural gas.	
(c) The use of land for the disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land or the use of land for the storage of minerals in the open.	
(d) The carrying out of any other operation not coming within any of the above categories.	

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<i>Category of Development</i>	<i>Fee payable</i>
10. The construction of single level car parks, service roads and other means of access on land used for the purpose of a single undertaking, where the development is required for a purpose incidental to the existing use of the land.	£307.
11. (a) The continuance of a use of land or the retention of buildings or works on land, without compliance with a condition subject to which a previous planning permission has been granted (including a condition requiring discontinuance of the use or the removal of the building or works at the end of the specified period).	£307.
(b) An application to develop land without compliance with a condition subject to which a previous planning permission has been granted.	
12. An application for a material change of use.	(a) where the application relates to a dwellinghouse, £842 for the first dwellinghouse and £307 for each additional dwellinghouse subject to a maximum of £15,350;  (b) for any other change of use, £307 for each 75 sq.m., of floor space subject to a maximum of £15,350.
13. Any other application not falling within categories 1-12.	£1,010.”

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Planning (Fees) Regulations (Northern Ireland) 2015 which prescribe the fee payable in respect of applications made under the Planning Act (Northern Ireland) 2011. The Regulations increase planning fees by approximately 2.1% overall. Regulation 3 revokes the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2024.

The Explanatory Memorandum is available alongside the instrument on the Government's legislation website [www.legislation.gov.uk](http://www.legislation.gov.uk).

<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 11 - Local Development Plan 2032 Quarterly Update

## 1.0 **Background**

1. In accordance with regulation 6 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015, the Local Development Plan (LDP) 2032 the timetable provides indicative dates (Q3 2025 – Q3 2026) for the publication (in draft) and adoption (Q3-Q4 2028) of its Local Policies Plan (LPP).

### **Current Work**

2. Members should be aware, in view of the above timetable dates, of the following:
  - Assessment continues of the evidence base required to support the site-specific policies, proposals, zonings and designations in relation to housing, employment, retailing, natural and built environment, and infrastructure.
  - The Head of Planning and Capital Development and members of the LDP team met with DfI Planning on 5<sup>th</sup> February 2025 to discuss the issue of Sprucefield, following the findings of the PAC after the Independent Examination. Further meetings will be required to progress the matter. A procurement for a retail consultant to prepare an evidence base for the regional shopping designation is on-going/
  - Procurement briefs to appoint appropriate experts to assist the Council in its site-specific policies, proposals, zonings and designations are complete and, subject to approval, tender invites are due to issue imminently.
  - DfI Roads continue to draft the Eastern Transport Plan (ETP 2035) which is integral to the Council's LPP. The ETP aims to provide attractive and viable alternative modes of transport to reduce unnecessary car journeys, creating safer, healthier communities by reducing carbon emission and improving air quality. The Plan Team continue to have regular meetings with DfI Roads, first commenced in February 2024, on matters relevant to the Council area as DfI Roads progress with drafting their ETP.
  - In addition, the Plan Team continue to provide consultation response to Development Management on matters concerning conservation areas and natural heritage (trees and their protection).

### **Other Matters**

- The Plan Team continue to engage internally on the update to the Council's Car Parking Strategy.

	<ul style="list-style-type: none"> <li>The Plan Team have provided input to the Council's response on the Department for Infrastructure's Active Travel Delivery Plan. This consultation closed on the 28<sup>th</sup> February 2025.</li> </ul>	
2.0	<p><b><u>Recommendation</u></b></p> <p>Members are asked to note the above update on progress with the Local Development Plan</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>There are no finance or resource implications.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out	N/A
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.	N/A

<b>Appendices:</b>	N/A
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<b>Committee:</b>	Planning Committee
<b>Date:</b>	07 April 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 12 - Enforcement Quarterly Update

1.0	<p><b><u>Background</u></b></p> <ol style="list-style-type: none"> <li>The Council continues to operate its planning enforcement powers under delegated authority in accordance with the Council’s Enforcement Strategy (published on website).</li> <li>It is stated at paragraph 15 of the Protocol for the Operation of the Planning Committee that Planning Officers will prepare a quarterly report on the progress of formal enforcement cases which will be circulated detailing the number of notices issued, and convictions obtained.</li> </ol> <p><b><u>Key Issues</u></b></p> <ol style="list-style-type: none"> <li>No live prosecutions are currently pending.</li> <li>The total number of live cases by category is also presented to the Members for completeness and for understanding of the general scope and nature of the work officers are engaged in (<b>see Appendix</b>).</li> </ol>	
2.0	<p><b><u>Recommendation</u></b></p> <p>Members are asked to note the Planning Enforcement Update in respect of the caseload</p>	
3.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
3.1	Has an equality and good relations screening been carried out?	No
3.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out</p> <p>This is a report updating the committee on its Planning Enforcement caseload and EQIA is not required.</p>	
3.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
3.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p>	

This is a report updating the committee on its Planning Enforcement caseload and RNIA is not required.

**Appendices:**

Appendix 12 - Enforcement Update - Caseload

### Planning Enforcement Update – Regeneration and Growth Committee – April 2025

Item Number	Title	Background and Key Issues
1	Cases with Court proceedings	There are no Court proceedings pending
2	Current Enforcement Caseload	<p><b>Current Planning Enforcement Live Case list: 288</b></p> <p><b>The nature of the reported breaches are categorised as follows:</b></p> <p>Unauthorised Advertisements: 18 cases</p> <p>Operational Development: 156 cases</p> <p>Breach of Condition: 47 cases</p> <p>Change of Use: 60 cases</p> <p>Demolition in Conservation Area: 3 cases</p> <p>Unauthorised Works to Protected Trees: 4 cases</p> <p><b>In accordance with the enforcement strategy the breaches are categorised as follows:</b></p> <p>Priority 1 cases: 5</p> <p>Priority 2 cases: 104</p> <p>Priority 3 cases: 27</p> <p>Priority 4 cases: 76</p> <p>Any other cases opened prior to the new planning portal going live on 04<sup>th</sup> December 2022 and not categorised: 76</p> <p>Number of Enforcement Notices issued: 6</p>

