



February 1st, 2023

Chairman : Alderman J Tinsley

Vice Chairman : Councillor John Palmer

Aldermen : W J Dillon MBE, D Drysdale, O Gawith and A Grehan

Councillors : J Craig, M Gregg, U Mackin, J McCarthy and A Swan

**Notice of Meeting**

A meeting of the Planning Committee will be held on **Monday, 6th February 2023 at 10:00 am**, in the **Council Chamber and 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)

## 3.0 Minutes of the Planning Committee Meetings

### 3.1 Meeting held on 9 January, 2023

▢ *PC 09.01.2023- Draft Minutes for adoption.pdf*

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### 3.2 Special Meeting held on 9 January, 2023

▢ *PC 09.01.2023 (S) - 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:

- (i) **LA05/2021/0033/F - Proposed mixed use development comprising 153 residential units in a mix of apartments, semi-detached and detached units with associated private amenity provision and public open spaces; 28 Class B2 and B4 industrial/employment units (4,272 square metres in total); a neighbourhood centre (965 square metres in total) comprising a petrol filling station with associated convenience store and 4 retail units (2 class A1 and 2 Sui Generis hot food bars); associated car parking; landscaping; cre**  
▢ *Appendix 1(a) Planning Report LA05.2021.0033.F Major.pdf* Page 10
- (ii) **LA05/2021/1263/F - Proposed two storey dwelling with alterations to existing garage so it is part of the curtilage and accessed from 5 Ballycrune Road at site between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt**  
▢ *Appendix 1(b)(i) - DM Officer Report - LA0520211263F - Ballycrune - Adde...pdf* Page 75  
  
▢ *Appendix 1(b)(ii) - Report of Site Meeting - 20.01.2023 - Ballycrune Roa...pdf* Page 80  
  
▢ *Appendix 1(b)(iii) - DM Officer Report - LA0520211263F - Ballycrune - F...pdf* Page 82
- (iii) **LA05/2021/1014/O - Proposed infill dwelling and garage 50 metres northeast of 75 Drennan Road, Lisburn**

	▢ <i>Appendix 1(c)(i) - DM Officer Report - LA0520211014 Drennan Road Infill ...pdf</i>	Page 101
	▢ <i>Appendix 1(c)(ii) - Report of Site Meeting - 20.01.2023 - Drennan Road -...pdf</i>	Page 108
	▢ <i>Appendix 1(c)(iii) - DM Officer Report - LA0520211014 Drennan Road Infil...pdf</i>	Page 110
(iv)	<b>LA05/2021/0324/F - Conversion of existing dwelling to two apartments at 49 Castlevue Park, Moira</b>	
	▢ <i>Appendix 1(d) - DM Officer Report - LA0520210324 Castlevue Park - FINAL....pdf</i>	Page 134
(v)	<b>LA05/2020/0853/O - New dwelling (detached) between 23a and 23 Ballinderry Road, Aghalee, Craigavon</b>	
	▢ <i>Appendix 1(e) - DM Officer Report - LA0520200853O - Between 23 and 23a B...pdf</i>	Page 152
(vi)	<b>LA05/2021/0571/O - Site for infill dwelling 60m south west of 4a Magees Road, Ballinderry Upper, Lisburn</b>	
	▢ <i>Appendix 1(f) - DM Officers Report - LA0520210571O - Magees Road Infill ...pdf</i>	Page 175
(vii)	<b>LA05/2021/0572/O - Site for infill dwelling 100m north east of 6 Magees Road, Ballinderry Upper, Lisburn</b>	
	▢ <i>Appendix 1(g) - DM Officer Report - LA0520210572O - Magees Road - 2 FINA...pdf</i>	Page 207
(viii)	<b>LA05/2022/0699/O - Residential development at land adjacent to and to the rear of no. 74 Glebe Road and to the rear of nos. 233-239 Ballynahinch Road, Annahilt</b>	
	▢ <i>Appendix 1(h) - DM Officer Report - LA0520220699O - Annahilt - FINAL.pdf</i>	Page 238
<b>4.2</b>	<b>Planning Monitoring Framework 2021/22</b>	
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<b>4.4</b>	<b>Appeal Decision in respect of Planning Application LA05/2019/0168/F</b>	
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<b>4.5</b>	<b>Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights</b>	
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## **5.0 Any Other Business**

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**LISBURN & CASTLEREAGH CITY COUNCIL**

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**Minutes of Planning Committee Meeting held in the Council Chamber and in Remote Locations on Monday, 9 January, 2023 at 10.03 am****PRESENT IN CHAMBER:**

Alderman J Tinsley (Chairman)

Councillor John Palmer (Vice-Chairman)

Aldermen W J Dillon MBE, D Drysdale, O Gawith and A Grehan

Councillors D J Craig, M Gregg, U Mackin and A Swan

**IN ATTENDANCE IN CHAMBER:**Director of Service Transformation  
Head of Planning & Capital Development  
Senior Planning Officers (RT and MB)  
Member Services Officers

Mr B Martyn (Cleaver Fulton Rankin) – Legal Advisor

**Commencement of Meeting**

At the commencement of the meeting, the Chairman, Alderman J Tinsley, welcomed those present to the Planning Committee. The Chairman pointed out that, unless the item on the agenda was considered under confidential business, this meeting would be audio recorded. The Head of Planning & Capital Development outlined the evacuation procedures in the case of an emergency.

1. **Apologies** (00:02:20)

There were no apologies.

At this point, the Member Services Officer read out the names of the Elected Members and Officers in attendance at the meeting.

2. **Declarations of Interest** (00:03:15)

Alderman A Grehan arrived to the meeting during consideration of this item of business (10.08 am).

Councillor U Mackin advised that, in respect of planning application LA05/2021/1014/O, he had received an email from the applicant. He had acknowledged the email but had made no comment on the application.

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## 2. Declarations of Interest (Contd)

Councillor John Palmer advised that he had received a call in respect of planning application LA05/2021/1263/F regarding a request for a site meeting. Councillor Palmer had not offered an opinion on the application; he had advised on the procedure for requesting a site meeting and provided the caller with a copy of the Protocol for the Planning Committee for information.

Councillor A Swan also submitted a declaration of interest form in respect of this application as he too had received a call regarding a request for a site meeting. He had offered no opinion on the application.

Alderman W J Dillon also advised that he had received a similar call but had offered no opinion on the application.

The Chairman, Alderman J Tinsley, advised that, in respect of planning application LA05/2020/1039/O, he had been contacted by both the applicant and objectors. He had offered no opinion on the application.

## 3. Minutes of Meeting of Planning Committee held on 5 December, 2022 (00:05:18)

It agreed that the minutes of the meeting of Committee held on 5 December, 2022 be confirmed and signed.

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

### 4.1 Schedule of Applications (00:06:09)

#### 4.1.1 Applications to be Determined (00:07:10)

The Legal Advisor, Mr B Martyn, 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) LA05/2021/1263/F – Proposed two storey dwelling with alterations to existing garage so it is part of the curtilage and accessed from 5 Ballycrune Road at site between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt (00:08:25)

At the outset, Councillor U Mackin expressed concern that DfI Roads Service had no objections to the above application, especially given that a meeting was scheduled this week with DfI Roads and the PSNI to consider traffic issues in this area. It was proposed by Councillor Mackin, seconded by Councillor A Swan and agreed that this application be deferred for a site visit to take place. DfI Roads should also be represented at the site visit.

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- (ii) LA05/2021/0507/F – Proposed erection of 44 dwellings (including conversion and extension of existing building to create 2 dwellings), landscaping, open space, internal road layout and access provision off the Lisburn Road along with associated development at lands at 26, 30 and 32 Lisburn Road Hillsborough (00:11:52)

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

The Committee received Mr G Smyth in order to speak in support of the application and he addressed a number of Members' queries.

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

#### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to approve the application, subject to the inclusion of an additional condition requiring that a detailed drainage design be agreed in writing with the Council before the construction of the first dwelling being commenced on site.

- (iii) LA05/2020/1039/O – Site for a dwelling, garage and associated site works (infill opportunity as per CTY8 of PPS21) at land between 5 and 5a Crewe Road, Ballinderry Upper, Lisburn (00:40:45)

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

The Committee received the following speakers:

- Ms T Cassidy – in opposition to the application;
- Councillor S Mullholland – in opposition to the application; and
- Mr N Coffey – in support of the application.

The above speakers addressed a number of Members' queries.

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

#### Adjournment of Meeting

The Chairman, Alderman J Tinsley, declared the meeting adjourned for a comfort break at this point (11.39 am).

#### Resumption of Meeting

The Chairman, Alderman J Tinsley, declared the meeting resumed (11.48 am).

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- (iii) LA05/2020/1039/O – Site for a dwelling, garage and associated site works (infill opportunity as per CTY8 of PPS21) at land between 5 and 5a Crewe Road, Ballinderry Upper, Lisburn (Contd)

#### Vote

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

- (iv) LA05/2021/1014/O – Proposed infill dwelling and garage 50 metres northeast of 75 Drennan Road, Lisburn (01:42:30)

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

The Committee received the following speakers in order to speak in support of the application:

- Mr M McNeill, accompanied by Mr G Clingan; and
- Mr E C Poots MLA.

The above speakers addressed a number of Members' queries.

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

Following discussion, it was proposed by Alderman W J Dillon, seconded by Alderman O Gawith and agreed that this application be deferred for a site visit.

#### 4.2 Planning Statistical Bulletin – Second Quarter 2022/23 (02:41:10)

It was agreed that information in respect of planning statistics for the second quarter of 2022/23 be noted.

Following discussion, the Head of Planning & Capital Development agreed to report to the next meeting of the Committee in respect of legacy applications for single dwellings in the countryside.

#### 4.3 Appeal Decision (2021/A0213) in respect of Planning Application LA05/2021/0202/O (02:50:48)

It was agreed to note information set out in the report in respect of the decision of the Planning Appeals Commission regarding the above planning application.

#### 4.4 Proposed Amendment to the Planning (General Development Procedure) Order (NI) 2015 to Introduce Validation Checklists for Planning Applications (02:51:02)

It was agreed that the content of the above consultation be noted and that the response to the consultation would be made available to the Department for



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4.4 Proposed Amendment to the Planning (General Development Procedure) Order (NI) 2015 to Introduce Validation Checklists for Planning Applications (Contd)

Infrastructure, having been agreed at the January meeting of the Development Committee that the introduction of validation checklists be supported and that the dispute resolution process be on the basis of the English model.

4.5 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights (02:52:30)

Members noted from the report, information regarding notification by telecommunication operators to utilise Permitted Development Rights at a number of locations.

5. Any Other Business

5.1 Minutes of Planning Committee Meetings (02:53:20)  
Councillor M Gregg

Councillor M Gregg commented on Planning Committee minutes being less detailed than previously was the case and sought assurance that audio recordings were retained and available in lieu of detailed minutes. The Head of Planning & Capital Development confirmed that this had been checked by Member Services in consultation with the Planning Service and that this was the case.

5.2 Blaris Road Development and Knockmore Link Road (02:55:45)  
Councillor A Swan

In response to comments from Councillor A Swan regarding the length of time the planning application regarding the above development had been with the Department for Infrastructure (DfI), the Head of Planning & Capital Development explained that the Council had no control over the time taken by the Department to consider an application.

He advised that a meeting was due to take place this week with the Department's Director of Strategic Planning. He agreed to raise this matter, seek a timescale in terms of the Department's assessment and conclusion and keep Members updated on the outcome.

5.3 Permitted Developments Rights of Telecommunication Operators (02:59:23)  
Councillor John Palmer

Councillor John Palmer asked if any safeguards were in place in relation to permitted development rights in areas of outstanding natural beauty, such as Lagan Valley Regional Park.

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5.3 Permitted Developments Rights of Telecommunication Operators  
(Contd)  
Councillor John Palmer

The Head of Planning & Capital Development advised that the Planning Enforcement Team did periodically check submissions to ensure information provided was factual.

There were some restrictions in sensitive places for permitted development rights. The Head of Service asked that Councillor Palmer notify him of any specific queries he had.

5.4 Update on Local Development Plan (03:00:35)  
Councillor U Mackin

Councillor U Mackin having sought an update on when a response could be expected from the DfI in respect of the Local Development Plan, the Head of Planning & Capital Development advised that this matter would be raised this week at a meeting with the Department's Director of Strategic Planning.

Councillor Mackin asked that the Director be reminded of assurances given by the Department to the LDP Spatial Working Groups that consideration of Local Development Plans would be expedited in a proper manner.

There being no further business, the meeting was terminated at 1.20 pm.

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Chairman/Mayor

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**LISBURN & CASTLEREAGH CITY COUNCIL****Minutes of Special Meeting of the Planning Committee in the form of a Pre-Determination Hearing in respect of Planning Application LA05/2021/0033/F held in the Council Chamber and in Remote Locations on Monday, 9 January, 2023 at 2.00 pm****PRESENT IN CHAMBER:**

Alderman J Tinsley (Chairman)

Councillor John Palmer (Vice-Chairman)

Aldermen W J Dillon MBE, D Drysdale, O Gawith and A Grehan

Councillors D J Craig, M Gregg, U Mackin and A Swan

**IN ATTENDANCE IN CHAMBER:**Director of Service Transformation  
Head of Planning & Capital Development  
Senior Planning Officers (RT, MB and MCO'N)  
Member Services Officers

Mr B Martyn (Cleaver Fulton Rankin) – Legal Advisor

**Commencement of Meeting**

At the commencement of the meeting, the Chairman, Alderman J Tinsley, welcomed those present to the special meeting of the Planning Committee. The Chairman pointed out that, unless the item on the agenda was considered under confidential business, this meeting would be audio recorded.

The Chairman advised that, in accordance with Section 30 (4) of the Planning Act, the Committee had agreed to give the applicant and/or other specified persons, an opportunity to be heard by the Committee by way of a Pre-Determination Hearing in advance of a formal recommendation being brought in front of the Committee by Council Officers. He explained that a minute of the Pre-Determination Hearing would be kept and appended to the Officer's report when the application came in front of the Committee for determination.

The Chairman stated that Planning Officers, the Council's Legal Advisor and consultees were in attendance to address any questions Members may have. Members had been provided with information on the arrangements and procedures for the pre-determination hearing.

The Head of Planning & Capital Development outlined the evacuation procedures in the case of an emergency.

1. **Apologies** (00:00:45)

There were no apologies.

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At this point, the Member Services Officer read out the names of the Elected Members and Officers in attendance at the meeting.

2. Declarations of Interest (00:01:37)

Alderman D Drysdale declared an interest in this planning application given that he was Chairman of Inspire Business Park, which had been approached by the developer regarding an offer of land free of charge. At this point (2.04 pm), he retired to the public gallery and took no part in the meeting.

3. Report from the Head of Planning & Capital Development

3.1 Pre-Determination Hearing in respect of Planning Application

LA05/2021/0033/F – Proposed mixed use development comprising 153 residential dwellings in a mix of apartments, semi-detached and detached units with associated private amenity provision and public open spaces; 28 Class B2 and B4 industrial/employment units (4,272 square metres in total); a petrol filling station with associated convenience store, 4 retail units (2 Class A1 and 2 Sui Generis hot food bars); associated car parking; landscaping; creation of new accesses from Carrowreagh Road and Ballyoran Lane with associated works to the public road; and other ancillary development at lands formerly occupied by the Rolls Royce factory north of Upper Newtownards, south of Inspire Business Centre, east of Ballyoran Lane and west of Carrowreagh Road, Dundonald  
(00:02:18)

With the aid of a visual presentation, the Senior Planning Officer (RT) outlined the planning policy and other material considerations relevant to the application and then provided a summary of the key issues to be considered as part of the decision making process in due course. No recommendation was presented by the Officer.

The Committee received:

- Mrs C Cosgrove and Mr P Carr to speak in opposition to the application (00:25:24);
- Mr D Brooks MLA, and local residents Mr D Hyndman, Mr I Wilson and Dr A McFarland to speak in support of the application (00:53:20); and
- Agents – Mr Wm Orbinson KC, Mrs A Wiggam, Mr S Bell to speak in support of the application (01:11:51). A number of other representatives were in attendance for the applicant both in person and remotely.

The above speakers addressed a number queries raise by Members.

A number of Members' queries were responded to by the Head of Planning & Capital Development, the Senior Planning Officers, the Head of Economic Development, the DfI Roads Service representative Mr S Cash and NI Water representative Mr A Moore.

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Conclusion of the Meeting

At the conclusion of the meeting, the Chairman, Alderman J Tinsley, thanked all those who had attended and participated in the meeting.

There being no further business, the meeting was terminated at 4.28 pm.

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Chairman/Mayor

## Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	06 February 2023
Committee Interest	Major Application
Application Reference	LA05/2021/0033/F
Date of Application	15 January 2021
District Electoral Area	Castlereagh East
Proposal Description	Proposed mixed use development comprising 153 residential units in a mix of apartments, semi-detached and detached units with associated private amenity provision and public open spaces; 28 Class B2 and B4 industrial/employment units (4,272 square metres in total); a neighbourhood centre (965 square metres in total) comprising a petrol filling station with associated convenience store and 4 retail units (2 class A1 and 2 Sui Generis hot food bars); associated car parking; landscaping; creation of new accesses from Carrowreagh Road and Ballyoran Lane with associated works to the public road; and other ancillary development
Location	Lands formerly occupied by the Rolls Royce factory north of Upper Newtownards, south of Inspire Business Centre, east of Ballyoran Lane and west of Carrowreagh Road, Dundonald
Representations	85 representations comprised of 40 objections and 45 letters of support
Case Officer	Rachel Taylor
Recommendation	Refusal

### 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 exceeds one hectare in size and comprised of a mixed use development with more than 50 residential units.

2. This application is presented to the Planning Committee with a recommendation to refuse.
3. It is considered that the proposal is contrary to the SPPS and Policy PED 7 and 8 of PPS 4 Economic Development, Policy QD1 of PPS7 Quality Residential Environments and Policy OS2 of PPS8 Open Space, Sport and Outdoor Recreation.
4. It is considered the proposal is contrary to the SPPS and Policy PED 7 of PPS 4 Planning and Economic Development in that the proposal would result in the loss of land zoned for economic development use in a development plan and an exception has not been adequately demonstrated.
5. It is also considered that the proposal is contrary to the SPPS and Policy PED 8 of PPS 4 Planning and Economic Development in that the proposal is for residential development in the vicinity of an existing or approved economic development use that would be incompatible with this use or would prejudice its future operation
6. In addition the proposal is contrary to the SPPS and Policy QD1(a) (c) (d) and (h) of Planning Policy Statement 7: Quality Residential Environments in that it would, if permitted, result in over development of the site, and would be detrimental to the character and appearance of the local area by virtue of its scale, form, massing and design, and would be harmful to the living conditions of existing residents through dominance and overlooking, resulting in a loss of residential amenity; adequate provision is not made for public and private open space and landscaped areas as an integral part of the development; and adequate provision is not made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development.
7. The application is considered contrary to Paragraph 6.271 and 6.280 of the SPPS in that alternative sequentially preferable sites exist within a proposal's whole catchment. In addition it has not been demonstrated that the proposal is supported with robust and up to date evidence in relation to need and capacity as well as a realistic catchment area.
8. Finally the proposal is contrary to the SPPS and Policy OS2 of PPS8 Open Space, Sport ad Outdoor Recreation in that sufficient public open space is not provided as an integral part of the development and no equipped children's play area is provided.

## Description of Site and Surroundings

### Site

9. The proposed site is located at the junction of the Upper Newtownards Road and the Carrowreagh Road, Dundonald approximately 6.5 miles from Belfast and 5 miles from Newtownards. Access is from both Ballyoran Land and Carrowreagh Road.

10. The site is currently vacant and the majority of the former industrial buildings have been demolished and removed from the land.
11. The site is predominantly flat throughout where it has a boundary with the Upper Newtownards Road and Ballyoran Lane however there is a significant change in level towards the rear of the site where it borders Inspire Business Park.
12. The site also includes a tarmacked car park at the higher level with a separate access onto Carrowreagh Road.
13. The boundaries of site are defined by a belt of mature trees to the south along the border with the Upper Newtownards Road and continuing in part east along Carrowreagh Road. The remainder of the boundaries are mostly made up of two-metre chain-link fencing and concrete posts.

### **Surroundings**

14. The surrounding area is mixed in character. The surrounding land to the west and north is industrial and commercial in character and comprised of Carrowreagh Business Park, Dundonald Enterprise Park and other businesses.
15. To the east and on the opposite side of Carrowreagh Road is an existing residential neighbourhood of Millreagh Avenue and Millreagh Drive.
16. To the south is the Upper Newtownards Road which is the main road connecting Belfast to Newtownards beyond which is a Gospel Centre and the residential neighbourhoods of Coopers Mill and Millmount,

### **Proposed Development**

17. The application is for a full application for mixed use development comprising 153 residential units in a mix of apartments, semi-detached and detached units with associated private amenity provision and public open spaces; 28 Class B2 and B4 industrial/employment units; petrol filling station with associated convenience store and 4 retail units; associated car parking; landscaping; creation of new accesses from Carrowreagh Road and Ballyoran Lane with associated works to the public road; and other ancillary development.
18. In accordance with Section 29 of the Planning Act (Northern Ireland) 2011, a Pre-Application Community Consultation (PACC) report submitted with the application as the threshold for a Pre-application Notice and community consultation was reached.
19. The application was also supported by the following documents:



- Design and Access Statement;
- Supporting Planning Statement;
- Landscape Management and Maintenance Plan;
- Generic Quantitative Risk assessment Report and Remedial Strategy Report;
- Sequential Assessment;
- Economic Impact Statement;
- Air Quality Impact Statement (AQIA);
- Employment Land Assessment;
- Noise Impact Assessment and addendum;
- Transportation Assessment (and TAF);
- Stage 1 Safety Audit; and
- Drainage Assessment and addendum.

### Relevant Planning History

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

<b>Application Reference</b>	<b>Description of Proposal</b>	<b>Decision</b>
Y/2005/0392/O	Site for mixed use development comprising petrol station with convenience store, 5 no. retail units with 10 no. apartments over, pub/restaurant & 4 no. own door offices at 770 Upper Newtownards Road and Carrowreagh Road.	Withdrawn 30.05.2007
Y/2005/0412/F	Change of use from offices ancillary to industrial complex to Own Door Offices plus erection of 3 no. access towers.	Withdrawn 30.05.2007
Y/2010/0087/O	Demolition of existing buildings and structures and the construction of a retail store (Class A1); Petrol Filling Station (sui generis); industrial units (Class B2 and B4); and associated highway, footpaths, landscaping and other works and improvements	Approved 28.06.2013
Y/2008/0227/F	Erection of a mixed use development consisting of 72 no. residential units, 6 no. retail units, 48 no. offices, 12 no. industrial units and the erection of a 91 bed hotel all with associated car parking and landscaping, (demolition of all buildings on site) Additional Information-Transport Assessment received.	Withdrawn 11.03.2010

<b>Application Reference</b>	<b>Description of Proposal</b>	<b>Decision</b>
Y/2013/0230/RM	Engineering works to the existing highway and other land pursuant to application reference Y/2010/0087/O (Amended Plans)	Withdrawn 20.03.2015
Y/2013/0225/RM	Engineering works to the existing highway and other lands pursuant to application reference Y/2010/0087/O	Invalid
Y/2013/0230/RM	Engineering works to the existing highway and other land pursuant to application reference Y/2010/0087/O (Amended Plans)	Withdrawn 20.03.2015
LA05/2015/0444/PAD	5,903 SQ metres of employment space (Class B1 (B) & (C) AND B2); 5,809 SQ metres of retail space (Class A1); 900 SQ metres of sui generis uses - restaurants/takeaway and petrol filling station; 23 residential units and a 371 SQ metre medical centre (Class D1).	Concluded
LA05/2015/0457/PAN	Construction of 5903 sq metres of employment space; 5809 sq metres of retail space; 900 sq metres of restaurants/takeaway use and petrol filling station; 23 residential units and a 371 sq metres medical centre	Accepted 04.08.2015
LA05/2017/0771/PAN	Proposed mixed use development comprising 162 residential units in a mix of dwellings and apartments, a neighbourhood centre comprised of five units (approx. 790 sqm in total), open space, landscaping, access arrangements from Carrowreagh Road and associated site works.	Accepted 02.08.2017
LA05/2017/0976/PAD	Proposed mix use development comprising 157 residential units in a mix of dwellings and apartments, a neighbourhood centre comprised of five units (approx. 790sqm in total). Open space, landscaping, access arrangements from Carrowreagh Road and associated siteworks	Concluded
LA05/2017/1206/O	Proposed residential development comprising a mix of apartments, townhouses, semi-detached and detached properties with integral open space including an equipped children's play park; a neighbourhood centre comprising a mix of uses including a local convenience store together with 3 smaller retail units (Class A1), a coffee shop (Sui Generis) at ground floor, and provision of floor space for	Withdrawn 11.01.2019

Application Reference	Description of Proposal	Decision
	community and cultural uses (Class D1) at first floor level with associated car parking; improvements to site access from Carrowreagh Road and works to the public road including provision of a right turn lane; landscaping; and other ancillary works	
LA05/2020/0854/PAN	Proposed mixed use development comprising residential development (mix of apartments, terraced, semi-detached and detached units) and associated open spaces; employment space; a neighbourhood centre (retail units, PFS and designated car parking) landscaping; creation of new accesses from Carrowreagh Road and Ballyoran Lane; and associated site works	Accepted 16.12.2020
LA05/2020/0884/PAD	Proposed mix use development comprising residential development (mix of apartments, terraced, semi-detached and detached units) and associated open spaces; employment space; a neighbourhood centre (retail units, PFS and designated car parking), landscaping; creation of new accesses from Carrowreagh Road and Ballyoran Lane; and associated site works	Concluded

## Consultations

21. The following consultations were carried out.

Consultee	Response
DFI Roads	No objection
NI Water	No objection
Rivers Agency	No objection
Environmental Health	No objection
NI Housing Executive	No objection
Shared Environmental Services	No objection
NIEA Regulation Unit	No objection
Invest NI	Objection
NIEA Water management and Inland Fisheries	No objection
Natural Environment Division	No objection
NIE	No objection

## Representations

22. A total of forty letters of objection have been received from approximately twenty-five households in respect of the proposal. These households are across the wider Dundonald Area including addresses at Grangewood Heights/Manor/Lane/Road, Grahamsbridge Road, Kings Road, Dunlady Manor, Millar's Forge, Brodick Way, Cumberland Drive, Enler Park, Coopers Mill Court, Branff Park and Wanstead Crescent. There were also two letters from Dundonald Greenbelt Residents Association.

23. The following broad issues have been raised:

- Only piece of zoned land left in Dundonald and is in the middle of five successful business parks, some of which have waiting lists for premises.
- There is no housing need in this area
- Objection to hot food bars and petrol filling station elements as there is a petrol station less than 1 mile down the road with all these facilities and numerous such stations across Ards
- Increasing demand for electric cars so demand for petrol is falling
- Eye sore former petrol station across the road now a car wash
- Hot food bars less than one mile away cause noise and light pollution, increased litter and vermin, late opening and anti-social behaviour, detrimental impact on human health with fast foods
- Units will negatively impact the area and profit the developer
- Will create traffic issues around Carrowreagh Road especially at peak times
- Dundonald needs more jobs, not more houses
- Contrary to the RDS that seeks to protect employment land
- Rezones the land which should have been a job for the local development plan process
- There are also a surplus of housing as well
- Will undermine and threaten the viability of the forthcoming Millmount Village Centre
- NIW recommend no more connections

- Contrary to the RDS (5 key policies) which seeks to protect employment land
- Reports are paid for by the agent and have differing purposes
- Post covid warehouse requirement has not been quantified
- Litchfield assessment was done by the Council and rated it at the top of the average rating.
- Carrowreagh business park is fully occupied
- Suggest that this is a prime site, flat, uncontaminated and surrounded by successful business parks. Blame the owner who is a house builder as they paid a high price
- Contrary to three area plans including BUAP, d BMAP and unlawful BMAP zonings
- SPPS is a higher test under the transitional arrangements and does not include residential as an option. The 'flexibility; in approach only applies to unzoned lands in the SPPS
- No market interest is wrong, Sainsbury's nearly went here in 2014. Little evidence of what was marketed and how.
- Increased investment in NI anticipated post Brexit
- Wrights have successfully refurbished at Ballyoran Business Park over the last ten years
- Range and choice of sites which is to be protected has now gone as the Comber Road mixed use application was approved and this is the only site left in the locality.
- Quantification of the 'economic benefits' is misleading as it doesn't quantify development that it displaces from other zoned housing sites nor deduct costs to the economy of additional residents nor servicing the site.
- The site should be yielding round 800 jobs as that's what Rolls Royce employed. Sainsbury's promised 500 and yet this will only net 100 jobs, one eighth of its potential.
- Existing amenities already under pressure eg schools
- The argument that the site is not on the motorway network applies to all the employment zonings containing undeveloped land in Castlereagh.

24. A total of forty-five letters of support have been received from individuals in around 25 households, all within the Millreagh developments on the opposite side of the Carrowreagh Road, and two Members of Parliament in respect of the proposal. The following broad issues have been raised.

- Concerns with NI Water have now been addressed
- Acknowledges no interest in industry and failed supermarket application
- Welcomes the petrol station and retail units for local residents which is considered to be needed
- Best mix for the site which is a blight on the landscape
- Laid unused for 15 years so good to be reused, magnet for antisocial behaviour and fly tipping
- Removes health and safety hazard from the area
- Variety and mixture of houses proposed
- Council has sufficient land for employment – reference to flexibility within the SPPS to go against PPS4
- Failure of former Quarry Inn site

### Planning Policy Context

25. The relevant planning policy context which relates to the application is as follows:

- Regional Development Strategy (RDS) 2035
- Belfast Urban Area Plan 2001
- Draft Belfast Metropolitan Area Plan (BMAP) 2015;
- Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development
- Planning Policy Statement (PPS) 2 - Natural Heritage
- Planning Policy Statement (PPS) 3 - Access, Movement and Parking
- Planning Policy Statement (PPS) 4 – Planning Economic Development
- Planning Policy Statement (PPS) 7 - Quality Residential Environments
- Planning Policy Statement (PPS) 8 - Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 12 (PPS 12): Housing in Settlements
- Planning Policy Statement 15 (PPS) 15 – Planning and Flood Risk
- Creating Places: Achieving quality in residential environments
- DCAN 8 - Housing in Existing Urban Areas
- DCAN 4 - Restaurants, Cafés and Fast Food Outlets

- DCAN 15 - Vehicular Access Standards
- Planning Advice Note on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses

### **Environmental Impact Assessment (EIA)**

26. 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 (b) of Schedule 2, of the Planning Environmental Impact Assessment (NI) Regulations 2015.
27. An EIA determination was carried out and it was concluded that there was not likely to be any unacceptable adverse 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**

28. The application was accompanied with a Pre-Application Community Consultation Report (PACC).
29. In this case the PACC process was held virtually with a dedicated website and number of webinars used to provide opportunity for consultation with the local community. The website replicated, as closely as possible, the level of information and engagement normally available at a public exhibition event. The consultation material was available online from 28 October 2020 to the 19 November 2020, in an accessible format. The method used enabled broad participation across both mobile and desktop devices. The webinars took place on 4 and 5 November 2020 in morning, afternoon and a lunchtime slot.
30. The content of the website included illustrative plans and designs of the proposed development, key dates for the consultation, indicative visualisations and an online feedback facility and questionnaire.
31. An online webinars were carried out via Zoom on 4 November 2020 10-11am and 6-7pm, and 5 November 1-2pm. This included the project team presenting the proposed development followed by a Q&A session. This format allowed the public to engage with the project team and ask questions, similar to an in-person consultation event.
32. A dedicated consultation phone number and email address was available for those wishing to make comment or seek more information on the proposed development. There was a social media advertising campaign run through Facebook from 30 October 2020 until 5 November 2020.
33. A public advert notice providing details of the consultation website, online consultation sessions and how to access further information was published in the Belfast Telegraph on 29 September 2020.

34. An information leaflet was distributed to 900 properties in the surrounding site.
35. Hard copy information packs were provided to those who requested them.
36. In conclusion there is a mixed view of respondents who support and oppose the proposed development. Concerns raised during the PACC process and which were within the scope of the application description were addressed wherever possible in the final design process before the application was submitted.

### **Regional Development Strategy**

37. The Revised Regional Development Strategy (RDS) 2035 was published in 2010. It is the spatial strategy of the Stormont Executive and it seeks to deliver the spatial aspects of the Programme for Government (PfG).
38. Policy RG1 of the RDS requires there to be an adequate and available supply of employment lands to ensure sustainable economic growth. This policy requires the protection of land zoned for economic use as it provides a valuable resource for local and external investment.
39. Regional policy directs that the protection of such zonings should ensure that a variety of suitable sites exists across Northern Ireland to facilitate economic growth. It looks to development plans to provide an adequate and continuous supply of land for employment purposes. The Spatial Framework Guidance SFG 1 seeks to promote urban economic development at key locations throughout the Belfast metropolitan urban area and ensure sufficient land is available for jobs. There is no specific reference to Castlereagh District or Dundonald with the RDS 2035.

### **Local Development Plan Context**

40. 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.
41. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
42. As a consequence, the Belfast Urban Area Plan (BUAP) is the statutory development plan however the draft Belfast Metropolitan Plan (BMAP) 2015 remains a material consideration.
43. The BUAP indicates that the proposed site is within the development limit and is not zoned for any specific land use.



44. Within draft BMAP the site is located within the settlement limit as zoned employment land MCH09 – Existing Employment / Industry Land at Upper Newtownards Road / Carrowreagh Road.
45. 34.98 hectares of land are zoned as Existing Employment / Industry at Upper Newtownards Road. A number of key site requirements are listed as:
- *Development shall only include light industrial uses currently specified in Use Class 4 of the Planning (Use Classes) Order (Northern Ireland) 1989 as amended; general industrial uses currently specified in Use Class 5 of the same Order; and storage or distribution uses currently specified in Use Class 11 of the same Order. Only light industrial uses shall be acceptable in the northern/undeveloped portion of the site adjacent to existing housing in order to protect the amenity of the residential premises;*
  - *Access arrangements to be agreed with Roads Service DRD;*
  - *A Transport Assessment (TA), agreed with Roads Service DRD shall be required to identify any necessary improvements to the road network/public transport/transportation facilities in the area. In addition to the need for a TA and the requirements identified therein, this proposal shall seek to reduce the number of accesses from the existing industrial development onto the Carrowreagh Road and capacity improvements to the junction with the A20 Upper Newtownards Road.*
  - *Buildings shall exhibit variety in their elevations treatment and heights, with consideration given to views into the site and in particular to all buildings on the upper part of the site which is currently undeveloped. A maximum height of two stories shall be allowed in the area;*
  - *A comprehensive landscaping scheme for the proposed development shall be submitted with any planning application for development and agreed with the Department. This shall include all the following:-*
    - *The existing vegetation along the northern and eastern boundaries of the site shall be retained (unless otherwise determined by the Department) and supplemented with an additional 5-10m of buffer planting consisting of trees and planting of native species to help integrate the development into the surrounding countryside. Planting along the northern boundary shall take account of the nature consideration interests of Craigantlet Woods SLNCI (Ref MCH 32/05) and Dunlady Glen LLPA (Ref MCH 37);*
    - *The western boundary of the site along the undeveloped portion of the site (which separated the site from the adjoining housing development) shall be landscaped with a 5-10m buffer of indigenous trees and planting to provide screening for the development and protect the amenity of adjacent residential properties;*

- *A detailed planting plan and programme of works shall be provided for all new planting in relation to boundary definition and provision of high quality landscaping within the site; and*
  - *Positive long term landscape management proposals shall be required to mitigate and integrate any development and protect and maintain landscaping on the site.*
46. At the Public Inquiry into BMAP an objection was considered for Existing Employment Sites under MCH 09: Land at Upper Newtownards Road/Carrowreagh Road (Objections 525, 3824/16, 1742, 3442). Objectors sought Designation MCH 09 as a Major Employment Location.
47. The Commission in consideration of the objection outlined that the RDS provides specific guidance for the location of MELs. MELs are zoned in the plan and represent employment sites strategically located throughout the BMA at Regional Gateways and along major transportation routes as directed by the RDS. They highlighted that within the Castlereagh District the Purdysburn area is specified in the RDS as a strategic location for employment growth and is consequently zoned as a MEL in the plan to reflect RDS guidance. The RDS does not indicate a strategic location for employment growth on the Upper Newtownards Road. They concluded that the zoning should be retained for existing employment use and there was no justification for designation as a MEL.
48. In unlawful BMAP the site is zoned as land zoned for existing employment under MCH 06.
49. Zoning MCH 06 Existing Employment Land at Upper Newtownards Road/ Carrowreagh Road consists of 34.93 hectares of land are zoned as existing Employment at Upper Newtownards Road as identified on Map No. 2/001 – Metropolitan Castlereagh.
50. The zoning still commanded a number of Key Site Requirements which included:
- *Development shall only include the following uses:*
    - *Industrial and Business, Use Classes B1(b), B1(c), B2, B3 and B4 as currently specified in the Planning (Use Classes) Order (Northern Ireland) 2004;*
  - *Only Industrial and Business, Use Classes B1(b), B1(c) and B2 shall be acceptable in the northern / undeveloped portion of the site adjacent to existing housing in order to protect the amenity of the residential dwellings;*
  - *Development of the site shall only be permitted in accordance with a masterplan for the site to be agreed with the Department. This shall outline the design concept, objectives and priorities for the site;*
  - *A Transport Assessment (TA), agreed with Roads Service, DRD, shall be required to identify any necessary improvements to the road network/public transport/ transportation facilities in the area. In addition to the need for a TA and*

*the requirements identified therein, this proposal shall seek to reduce the number of accesses from the existing employment development onto the Carrowreagh Road and provide capacity improvements to the junction with the A20 Upper Newtownards Road; and*

- *A comprehensive landscaping scheme for the proposed development shall be submitted with any planning application for development and agreed with the Department. This shall include all of the following:-*
  - *The existing vegetation along the northern and eastern boundaries of the site shall be retained (unless otherwise determined by the Department) and supplemented with an additional 5-10 metres of buffer planting consisting of trees and planting of native species to help integrate the development into the surrounding countryside. Planting along the northern boundary shall take account of the nature conservation interests of Craigantlet Woods SLNCI (Ref MCH 28/05) and Dunlady Glen LLPA (Ref MCH 33); and*
  - *The western boundary of the site along the undeveloped portion of the site (which separates the site from the adjoining housing development) shall be landscaped with a 5-10 metre buffer of trees and planting of native species to provide screening for the development and protect the amenity of adjacent residential properties.*

## **Regional Policy Context**

51. The SPPS states that

*until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

*The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.*

*During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.*

52. 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.*

53. 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.

54. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to the policies contained in the plan documents.

55. Paragraph 4.11 of the SPPS states that

*there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.*

56. Paragraph 4.12 of the SPPS states that

*other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality.*

57. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

58. 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.*

59. Paragraph 6.84 of the SPPS states that

*Within larger settlements such as cities and towns, planning decisions must, to a large extent, be informed by the provisions made for economic development through the LDP process.*

60. Paragraph 6.89 of the SPPS states that

*It is important that economic development land and buildings which are well located and suited to such purposes are retained so as to ensure a sufficient ongoing supply. Accordingly, planning permission should not normally be*

*granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process. While the same principle should also apply generally to unzoned land in settlements in current economic development use (or land last used for these purposes); councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use.*

61. 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.*

62. Paragraph 6.97 of the SPPS states that

63. *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.*

64. With regard to housing, the SPPS states 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.*

65. With regards to retailing, the SPPS at Paragraph 2.273 states that

*Planning authorities must adopt a town centre first approach for retail and main town centre uses.*

66. Paragraph 6.279 – 6.283 states that

*Retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Such*

*retail facilities should be required to be located within existing buildings. All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS.*

*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. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused.*

*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.*

*67. 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.*

*68. 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. This includes applications for an extension/s which would result in the overall development exceeding 1000 square metre gross external area. Where appropriate the planning authority may choose to apply a lower threshold taking into account local circumstances such as the size, role and function of their town centres. In preparing a LDP councils will have flexibility to set an appropriate threshold for their area, above which all applications for such development should be accompanied by an assessment of retail impact and need. This threshold can be up to, but must not exceed 2500 square metres gross external area.*

*69. With regards to open space, Paragraph 6.200 of the SPPS states that*

*open space, whether or not there is public access to it, is important for its contribution to the quality of urban life by providing important green lungs, visual breaks and wildlife habitats in built-up areas. Open space can enhance the character of residential areas, civic buildings, conservation areas, listed buildings and archaeological sites. It can also help to attract business and tourism and thereby contribute to the process of urban and rural regeneration.*

70. Paragraph 6.206 states that

*Councils must bring forward policy to require new residential development of an appropriate scale (generally 25 or more units, or on sites of one hectare and above) to provide adequate and well-designed open space as an integral part of the development. Councils should also ensure a suitable mechanism is in place to secure the future management and maintenance of open space in new residential developments.*

71. In terms of access, movement and parking, the SPPS states at Paragraphs 6.302 – 6.305 that

*The decision-taking process is a key tool for delivering sustainable travel patterns and good integration between transportation and land use. In determining planning applications, it is important that due regard is given to the design and layout of the proposed development and the facilities provided to cater for the particular needs of people with disabilities. Relevant considerations will normally include user friendly pedestrian routes, easy access to car parking reserved for disabled people and public transport facilities, and public buildings designed to provide suitable access for customers, visitors and employees.*

*In assessing development proposals planning authorities must apply the Department's published guidance. In determining a development proposal likely to generate a significant volume of traffic, planning authorities should require the developer to submit a Transport Assessment so as to facilitate assessment of the transport impacts; this should include mitigation measures where appropriate<sup>59</sup>. The Transport Assessment may include a travel plan, agreed with DRD Transport NI, or the relevant transport authority, that sets out a package of complementary measures to secure the overall delivery of more sustainable travel patterns and which reduces the level of private car traffic generated.*

*In assessing the appropriate amount of car parking, account should be taken of the specific characteristics of the development and its location, having regard to 59 See draft guide to Transport Assessment (published by DOE and DRD, 2006). 110 the Department's published standards and any reduction in standards provided for through a LDP or Transport Assessment.*

*In determining proposals for public and private car parks, including extensions, the planning authority should be satisfied that there is a need for the development by reference to the councils overall parking strategy following a robust analysis by the applicant. In such cases the planning authority should consult with DRD, or the relevant transport authority. Other relevant planning considerations when determining such proposals will include traffic and environmental impacts and the proposals compatibility with adjoining land uses.*

72. 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.*

73. 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.*

74. 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.

75. 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.*

76. 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.*

77. Strategic policy states that the key to successful place-making is the relationship between different buildings, the relationship between buildings and streets etc. and that the compatibility of a development with its immediate and wider context, and the settlement pattern of a particular area are important considerations.

78. Having considered the content of the SPPS against the retained policies set out in PPS 4 Economic Development, PPS 7 Quality Residential Environments, PPS8 Open Space, Sport and Outdoor Recreation, PPS3 Access, Movement and Parking, (in so far as these relate to the principle of developing this land) no distinguishable differences are found that should be reconciled in favour of the SPPS. The application therefore falls to be assessed against prevailing policy tests.



79. Acknowledging that a general policy presumption against the loss of this employment land in the SPPS and the retained policies in PPS4 the appropriateness of the development of approximately 80% of the lands zoned for employment use for housing and sui generis retail is discussed in further into the report.

### **Planning and Economic Development**

80. Planning Policy Statement 4 'Planning and Economic Development' sets out planning policy for economic development uses and indicates how growth associated with such uses can be accommodated and promoted in development plans. It seeks to facilitate and accommodate economic growth in ways compatible with social and environmental objectives and sustainable development.

81. It is stated in the preamble that:

*For the purposes of this PPS, economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B 'Industrial and Business Uses' of The Planning (Use Classes) Order (Northern Ireland) 2015:*

#### **Class B1: Business Use –**

- (a) *as an office other than a use within Class A2 (Financial, professional and other services);*
- (b) *as a call centre; or*
- (c) *for research and development which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*

#### **Class B2: Light Industrial**

*Use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*

#### **Class B3: General Industrial**

*Use for the carrying on of any industrial process other than one falling within Class B2.*

#### **Class B4: Storage or distribution**

*Use for storage or as a distribution centre.*

82. Policy PED 1 Economic Development in Settlements states that

Cities and Towns

*Class B2 Light Industrial Use and Class B3 General Industrial Use*

*A development proposal for a Class B2 light industrial use or Class B3 general industrial use will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial / employment area provided it is of a scale, nature and form appropriate to the location. Elsewhere in cities and towns such proposals will be determined on their individual merits.*

*Class B4 Storage or Distribution Use*

*A development proposal for a Class B4 storage or distribution use will be permitted in an area specifically allocated for such purposes in a development plan. 16 In addition a Class B4 development will also be permitted in an existing or proposed industrial/employment area where it can be demonstrated: that the proposal is compatible with the predominant industrial/employment use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution in the industrial/employment resource both in the locality and the plan area generally. Elsewhere in cities and towns such proposals will be determined on their individual merits.*

83. Policy PED 7 Retention of Zoned Land and Economic Development Uses states that:

*Zoned Land in all Locations Development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses. An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. Retailing or commercial leisure development will not be permitted except where justified as acceptable ancillary development.*

84. Policy PED 8 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.*

85. Policy PED 9 General Criteria for Economic Development states that

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

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

86. Planning Advice Note (PAN) on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses states at Paragraphs 6 – 17 that:

*The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) was published on the 28th September 2015. The SPPS applies to the whole of Northern Ireland and its provisions must be taken into account in the preparation of local development plans, and it is material to all decisions on individual planning applications and appeals.*

*The SPPS provides the core planning principles which underpin the two-tier planning system with the aim of furthering sustainable development. It sets the strategic direction for councils to bring forward detailed operational policies tailored to their individual areas within local development plans. It also sets out subject planning policies on a range of land use planning matters.*

*A transitional period will operate from 1 April 2015 until such times as a Plan Strategy for the whole of a council area has been adopted. During this period planning authorities will apply existing policies contained within extant planning policy statements together with the SPPS.*

*Planning Policy Statement 4 (PPS 4) 'Planning and Economic Development': Policy PED 7 'Retention of Zoned Land and Economic Development Uses' is of particular relevance when considering planning applications on land zoned for economic development use in a local development plan, and applications on unzoned land that is currently used (or was last used) for economic development purposes.*

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

*In relation to economic development the aim of the SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses environment and the principles of sustainable development. This aim is supported by 6 regional strategic objectives and a number of policy provisions.*

*The SPPS makes clear the importance that economic development land and buildings which are well-located and suited to such purposes are retained in order to ensure a sufficient and ongoing supply.*

*The Department is keen to support the diversity of the local economy and encourage employment generation. It is therefore necessary to retain existing sites for economic development and safeguard the supply of future economic development land to achieve this aim.*

*Only in exceptional circumstances will the loss of land zoned for economic development use in a local development plan to other uses be considered. Planning permission should therefore not normally be granted for proposals that would result in the loss of such land and buildings to other uses.*

*The retention of economic development land can not only make a substantial contribution to the renewal and revitalisation of towns and beyond but it can also provide employment opportunities accessible to large sections of the urban population and the rural hinterland. The existence of redundant*

*business premises and derelict industrial land can be an important resource for the creation of new job opportunities in areas of high unemployment and social deprivation.*

*In the case of planning applications involving a departure from a development plan zoning, for example from light industrial use to a mixed use development, planning officers should be fully satisfied that it has been clearly demonstrated how the special circumstances of a particular case outweigh the preferred option of retaining the land for economic development use.*

*A development proposal on land or buildings not zoned in a development plan but currently in economic development use (or last used for that purpose), which will result in the loss of such land or buildings to other uses, will not normally be granted planning permission. Planning authorities may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits that are considered to outweigh the loss of land for economic development use. Planning officers should be fully satisfied that it has been clearly demonstrated how the special circumstances of a particular case outweigh the preferred option of retaining the land or buildings for economic development use.*

87. The Planning advice Note lists other planning considerations to be weighed and balanced when making balanced judgements on the merits of a particular case or the potential loss of economic development land. These include:

- *The views expressed by all other interested parties during the public consultation process including those of local enterprise and business representatives;*
- *Accessibility to the regional transportation network and a variety of transport modes;*
- *The potential to regenerate existing urban areas through economic development or as part of a mixed use development;*
- *Accessibility to every member of the community, especially those in socially disadvantaged areas;*
- *Why a site is no longer required or considered suitable for continued economic development use;*
- *Evidence of the availability (or not) of alternative sites for economic development use (or the proposed alternative use) in the locality;*
- *Compatibility with neighbouring land uses;*
- *The views of relevant statutory and non-statutory consultees; and*
- *The availability of adequate services and infrastructure such as water and sewerage.*

88. It is further highlighted that:

*planning officers should also consider the regional and strategic framework provisions of the RDS 2035 such as RG1 'Ensure adequate supply of land to facilitate sustainable economic growth'. The above list is not exhaustive. All applications for economic development must also be assessed against other*

*general planning criteria relating to matters such as access arrangements, design, environmental and amenity impacts.*

89. The advice note further indicates that:

*planning officers also have regard to published supplementary planning guidance as well as any other material considerations which are relevant to the particular case.*

90. The Department identify in the note that:

*the flexibility allowed under current planning policy relates only to firm proposals for acceptable alternative uses which outweigh the preferred option of retaining land zoned for economic development use in a local development plan, and unzoned land that is currently used (or was last used) for economic development purposes.*

### **Quality Residential Environments**

91. PPS 7 – Quality Residential Environments sets out the Department's planning policies for achieving quality in new residential development and advises on the treatment of this issue in development plans. It embodies the Government's commitment to sustainable development and the Quality Initiative.

92. Policy QD 1 Quality in New Residential Development states that:

*Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.*

*In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.*

93. Within Policy QD 1 all proposals for residential development will be expected to conform to all of the following criteria:

- (a) *the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;*
- (b) *features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*

- (c) *adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;*
- (d) *adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;*
- (e) *a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;*
- (f) *adequate and appropriate provision is made for parking;*
- (g) *the design of the development draws upon the best local traditions of form, materials and detailing;*
- (h) *the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and*
- (i) *the development is designed to deter crime and promote personal safety.*

*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.*

94. Policy QD2 requires Design Concept Statements, Concept Master Plans and Comprehensive Planning. It states that:

*The Department will require the submission of a Design Concept Statement, or where appropriate a Concept Master Plan, to accompany all planning applications for residential development.*

*A Concept Master Plan will be required for planning applications involving:*

- (a) 300 dwellings or more; or*
- (b) the development, in part or full, of sites of 15 hectares or more zoned for housing in development plans; or*
- (c) housing development on any other site of 15 hectares or more.*

*In the case of proposals for the partial development of a site zoned for housing the Concept Master Plan will be expected to demonstrate how the comprehensive planning of the entire zoned area is to be undertaken. Any proposal for housing that would result in unsatisfactory piecemeal development will not be permitted, even on land identified for residential use in a development plan.*

## Creating Places

95. Creating Places – Achieving Quality in Residential Developments’ (May 2000) is the principal guide for developers in the design of all new housing areas. 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.

## Open Space, Sport and Outdoor Recreation

96. PPS 8 – Open Space, Sport and Outdoor Recreation sets out the Department’s planning policies for the protection of open space, in association with residential development and the use of land for sport and outdoor recreation, and advises on the treatment of these issues in development plans.

97. The Council will only permit proposals for new residential development of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development. In smaller residential schemes the need to provide public open space will be considered on its individual merits.

98. An exception to the requirement of providing public open space will be permitted in the case of apartment developments or specialised housing where a reasonable level of private communal open space is being provided. An exception will also be considered in cases where residential development is designed to integrate with and make use of adjoining public open space.

99. Where the provision of public open space is required under this policy, the precise amount, location, type and design of such provision will be negotiated with applicants taking account of the specific characteristics of the development, the site and its context and having regard to the following

- (i) *A normal expectation will be at least 10% of the total site area;*
- (ii) *(ii) For residential development of 300 units or more, or for development sites of 15 hectares or more, a normal expectation will be around 15% of the total site area; and*
- (iii) *Provision at a rate less than 10% of the total site area may be acceptable where the residential development:*
  - *Is located within a town or city centre; or is close to and would benefit from ease of access to areas of existing public open space; or*



- *Provides accommodation for special groups, such as the elderly or people with disabilities; or*
  - *Incorporates the 'Home Zone' concept.*
100. For residential development of 100 units or more, or for development sites of 5 hectares or more, an equipped children's play area will be required as an integral part of the development.
101. The Council will consider an exception to this requirement where an equipped children's play area exists within reasonable walking distance (generally around 400 metres) of the majority of the units within the development scheme.
102. Public open space required by this policy will be expected to conform to all the following criteria
- *It is designed in a comprehensive and linked way as an integral part of the development;*
  - *It is of demonstrable recreational or amenity value;*
  - *It is designed, wherever possible, to be multi-functional;*
  - *It provides easy and safe access for the residents of the dwellings that it is designed to serve;*
  - *Its design, location and appearance takes into account the amenity of nearby residents and the needs of people with disabilities; and*
  - *It retains important landscape and heritage features and incorporates and protects these in an appropriate fashion.*
103. Planning permission will not be granted until the developer has satisfied the Council that suitable arrangements will be put in place for the future management and maintenance in perpetuity of areas of public open space required under this policy.
104. Arrangements acceptable to the Council in line with the policy include:
- (a) *a legal agreement transferring ownership of and responsibility for the open space to the local district council; or*
  - (b) *a legal agreement transferring ownership of and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or*
  - (c) *a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements.*
105. In all cases developers will be responsible for the laying out and landscaping of public open space required under this policy.

## Natural Heritage

106. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.

107. Policy NH 1 – European and Ramsar Sites states:

*that Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:*

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

108. The policy also states that:

*Where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the planning authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.*

*In exceptional circumstances, a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where:*

- *there are no alternative solutions; and*
- *the proposed development is required for imperative reasons of overriding public interest; and*
- *compensatory measures are agreed and fully secured.*

109. Policy NH 2 – 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:-*

- *there are no alternative solutions; and*
- *it is required for imperative reasons of overriding public interest; and*
- *there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- *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.*

110. 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:*

- priority habitats;
- priority species;
- active peatland;
- ancient and long-established woodland;
- features of earth science conservation importance;
- features of the landscape which are of major importance for wild flora and fauna;
- rare or threatened native species;
- wetlands (includes river corridors); or
- other natural heritage features worthy of protection.

111. The policy also states that:

*a development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features 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, Movement and Parking**

112. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

113. Policy AMP 2 – 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) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

114. Policy AMP7 states that

*Development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards<sup>9</sup> or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.*

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

- *where, through a Transport Assessment, it forms part of a package of measures to promote alternative transport modes; or*
- *where the development is in a highly accessible location well served by public transport; or*
- *where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking; or*
- *where shared car parking is a viable option; or*
- *where the exercise of flexibility would assist in the conservation of the built or natural heritage, would aid rural regeneration, facilitate a better quality of development or the beneficial re-use of an existing building.*

115. The policy also states that

*Proposals involving car parking in excess of the Department's published standards or which exceed a reduction provided for in a development plan will only be permitted in exceptional circumstances.*

*In assessing car parking provision the Department will require that a proportion of the spaces to be provided are reserved for people with disabilities in accordance with best practice. Where a reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.*

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

Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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.*

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

116. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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.*

### **PPS 15 – Planning and Flood Risk**

117. Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains states that:

*Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

118. Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states that:

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

- *A residential development comprising of 10 or more dwelling units*
- *A development site in excess of 1 hectare*
- *A change of use involving new buildings and / or hard surfacing exceeding 1000 square metres in area.*

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

- *The proposed development is located in an area where there is evidence of a history of surface water flooding.*
- *Surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage.*

*Such development will be permitted where it is demonstrated through the Drainage Assessment 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.*

*Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer’s responsibility to assess the flood*

*risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.*

*Where the proposed development is also located within a fluvial or coastal plan, then Policy FLD 1 will take precedence.*

## Assessment

119. The following assessment is made within the context of the planning policy tests set out above.

### Planning and Economic Development

120. The application proposes a mixed use development and the land is developed in five sub-sections:

- Section 1 – light industrial units - 3.25 acres (1.32 hectares)
- Section 2 – 20 dwellings - 2.20 acres (0.89 hectares)
- Section 3 – 75 dwellings - 6.73 acres (2.72 hectares)
- Section 4 – petrol filling station and convenience stores and four retail units - 1.55 acres (0.63 hectares)
- Section 5 – 58 apartments - 2.42 acres (0.99 hectares)

121. Within the total site comprised of 6.55 hectares of land, 20.15% is given over to economic uses consistent with the definition specified in the preamble to PPS4, 70.23% is given over to residential use and 9.62% will be given to retail and sui generis retail use.

122. The land is zoned for employment use in draft BMAP. Significant weight is afforded to that zoning as it has been subject to consideration at public inquiry and carried through to the final draft stage and pending adoption.

123. The redevelopment of the site should be considered in light of the weight afforded to the zoning in regional policy terms.

124. Invest NI object to the loss of land either currently or last used for economic development to alternative uses. They comment more generally on the reasons for taking this position but do not identify this site as one of their priority locations for inward investment.

### *Retention of Zoned Land and Economic Development Uses*

125. With regards to PED 7 of PPS4, only 20% of the site is proposed site is for economic development use.

126. It is stated that the loss of existing zoned employment land I will not be permitted unless the zoned land has been 'substantially developed for alternative uses' which it has not been.

127. In addition PED 7 states that on zoned land that an exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that:

- the proposal is compatible with the predominant industrial use;
- it is of a scale, nature and form appropriate to the location;
- provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally.

128. Mixed use development is proposed but is not comprised of a sui generis employment use. This exception is not met and does not carry any determining weight in the decision making process.

129. Importantly it also stated that retailing or commercial leisure development will not be permitted except where justified as acceptable ancillary development. The need for retail development at this location is dealt with later in report.

130. The Agent has requested that a number of other material considerations be weighed in the assessment of this application including a view that flexibility should be afforded to the mixed use development of the site in accordance with a Planning Advice Note on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses.

### **Other Material Considerations**

131. As indicated above, Section 6(4) of the Planning Act (NI) 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.

132. In the supporting documentation provided with the application, the agent advances the following material considerations by way of a planning statement and associated addendum, a separate economic land assessment and the submission of a commercial in confidence viability assessment.

133. The PAN on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses (referred to subsequently as the PAN) states at paragraph 14 that only in exceptional circumstances will the loss of land zoned for economic development use in a local development plan to other uses be considered. Planning permission should therefore not normally be granted for proposals that would result in the loss of such land and buildings to other uses.

134. At paragraph 16 it is further confirmed in cases where planning applications involve a departure from the development plan zoning, for example from light

industrial to a mixed use development, planning officers should be fully satisfied that it has been clearly demonstrated how the special circumstances of a particular case outweigh the preferred option of retaining the land for economic development use.

135. The PAN describes nine matters against which development proposals should be assessed and the other material considerations offered by the applicant in support of this proposal are detailed under each heading.

Matter 1 - The views expressed by all other interested parties during the public consultation process including those of local enterprise and business representatives;

136. With regards to this element, the agent states that over the course of the last decade that the applicant has brought forward a number of proposals and sought feedback from the 'local residential and business communities' which they have used to inform this mix of proposals presented in the application.
137. The supporting planning statement highlights that the PACC undertaken quantified a 'high level of support' for the application and that there was a clear community interest in the site being developed.
138. The position adopted by the applicant in this regard is not accepted as, there is no persuasive evidence that the mix of use has significant and demonstrable support from all sections of the community.
139. There was a fairly even split for and against the proposal and those who were mainly in favour came from one residential neighbourhood adjacent to the site and concerned about unsightliness of the undeveloped land and the anti-social behaviour resulting from people using the vacant lands. This is not sufficient justification however to outweigh the loss of employment land.

Matter 2 - Accessibility to the regional transportation network and a variety of transport mode:

140. The supporting statement confirms that the site is an accessible location and is well served by a number of modes of transport which connect the site with the surrounding area and Belfast City Centre including roads, bus service and cycle paths.
141. The statement contends however that this site does not have accessibility to the regional transport network such as motorway, rail, airports and seaports.
142. The supporting statement quotes the Employment Land Review carried out in October 2019 for the emerging Local Development Plan which marks the site 3 out of 5 and is silent with regards connectivity to the wider region.
143. The statement explains that whilst the site is not necessarily well connected to the regional transport network which is a key driver in the current demand



for employment/industrial space and is therefore more suitable for small businesses opportunities, consistent with the profile in the immediate area.

144. The site is adjacent to the main traffic route connecting Belfast to Newtownards and well served by public transport. It may not be suitable for all types of employment as the journey times to the regional network are longer. No compelling evidence is provided however to indicate that the land is not well served by a variety of transport modes and that access to the regional transport infrastructure cannot be achieved.

Matter 3 - The potential to regenerate existing urban areas through economic development or as part of a mixed use development:

145. The supporting statement claims that the site has been marketed without meaningful expression of interest as employment space for over 16 years.
146. It references a BTW Shiells report from March 2010 which provides an assessment of land supply and industrial space demand in relation to the application site and its location. The report confirms there was no demand for the site and sufficient employment space was available on other sites within the area to satisfy any likely future demand.
147. The report also included marketing activities by commercial agents Colliers CRE and Campbell Cairns between September 2004 to March 2010 detailing the lack of interest received since the site was occupied.
148. The supporting statement emphasises that the BTW Shiells report was the report accepted by the Department in granting approval in 2013 for a retail led development. It was only when the anchor tenant pulled out, the scheme became unviable. They state that the market demand and supply for industrial land remains unchanged.
149. The mix of uses accepted by the Department at that time t was around 50:50 to employment use. This was acknowledged to be contrary to policy but very finely balanced o the significant level of job creation.
150. The planning history for Y/2010/0087/O predates the SPPS and the Planning Advice Note for PED 7 therefore must be consisted against prevailing planning policy.
151. The supporting statement advises that 30% of the land will be developed for economic development uses and the balance for housing. The 30% encompasses the retail and sui generis retail uses and this accounts for 10% of the 30% proposed employment use.
152. Whilst the retail component offers access to jobs it is not considered to be an employment use and to offer employment opportunity consistent with the requirements of the SPPS and PPS 4. It is considered that only 20% of this site is proposed for an economic development use.

153. It is stated that a total of 185 jobs are created as a consequence of the mixed use development and with a £25 million of investment.
154. A phased approach is offered within the supporting statement to help with the regeneration of the site in terms of:
- Phase 1 – construction of the petrol filling station, convenience store and two retail units, the internal road and hardstanding for the employment units are constructed prior to the 51<sup>st</sup> house and that Phase 1 (6) of the employment units are constructed to industrial operation standard within that timescale.
  - Phase 2 – completion of the remaining 2 hot food outlets, prior to occupation of 101<sup>st</sup> residential unit the remaining 9 employment units will be constructed to industrial operation standard.
  - Phase 3 – prior to occupation of 153<sup>rd</sup> residential unit the remaining 13 employment units will be constructed to industrial operation standard.
155. Whilst a significant capital investment is proposed this is mainly in new housing and the emphasis in the PAN is that the regeneration should be through economic development use.
156. In a letter from CBRE which produced two development appraisals one, for and all B2/B4 employment scheme comprised of 250,000 square feet of floor space the scheme produced a loss of £25m based on a 5 year development timeframe.
157. An all employment use scenario is presented that is not viable and would not attract bank finance.
158. It is accepted for the purpose of the assessment of this application that an employment only scheme is unlikely to regenerate the site or the wider area consistent with the guidance in the PAN.
159. The mixed use scheme as submitted is appraised at returning a profit of £4.2 million equating to a 12% return on investment. This incorporates a £4 million loss on the development of the employment uses. The retail component is largely cost neutral.
160. The return on the mixed use scheme is described as a marginal against bank lending which would expect to see returns of between 15-20% to reflect developer risk.
161. Whilst the capacity of the developer to fund a scheme is a material consideration it does outweigh the fact there are not sufficient economic development uses proposed in this scheme to say that it will assist in the regeneration of this part of Dundonald.

162. The majority of the jobs are created in the retail development. The proposed scheme is of limited contribution to the local economy and this position is supported by the economic development unit of the Council.
163. Whilst the applicant advises that this scale of housing is required for bank funding only one scheme was presented to the Council in pre-application discussions and a range of options with more economic development uses were not presented and/or discounted as part of this application process.

Matter 4 - Accessibility to every member of the community, especially those in socially disadvantaged areas;

164. The application is locally accessible by a range of modes of transport. The supporting statement acknowledges that the proposal provides opportunity for low skilled workers to gain employment in particular in the local neighbourhood centre comprised of the petrol filling station and retail units.
165. The supporting statement says that the applicant has offered to enter into Local Employment Partnership with local community groups to provide information on local job opportunities, assistance with CV writing and interview skills.
166. There is too much emphasis on providing support to social disadvantaged communities having access to employment in the neighbourhood centre when the emphasis of the PAN is providing access to employment through economic development uses.

Matter 5 - Why a site is no longer required or considered suitable for continued economic development use;

167. The supporting statement confirms that the site was last used in 2004 and since then has lay vacant and unused. The buildings have been demolished.
168. The applicant highlights an employment land assessment carried out on behalf of the Council and used to inform the emerging Local Development Plan. The report indicates there are 212 hectares of employment land yet to be developed, and that on average 2.99 hectares of employment land is being developed each year and there is an estimated 71 year supply of land within the Council Area.
169. The supporting statement confirms that due to a number of factors, the nature of the demand for industrial space has seen a significant shift moving away from the historic arrangement of large footprint buildings with single operators to smaller units with industrial or enterprise centres occupied by multiple operators.
170. The statement then refers back to the marketing exercises carried out which failed to attract meaningful interest from industrial or economic operators.

171. It explains that CBRE has acknowledged the flexibility of the proposed design noting that the units could be combined into larger units however acknowledging that there is still a low level of uptake in such accommodation.
172. The supporting statement explains that the planning applicant reached out but that no agreement could be reached with Inspire Business Park for a partnership working arrangement.
173. The supporting statement concludes - *'notwithstanding the outcome of the discussion with Inspire', it is our opinion that the cost of construction significantly outweighs the market value of any new build economic/industrial floor space and as such financial viability cannot be reached by any part or potential developer'*.
174. The PAN is clear that the loss of existing land is should be an exception rather than the norm. The local development plan process is the mechanism for establishing whether a site remains suitable for employment use.
175. The employment land review offers direction but is not something that should be afforded significant weight in this case where the specific characteristics of the site, its compatibility with neighbouring employment uses and location on a main transport route all indicate that it should be retained for that purpose.

Matter 6 - Evidence of the availability (or not) of alternative sites for economic development use (or the proposed alternative use) in the locality;

176. The agent submitted an Employment Land Assessment in support of the application which seeks to demonstrate that the granting of permission for a mixed use development proposal will not prejudice the supply of employment land within the Council Area.
177. The supporting statement points to the prime locations in the Greater Belfast Area being the Harbour Estate, Mallusk and Blaris/Knockmore and states that the trend is unlikely to change as the focus remains on regional accessibility.
178. The supporting statement alludes to the level of attractiveness of the site being restricted to local businesses who operate from East Belfast and Dundonald serving dominantly a local market.
179. It is also notes that this is only portion of a wider zoning which will not prejudice the delivery of industrial development on the undeveloped land further to the north.
180. The review does not engage with the fact that this is a brownfield site and sequentially preferable in terms of the RDS to the green field land that is

without existing services or infrastructure. It is of limited weight in justifying the mix of uses proposed.

Matter 7 - Compatibility with neighbouring land uses:

181. The supporting statement claims the site is bounded on three sides by roads, it states that the layout has been considered to provide uses the most appropriate locations and that the location of the economic uses have been located in order to relate to the existing industrial uses.
182. Reference is made to boundary treatments ensuring adequate screening and mitigation measures supported by the Noise Impact Assessment. This is dealt with later in the report.

Matter 8 - The views of relevant statutory and non-statutory consultees:

183. The view of the relevant statutory and non-statutory consultees are taken account of and dealt with throughout the report.

Matter 9 - The availability of adequate services and infrastructure such as water and sewerage.

184. The supporting statement confirms that the site was previously development and is in Dundonald urban area. Whilst there is a regional capacity issue in terms of drainage and sewage infrastructure, a solution has been found and agree with NI Water.

Employment Land Assessment

185. An Employment Land Assessment (ELA) is submitted with the application which notes that the site is not specifically mentioned within the key locations for economic growth within the Spatial Framework Guidance policy 1 (SFG1) of the RDS.
186. It also notes at paragraph 2.10 that one of the exceptions for PED 7 is for mixed use regeneration initiatives which contain a *significant* element of economic development use and may also include residential or community use, and which bring *substantial community benefits* that outweigh the loss of land for economic development use.
187. In relation to this point, it is not considered that 20% (or indeed including the sui generis retail element up to 30%) is significant economic development within the context of the site and indeed that 70% housing is demonstrated to bring substantial community benefits.
188. The ELA states that there is 212.12 hectares of employment land yet to be developed across the council area and taking account of the Blaris and Comber Road developments which have been approved as mixed use schemes on zoned land.

189. The ELA states that approval of this scheme still provides for a 69 year supply at the recent rates of land build and uptake so would not harm or prejudice the level of available lands within the Council area.
190. From a demand and market interest review, the ELA states that Dundonald is at the lowest demand in the hierarchy of locations for employment land/business space. It compares the businesses in close proximity at Ballyoran Business Park, Dundonald Industrial Estate, Carrowreagh Business Park and Inspire Business Centre and based on its analysis the location typically attracts businesses and services that are primarily serving a local need. Industrial rents range from £2.75 - £3.50 per square foot larger industrial demand tends to be located with better regional transport links, Belfast and Lisburn.
191. The ELA states that the site has a prominent location fronting the Upper Newtownards Road but can experience congestion in peak times. It acknowledges the history of the manufacturing sector and its decline and change in market and concludes that whilst the M1 is 10 miles away, this is at least 35 minute drive time off peak and unsuitable for new logistics manufacturers.
192. The 'substantial community benefits' which are cited by the development of the site are economic in terms of job creation and rates to the Council as detailed in the Economic Benefits section below.
193. It also states that a proportion of the residential units will be over 55's and essential local workers complemented by a range of public open spaces which the applicant is content to enter into a Section 76 agreement for. The ELA claims that the proposal complies with PED7 of PPS4.
194. In consideration of the above, one of the key findings in the Council's own Employment Land Review for the Local Development Plan was that opportunity exists to maximise the strategic location of Lisburn on the Dublin economic corridor and East/West transport corridor, and improve connectivity throughout the Council area to enhance the movement of people, goods and services, and linkages between towns and rural areas.
195. Whilst this site was not ranked in the top 6 good employment zonings, it was as an average score of 27 from a matrix that assessed 20 out of 30 zoned sites across the plan area. The scoring takes into account access, site context, environment and market strength.
196. The employment land assessment is of limited weight in justifying the loss of employment land on the scale envisaged for the reasons set out in the preceding paragraphs.
197. There is a presumption against the loss of employment land and the local development plan process is the mechanism for dealing with this.

198. As previously stated the assessment does not engage with the fact that this is a brownfield site and sequentially preferable in terms of the RDS to the green field land that is without existing services or infrastructure.

199. It is of limited weight in justifying the mix of uses proposed. The specific characteristics of the site, its compatibility with neighbouring employment uses and location on a main transport route all indicate that more of the site should be retained for that purpose.

### Economic Benefits

200. An Economic Impact Statement was submitted with the application set out the potential economic benefits of the proposed development.

201. It advises that the proposed development would have positive economic benefits in the construction and operational phases. They estimate during the construction phase the proposal will generate:

- £25m investment in construction;
- 50 Full Time Equivalent (FTE) temporary jobs during 3.5 years construction;
- 40 FTE direct jobs created in Northern Ireland of which 15 could be local to the LCCC area;
- 20 FTE indirect and/or induced jobs generated within the supply chain and from onward employee expenditure within Northern Ireland of which 5 could be local to the LCCC area;
- Additional £19.6m uplift in productivity within Northern Ireland inclusive of £16.1m generated locally within the LCCC area.

202. The benefits post implementation of the development are estimated to be:

- Additional 385 people, of which 200 could be in employment;
- These residents would expect to earn £5.1m per annum a significant portion which could be spend in local businesses;
- Household expenditure on convenience and comparison retail goods of £2.6m per annum and £1.4m of leisure goods and services per annum, supporting and maintaining 50 retail and leisure jobs
- Additional on-off expenditure of £760,000 as new residents make their house 'feel like home';
- £200,000 on domestic rates.
- Providing 100 direct FTE jobs within the neighbourhood centre and light industrial units;
- 85 direct FTE jobs within the NI economy of which 35 could be local to LCCC;
- Further 40 FTE jobs generated and supported via indirect and induced effects, including contracts within the supply chain, salaries and onward expenditure across NI, of which up to 10 FTE would be local to LCCC;

- £8.4m net additional annual contribution to economic productivity within NI economy once fully operational, of which £6.4m could be local to LCCC; and
- £130,000 per annum in non domestic rates to LCCC.

203. By way of comparison to the approved application Y/2010/0087/O for Sainsburys. An Economic Impact Study undertaken by Oxford Economics outlining the economic benefits of the proposed development with a 50:50 split which are summarised below:

- It is estimated that the project would create a net employment benefit of 492 direct additional jobs resulting in additional wages of £8.7m, 224 indirect jobs worth £4.9m in wages and 139 induced jobs worth £2m in wages. The total of 855 jobs and £15.55m in wages are on the basis that the industrial and storage units are fully utilised;
- The Sainsbury's element alone would generate a net employment benefit of 328 (67%) direct additional jobs resulting in additional wages of £5.32m (61%), 138 (62%) indirect jobs worth £3.1m (63%) in wages and 86 (62%) induced jobs worth £1.23m (61%) in wages. The percentages of the benefits of the entire project are given in brackets.
- The 552 jobs and £9.65m in wages equated to approximately two thirds of the total potential benefits of the project;
- It was estimated that the project will generate 210 direct construction job years of employment and a further 200 indirect or induced construction job years was worth a total of £7.7 million in wages;
- The total employment created could produce a further £3.15m in tax receipts per annum during the construction phase and ongoing tax benefits of £6.22 per annum with an associated saving of £2.19m on welfare benefits during construction and £4.6 per annum ongoing thereafter plus more income in commercial rates.

204. The Councils Economic Development Unit were consulted in respect of the economic benefits statement submitted and acknowledge that the scale of jobs proposed for such a site must be a key consideration.

205. It concludes that the scale of the new jobs proposed for the site is limited by the inclusion of proposed residential element, and is not reflective of the potential of the site to deliver more employment options were it to be exclusively zoned for employment use consistent with the policy direction in PPS4.

206. Whilst the guidance in the PAN does give some comfort to the applicant particularly were the development appraisal provides a stark analysis of the losses that we be accrued from an employment led scheme there is insufficient justification for the quantum of housing proposed when balanced against the exception test.

207. Once built the opportunity for employment use to be created in the future is lost and there are other factors in terms of the layout and design of the scheme to weigh on its impact on the zoning.



208. The proposed scheme tucks the industrial development into the rear without any visibility to the main transport link. This is the front door to the main employment area in Dundonald and this is not considered or allowed for in the overall layout for the scheme.
209. The hours of operation of the business units are limited to daytime hours placing a restriction on the type of employment that might be attracted to this location. The EHO response indicated that any element of B4 use be kept away from the proposed residential units for amenity reasons.
210. In addition you would expect there to be a functional relationship between the existing adjacent business park and the proposed new business park given they are of a similar use and character. Breaking the link between compatible and similar land uses diminishes the overall quality of the zoning as the main area for economic development use in Dundonald.
211. It is considered that the retailing element is not an appropriate alternative use for the reasons stated above in that it is cost neutral and only provides some low skilled jobs.
212. In addition this is explored further below in town centre uses in that there is already adequate provision in the local area. In terms of the housing, it is considered that this should not have primacy over the proposed employment which accounts is only provided for on 20% of the total site.
213. Paragraph 23 of the PAN iterates that the flexibility allowed under current planning policy only relates to form proposals for acceptable alternative uses which outweigh the preferred option of retaining the land zoned for economic development.
214. As stated the retail development does not provide an acceptable alternative use and does not contribute to enabling the development of the economic development uses in financial terms or the economic development use led regeneration of the site and the surrounding area.

#### *Economic Development in Settlements*

215. In terms of PED 1 and insofar as the proposal relates to B2 and B4 uses these are submitted in accordance with PED 1 as they are permitted in an area specifically zoned for economic use and are considered of a scale, nature and form appropriate to the location.
216. The proposed industrial style units suitable for small and medium enterprise. A mix of units is not proposed but the buildings could be redesigned (subject to planning) if a larger footprint was required for a proposed purchaser or tenant.

#### *Development incompatible with Economic Development Uses*

217. Turning to PED 8 regarding development incompatible with Economic Development Uses. Whilst there is a mixture of development proposed, consultation has been undertaken with Environmental Health with regards to the potential for noise, nuisance and disturbance and human health.
218. A remediation strategy report was submitted requiring ground works to be undertaken with regards ground contamination given the former use on site. A Generic Quantitative Risk Assessment was also carried out, both of which were commented on by NIEA and Environmental Health who had no objections subject to conditions.
219. An Air Quality Impact Assessment Report was also submitted to demonstrate the assessment of any impact of the proposed development on sensitive air quality receptors during construction and operational phases of the proposal.
220. NIEA and Environmental Health were consulted and had no objections subject to the hours of operation being daytime only in the business units and the mitigation measures proposed. The dwellings and apartments fronting the Upper Newtownards Road are to have a glazing Rtra 35 dB (road traffic noise reduction).
221. The NIA states that the building structure, together with the proposed glazing and alternative ventilation to the habitable rooms of the proposed residential development will ensure that internal noise levels will not exceed 30 dB in bedrooms or 35 dB in living area accordance with WHO design criteria and BS 8233.
222. Whilst there is concern that the proximity of the dwellings to the proposed business park will restrict the nature of the businesses by virtue of conditions restricting hours of operation and use (B4), the statutory consultees remain content and it is not considered that the mixed uses are necessarily incompatible in their entirety, moreover that the overdevelopment of the site packing the development so closely could have a restrictive nature on the business unit uptake. The NIA has not included for instance noise from fork lifts as its 'not foreseen' that they will be needed.
223. This further demonstrates the restrictive nature that is being placed on the units which were supposed to be designed as flexible and capable of being made larger to adapt to differing business needs. To this end the overdevelopment of the site is almost designed to fail in terms of the business park.
224. For this reason, it is considered that the proposal is also contrary to policy PED 8 in that the proposed development, as designed is incompatible with economic development uses.

### *General Criteria for Economic Development*

225. As described above under PED 8, it is considered that the proposed development, as designed is incompatible with economic development uses.
226. The proposal as designed does not harm the amenity of nearby residents providing the mitigation proposed is implemented and conditions are adhered to. It is however restrictive on the business element proposed which could limit the potential occupants of the units. More specifically EGHO have recommended that B&S not be located within the units adjacent to dwellings for amenity reasons.
227. The proposal does not adversely affect any features of natural heritage and there are no built heritage features to be affected. See below sections.
228. The site is not located within an area of flood risk and the drainage assessments have demonstrated that there is no adverse impact. This is further detailed under the drainage section below.
229. The site, as designed does not create a noise nuisance. The largest noise source is the existing Upper Newtownards Road. Mitigation as proposed ensures no noise nuisance is created.
230. As below, DFI Roads have been consulted and are content with the proposed vehicular traffic. This is detailed under the PPS3 section.
231. As detailed under the relevant section below, adequate arrangements are made for access arrangements, parking and manoeuvring areas.
232. 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.
233. The site layout, insofar as it related to the business units, is designed of a high quality.
234. Adequate boundary treatments of timber close boarded and acoustic fencing is proposed alongside landscaping. The proposal is screened from public view largely by the development to the front.
235. The proposal is designed in an orderly fashion with a number of units facing the same direction for surveillance.
236. With the exception of the compatibility issue highlighted under PED 8 and PED 9 Criteria (a), the proposal is in accordance with the balance of PED 9 general criteria.

## Town Centre Use and Retailing

237. The sui generis retailing element of the petrol station, associated convenience store and neighbourhood facilities consisting of two hot food bars and two retail units, these are seen as town centre uses and the SPPS directs development to the town centres in the first instance.
238. The total neighbourhood centre is 964.8 square metres external gross floorspace (without the canopy over the petrol pumps) with 51 dedicated parking spaces. The centre sits in the south eastern corner of the site adjacent to the Upper Newtownards and Carrowreagh Road, with access from Carrowreagh Road.
239. The site is located outside of Dundonald Local Centre but within the settlement limits for Dundonald in an area zoned for employment use. The overall development which excludes the petrol pumps and canopy just falls under the threshold for retail impact assessment.
240. The SPPS directs such development to town centres first and states that all proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment.
241. A Sequential Assessment is provided in support of the proposal and states that the neighbourhood centre is primarily intended to provide a locally accessible offer for the residents living in the development proposal and the adjacent area.
242. The catchment area is based on a 10 minute walk time (equating to 0.6 mile radius) around the site and for robustness included Dundonald Local Centre as well.
243. The reason for using a 10 minute walking distance is not adequately explained and the proposal is for a petrol retailing led scheme that is predominantly car oriented and would draw from a much wider catchment.
244. Paragraph 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.
245. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused.
246. In this case the Sequential Assessment provided in support of the proposal the following site are identified and discounted:
- Sites 1 - Lands at the former Moat Inn 933 Upper Newtownards Road (0.4ha) – this is also outside of the local centre. The Sequential Assessments discounts this site on availability and suitability as it is constrained by the Enlar River.

- Site 2 – Gap site at junction of Ballyregan Road/Upper Newtownards Road 0.1ha. This site was discounted as too constrained in size and already in use as parking for neighbouring retail and services.
  - Site 3 – 9-17 Church Road (0.2ha). The assessment discounts this site as being constrained by the size and the surrounding uses. It says it's highly unlikely to be able to accommodate any meaningful development whilst achieving the necessary servicing arrangements.
  - Site 4 – Cleared site adjacent to Asda Entrance (0.1ha) – This site is discounted for being restricted in size and unlikely to be able to accommodate any meaningful development whilst achieving the necessary servicing arrangements.
  - Site 5 – 1937 Upper Newtownards Road at the junction with Robbs Road (0.1ha) – This site is discounted as restricted in size and unlikely to be able to accommodate any meaningful development whilst achieving the necessary servicing arrangements.
247. The overall conclusion of the Sequential Assessment states that there are no suitable, available sites within a policy protected centre or in a more sequentially preferable location which could accommodate the proposal. It states that the proposal will serve a defined catchment area which does not currently benefit from a locally accessible neighbourhood centre.
248. The assessment does not also examine the need for the neighbourhood centre and in consideration of the submission, it is thought that a development of this nature would attract more than those within a 0.6 mile (1km) radius given the form and scale of the retail development proposed.
249. The local area is already well served by existing retail facilities. There is a hot food takeaway and a hair salon located 0.2km from the site off the Brooklands Road (outside of Local Centre boundary), Lidl is within 0.8km of the site along Upper Newtownards Road (inside Local Centre boundary), and Maxol Service Station with accompanying neighbourhood centre including Eurospar, hot food take aways, café and off license are 0.9km away along the Upper Newtownards Road (inside Local centre boundary). It is therefore considered that the locality is already well served within just the 10 minute walking catchment alone.
250. Millmount Village Centre has also been recently approved for local facilities to serve the surrounding housing under LA05/2021/0170/F - Mixed use development to include: a retail building comprising a supermarket and 2 no. retail units, a village hall and a wellness centre, This is located approximately 0.7km to the south east. This is also located outside of the Local Centre boundary but formed part of the concept masterplan for Millmount.
251. There is a general presumption against 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 where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment.

252. In addition the SPPS at Paragraph 6.271 encourages that decisions are informed by robust and up to date evidence in relation to need and capacity. There is no substantive evidence provided to justify this proposal other than an operator is willing to rent the space. The impact of this proposal on other existing town centre uses is not properly evidence and not in accordance with paragraph 6.280 of the SPPS.

### **Quality Residential Environments**

253. Policy QD1 Quality in New Residential Environments states that planning permission will only be granted for new residential development where it is demonstrated it will create a quality and sustainable residential environment.
254. Policy QD1 directs that the design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

### Impact on the Character of Area

255. The proposed site is located on land that is within the settlement limit of Castlereagh and zoned for employment in draft BMAP. The principle of the development of the land is dealt with in the previous section of this report and this part of the assessment is confined only to the proposed housing layout.
256. The proposal is for 153 residential units in total consisting of 95 dwellings in a mixture of detached and semi-detached and 58 apartments. The only other residential development in close proximity is the eastern side of Carrowreagh Road which consists of Millreagh Drive which is comprised of two-storey detached dwellings and semi-detached along Carrowreagh Road.
257. There is a single three storey new apartment block across the carriageway at Old Mill Heights.. This site would not be considered as an established residential area given its previous industrial use and that fact it is on a main transport in a settlement with a population of more than 5000.
258. The context of this industrial site will be changed as the housing is mainly propose to the front of the site and adjacent to the Upper Newtownards Road and Carrowreagh Road.
259. Boundary treatments are mostly hard with the use of retaining walls and acoustic fencing used throughout. There are some tree belts along the southern boundary to be retained with some further interspersed planting dividing the discrete pockets between sites mainly the business units and the neighbourhood centre.

260. A density of 13.3 dwellings per hectare is proposed which is not dissimilar when compared to Millreagh or the residential areas on the opposite side of the Upper Newtownards Road.
261. The plot sizes and general layout and arrangement of the proposed apartment buildings, particularly Block B appears out of character to the area. These would be highly visible on approach from the west along the Upper Newtownards Road and do not really complement the remainder of the housing.

#### Layout/Design/Material and Impact on Residential Amenity

262. There are number of different house types and apartment types proposed and a sample description of some of the dwellings are outlined below.
263. The apartments are in three large blocks in the south western corner of the development. These are to present a frontage of sorts to the Upper Newtownards Road. There is a mix of one and two bed and the Design and Access statement indicated that these are aimed at the over 55's and key workers from the Ulster Hospital.
264. There are two apartment blocks which are 12 metres in height and have a red facing brick finish with buff stone surround finishes and a flat grey concrete roof tiled pitched roof.
265. To the front of the first two blocks is a third which is 14 metres in height with primarily red facing brick finish and buff coloured stone surrounds, Juliette balconies up to four floors in height and flat concrete grey roof tile finish on pitched roof structures.
266. The scale and massing of the third apartment block feels somewhat alien to the scheme and the wider character of the area being the highest building. There are no other four storey buildings in the area and sat adjacent to two storey houses these appear out of character and over dominant in the scheme.
267. There are a series of habitable room windows spanning the four floors of bedroom, living room and kitchen windows on the eastern elevation of Apartment Block B at a distance of 17 metres to the private rear amenity space of site 68. This will cause an unacceptable level of overlooking to this amenity area.
268. House types are a mix of contemporary brick and render finished dwellings with similar themed architectural features.
269. Parts of the layout are poorly laid out and the site constraints are not properly considered in the design of the scheme that which indicate the proposal will not create a quality residential environment. The central

element at section 3 of the proposal has too many units with several of the dwellings having rear amenity spaces less than 10 metres separation to the boundary and inconsistent with guidance that requires a 20 metre back to back separation.

270. For example sites 31-41 have 17.5 metre back to back with upper floor bedroom windows and site 31 having an 8 metre rear garden depth. This would be below standards and would lead to unacceptable overlooking. Sites 3-34 also have rear garden depths of 7.5 to 8 metres which are too short. The rear amenity for site 19 measures just 7 metres in depth with upper floor bedroom windows and 17 metre back to back relationship. Similarly sites 17-19 have a 17 metre back to back separation and sites 2-3 have less again at around 15.5 metre back to back separation. These shorter distances, even if they did not look directly into opposing windows have upper floor bedroom windows that would overlook the private amenity area of the opposing dwellings.

271. The amenity spaces for sites 1, 20, 31, 35, 38 and 59 are poorly designed and laid out..

272. Comments from EHO have confirmed that the application includes B4 business units which are for storage or as a distribution and these units operation of these units may impact on the amenity for example from the use of fork lift trucks..

273. More consideration should have been given to an enhanced separation distance between the two uses to assist in the creation of a quality residential environment.

274. EHO also comment that the noise levels associated with the air and water system shall not exceed an LAeq(5mins) of 72dB at 1m and that prior to occupation of the residential units, a window system (glazing and frame) capable of providing a sound reduction index, when the windows are closed, of at least 35dB(A) RTRA (or  $R_w + C_{tr}$ ), shall be installed to the dwellings and apartments along the Upper Newtownards Road, and 33dB(A) RW to all other dwellings and apartments. The level of mitigation required is further indication that more consideration should have been given to how the uses might sit side by side.

#### Provision of Open Space / Landscaping

275. The level of private amenity space illustrated in the proposed is considered to be toward the minimum standard, particularly for 3 and 4 bed family homes.

276. The level of private amenity space varies from plot to plot throughout the development. It ranges from a minimum 43.1 square metres to the higher end of around 145 square metres. There is an average provision of 72.98 square metres



277. The apartments have some courtyards and areas around them which exceed the minimum requirements of 10m square per apartment which is at the minimum requirement
278. The landscaping plan provided demonstrates planting along the Newtownards Road and along Ballyoran Lane. There is also planting proposed around the pockets for the local neighbourhood centre and the business park with some further planting dotted throughout the site to help with softening the development.
279. A landscape Management Plan could be conditioned as part of any approval.
280. On balance it is considered that the proposal is contrary to PPS7 QD1 in that the site is overdeveloped and this is reflected in the building not being laid out to take proper account of the site constraints including the relationship to the proposed employment uses. The scheme does not create a quality residential environment.

### **Housing in Settlements**

281. Paragraph 6.133 of the SPPS states that good quality housing is a fundamental human need that plays a significant role in shaping our lives and our communities. A home is a vital part of people's lives and contributes to creating a safe, healthy and prosperous society. The planning system can play a positive and supporting role in the delivery of homes to meet the full range of housing needs of society, within the wider framework of sustainable development
282. Strategic Policy also advises that achieving balanced communities and strengthening community cohesion is one of the major themes underpinning the RDS and that the provision of good quality housing offering a variety of house types, sizes and tenures to meet different needs, and development that provides opportunities for the community to share in local employment, shopping, leisure and social facilities, is fundamental to the building of more balanced communities.
283. The Northern Ireland Housing Executive in a response received on February 2021 indicated that it could support up to 24 units for social renting. This is not a significant number of units with the overall scheme and does outweigh the expressed concerns that the scheme does not create a quality residential environment.

### **Open Space**

284. Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation sets out planning policies for the protection of open space, the provision of

new areas of open space in association with residential development and the use of land for sport and outdoor recreation.

285. Policy OS 2 – Public Open Space in New Residential Development states that planning authorities will only permit proposals for new residential developments of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development.
286. It advises that for residential development of more than 100 units or more, or for development sites of 5 hectares or more, an equipped children's play area will be required as an integral part of the development.
287. Detail submitted with this application demonstrates that areas of open space are provided in one central area. This area measures 0.26ha and has an indicated playground with four pieces of equipment the detail of which is not specified.
288. Whilst the central location of the open space is acceptable and surveillance, the amount falls below the 10% provision required.
289. Taking the site as a whole (which is the policy requirement) it measures 6.55 hectares and therefore you would expect a minimum open space provision of 0.655 hectares of usable open space.
290. Even taking a more conservative approach and the residential site is included this measures 4.6 hectares and therefore you would expect a minimum of 0.46 hectares of usable open space.
291. The proposal therefore fails PPS8 policy OS3 in that it does not have the required open space provision for a scheme of this scale. This also speaks to the point above that the residential part of the proposal is over developed and not a quality residential environment.

### **Access, Movement and Parking**

292. The site fronts onto the Upper Newtownards Road which is a protected route however, it has three separate accesses, none of which are onto the Upper Newtownards Road directly.
293. The Design and Access Statement confirms that the primary vehicular access is via the Carrowreagh Road and is proposed to serve the majority of the residential dwellings and the neighbourhood centre. There is a secondary access to the pocket of residential development referred to as site 2 also off the Carrowreagh Road.
294. A separate access is proposed from Ballyoran Lane and is intended to serve only the proposed light industrial units.

295. Secondary Shared surfaces are proposed off the main spine road in order to assist in creating a hierarchy of streets within the site.
296. Pedestrian access is proposed to be taken from the Upper Newtownards Road to provide direct access to the neighbourhood centre from the public road.
297. The site is located in close proximity to a number of Bus Stops which offer a range of services connecting the site with Belfast City Centre to the west and Newtownards to the east.
298. In terms of access, the Design and Access Statement confirms both junctions with Newtownards Road will be improved.
299. It confirms that the improvement to Ballyoran Lane will see the extension of the crossing lane within the central reservation along Upper Newtownards Road to facilitate vehicles moving into this lane without impeding any vehicles waiting to turn right from Upper Newtownards Road onto Ballyoran Lane. This alteration will assist in easing the right turn exit from Ballyoran Lane for larger vehicles.
300. The Carrowreagh Road improvement proposes the widening of the two lanes towards the junction with Upper Newtownards Road to facilitate a left turn filter lane which will significantly increase the capacity of the junction.
301. The Statement confirms that the main vehicular access is from the Carrowreagh Road, and the site access roads are located at least 15 metres from the existing roads and are designed in accordance with the technical requirements of DfI Roads.
302. Vehicular access to the neighbourhood centre is proposed to be located close to the site entrance in order to minimise cars travelling through the residential area.
303. In terms of servicing, the Design and Access Statement confirms the proposed roads within the development will be designed and built to an adoptable standard, facilitating access for refuse/recycling vehicles.
304. The neighbourhood centre has been designed with a servicing area to ensure all servicing for the units can be carried out within the site and that there are no restrictions to providing emergency access within the development.
305. In terms of pedestrian access, this is provided from the Upper Newtownards Road directly into to the neighbourhood centre. Footpaths and shared surfaces are proposed throughout the site thereby promoting the movement of pedestrians, whilst facilitating vehicular movement where required.
306. In terms of public transport the proposed development promotes and enhances the use of sustainable modes of transport. Users of the

development have access to public transport routes along the Upper Newtownards Road passing the southern boundary of the site, with bus stops located in close proximity to Ballyoran Lane and Carrowreagh Road.

307. The site is also within 800 metre of the Glider Dundonald terminus, where rapid regular buses provide a direct link to and through Belfast. In addition to the glider option, Ulsterbus services connect the site to Newtownards and beyond (for example Portaferry, Ballywalter, Millisle).
308. A Transport Assessment and Transport Assessment Form were submitted for consideration with the application. This concluded that the network has adequate capacity to accommodate the traffic generated by the proposed development as long as the improvements mentioned above were completed.
309. A road safety audit and a number of consultations with DfI Roads resulted in the junction improvements at Ballyoran Lane being removed. The Transport Assessment modelling in its current form concluded that the geometry is satisfactory after issues were raised that the suggested improvements would compromise the safety of the junction.
310. All the dwellings have two in curtilage parking spaces with a further 73 visitor parking spaces highlighted throughout the development.
311. The 58 apartments have 87 unassigned parking spaces, giving a rate of 1.5 spaces per apartment.
312. The business units have 121 assigned and unassigned parking spaces which provides the necessary standards.
313. The local neighbourhood centre includes 51 parking spaces and a further 12 spaces at the pumps. Within these spaces are 4 disabled spaces. There are three electric charging points and 10 cycle spaces.
314. After a number of consultations with DFI Roads, audit information and review by Amey consultants, DFI Roads final response offers no objection subject to conditions.
315. The application is considered to be compliant with all the requirements of policies AMP 2 and AMP 7 of PPS3.

### **Natural Heritage**

316. The site is not located in an area of sensitivity and was not submitted with any ecological information. From inspection there does not seem to be any indication of ecological importance on the site being inner urban and already having been developed. The only vegetation is along the boundaries much of which is to be retained.

317. A consultation with Natural Heritage was undertaken and referred only to standing advices.
318. A consultation with Shared Environmental services indicted the need for an HRA given the sites connection to Strangford Lough.
319. SES have completed an appropriate assessment in accordance with the regulations and having considered the nature, scale, timing, direction and location of the project, they advise that it would not have an adverse impact on the integrity of any European site either alone or in combination with other plans or projects.

### **Flooding and Drainage**

320. In relation to drainage, a drainage assessment and addendum were submitted with the application and a number of consultations undertaken with Rivers Agency.
321. In the final response DfI Rivers commented that there are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973. There is an undesignated watercourse at the north-west corner of the site. The site may be affected by undesignated watercourses of which they have no record.
322. DfI Rivers advised that in relation to policy FLD1 Development in Fluvial and Coastal Flood Plains – The Flood Maps (NI) indicates that western boundary of the development lies within the 1 in 100 year strategic flood plain. As there is a significant bank elevation at the area of the western boundary a Flood Risk Assessment is not required on this occasion.
323. In relation to FLD 2 Protection of Flood Defence and Drainage Infrastructure – There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973. There is an undesignated watercourse at the north-west corner of the site. The site may be affected by undesignated watercourses of which we have no record. Under 6.32 of the Revised Policy PPS 15 FLD 2, it is essential that an adjacent working strip is retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 meters, but up to 10 meters where considered necessary, and be provided with clear access and egress at all times.
324. DfI Rivers comment in relation to FLD 3 Development and Surface Water that, while not being responsible for the preparation of the Drainage Assessment, accepts its logic and has no reason to disagree with its conclusions.
325. The Drainage Assessment states that the drainage design is preliminary, therefore DfI Rivers requests that the Planning Authority includes a final drainage assessment by way of condition as part of its planning permission if granted.

326. Rivers Agency granted Schedule 6 discharge consent at brownfield rate of 990.8l/s to the undesignated section of the Carrowreagh Stream and confirmed that the Department are satisfied that your proposals will not render the watercourse less effective for drainage purposes.
327. There is no documented evidence of flooding in the area, however a large portion of the site is estimated to be in an area of surface water, however this will be eradicated with adequately proposed site storm drainage post development.
328. It is proposed to construct new storm sewers to serve the development. Using MicroDrainage modelling software, Marrac Design simulated the proposed storm sewer network and tested it to the requirements of Sewers for Adoption NI.
329. The Drainage Assessment stated that post development it is proposed to introduce landscaped amenity space into the overall development and increase the amount of landscaped areas in general. Therefore, post development run-off rates will reduce from existing. As such, no storm attenuation is proposed.
330. NI Water were also consulted extensively throughout the application process and were recommending refusal of the application. In January 2022 NI Water issued a Solution Engineer Report recommending high level storm off-setting options to allow the foul discharge from this proposal to connect to the existing public wastewater network. The Drainage Consultant carried out extensive on-site survey work and in discussions with NI Water has developed an acceptable solution which will enable NI Water to approve a foul connection.
331. NI Water confirmed that they were therefore content to amend its original response from a recommendation to refuse to a recommendation to approve with a negative condition that no properties shall be occupied until the approved wastewater network engineering solution to mitigate the downstream foul capacity issues has been delivered and operational.
332. Water Management Unit were consulted and raised the following issues that the additional sewage loading associated with the proposal has the potential to cause an environmental impact if transferred to Kinnegar waste water treatment works (WWTW).
333. Water Management Unit recommended that the Case Officer consult with Northern Ireland Water Limited (NIW) to determine if the WWTW and associated sewer network will be able to cope with the additional load or whether the existing WWTW or network would need to be upgraded.
334. WMU states that if NIW indicate that the WWTW and network is able to accept the additional load, with no adverse effect on the operation of the WWTW and network or its ability to comply with its consent to discharge,

then Water Management Unit would have no objection to this aspect of the proposal.

335. Furthermore WMU recommended a condition that the drainage for the Petrol Filling Station must be constructed in accordance with the agreed drainage plan.

336. As detailed above, NIW have subsequently confirmed that they are content.

### **Contaminated Land**

337. The Design and Access Statement advises that the site was previously used as an industrial factory site. A Generic Quantitative Risk assessment Report and Remedial Strategy Report were submitted with the application.

338. The Councils Environmental Health and NIEA Regulation Unit were consulted and commented that the GQRA is informed by two phases of site investigations and environmental monitoring from 2010 and 2017. The risk assessment identifies a hotspot of soil contamination which may also be impacting the shallow groundwater in a localised area of the site. An area of nickel impacted soil/made ground is also identified which could be a risk to human health receptors. A remedial strategy has been provided for the potential risks identified which includes provisions to remove the hotspot area, use clean cover soils for the nickel impacted soils and provides provisions for ground gas protection to the development.

339. Regulation Unit Land and Groundwater Team offer no objections to the development provided the remedial strategy provided by RPS is implemented fully and verified subject to conditions.

340. EHO final comments have been received and confirmed that they have no objection subject to conditions relating to foul connection with NIW, development to be in accordance with remedial strategy and necessary verification reports with clean cover system installed prior to occupation. They also require conditions regarding extraction and ventilation of the proposed hot food units and that the proposal be in accordance with the dust mitigation measured detailed within the AQIA. Further conditions for a piling risk assessment, pre demolition asbestos survey and an updated AQIA are also required.

### **Consideration of Representations**

341. 40 letters of objection were received. Consideration of the issues raised are set out below:

Only piece of zoned land left in Dundonald and is in the middle of 5 successful business parks, some of whom have waiting lists for premises.

342. This is noted and assessment of the consideration of the relevant reports is contained within the main body of the report. The success of the surrounding business parks is a material consideration.

There is no housing need in this area

343. There is no policy test specifically requiring a demonstration of housing need however it is noted within the report that Dundonald has a large supply of approved and pending housing applications which is a material planning consideration.

Objection to hot food bars and petrol filling station elements as there is a petrol station less than 1 mile down the road with all these facilities and numerous such stations across Ards

344. The sequential test has been assessed and it is noted that there are facilities already serving the local population within a 10 minute walking distance. It is also noted that Millmount Village centre is underway.

Increasing demand for electric cars so demand for petrol is falling

345. The argument that petrol stations may become obsolete as diesel is phased out and electric cars increase is noted.

Eye sore former petrol station across the road now a car wash

346. The surrounding context is noted.

Hot food bars less than 1 mile away cause noise and light pollution, increased litter and vermin, late opening and anti social behaviours, detrimental impact on human health with fast foods

347. The close by local neighbourhood centre already in existence is noted within the town centre uses section of the report. With regards detrimental impacts on human health, Environmental Health have been consulted and have no objections.

Units will negatively impact the area and profit the developer

348. As indicated within the recommendation, the economic benefits and other material considerations offered are not deemed in this instance to outweigh the protection afforded to the employment land zoning.

Will create traffic issues around Carrowreagh Road especially at peak times

349. Improvements are offered to the junction of Carrowreagh Road and the relevant analysis and modelling have been agreed with DFI Roads and an independent audit that the junction capacity will be acceptable.



Dundonald needs more jobs, not more houses

350. As rationalised within the report, the economic offering is now considered substantial enough to outweigh this key employment site.

Contrary to the RDS that seeks to protect employment land

351. The detail surrounding the RDS and protection of employment land is noted within the report which feeds down into local policy.

Rezones the land which should have been a job for the LDP process

352. The rezoning of land is a matter for the LDP process however there are opportunities for mixed use developments afforded in PED 7 by way of exception.

There are also a surplus of housing as well

353. It is noted within the report that there is a clear supply of housing in the area.

Will undermine and threaten the viability of the forthcoming Millmount Village Centre

354. The sequential assessment is detailed above and is based on the current offering in the area.

NIW recommend no more connections

355. This earlier view has been updated and a solution has been found which now offers no objections by NI Water.

Contrary to the RDS (5 key policies) which seeks to protect employment land

356. The hierarchy and protection afforded by the RDS is noted within the report.

Reports are paid for by the agent and have differing purposes

357. The reports and their contents are noted and interrogated accordingly.

Post covid warehouse requirement has not been quantified

358. The recommendation and application are based on the information as submitted however market changes post COVID and indeed Brexit are acknowledged.

Litchfield assessment was done by the Council and rated it at the top of the average rating.

359. The rating given is noted within the report.

Carrowreagh business park is fully occupied

360. The occupation/success of the adjacent Business Parks in the adjoining area is noted and a material consideration.

Suggest that this is a prime site, flat, uncontaminated and surrounded by successful business parks. Blame the owner who is a house builder as they paid a high price

361. This view is noted and the recommendation is reached on the merits of the submission, giving appropriate weight to material considerations.

Contrary to three area plans including BUAP, d BMAP and unlawful BMAP zonings

362. The relevant area plan zonings are noted above in the relevant section.

SPPS is a higher test under the transitional arrangements and does not include residential as an option. The 'flexibility; in approach only applies to unzoned lands in the SPPS

363. The policy requirements and nuances between policies is set out within the relevant section above.

No market interest is wrong, Sainsbury's nearly went here in 2014. Little evidence of what was marketed and how.

364. The marketing is noted and any limitations in relation to same. These are material planning considerations.

Increased investment in NI anticipated post Brexit

365. Markets and investment may change post Brexit.

Wrights have successfully refurbished at Ballyoran Business Park over the last 10 years

366. The success of the surrounding business parks is a material planning consideration.

Range and choice of sites which is to be protected has now gone as the Comber Road mixed use application was approved and this is the only site left in the locality.

367. It is noted that this is the only employment site left in the locality. This is also a material planning consideration.

Quantification of the 'economic benefits' is misleading as it doesn't quantify development that it displaces from other zoned housing sites nor deduct costs to the economy of additional residents nor servicing the site.

368. Independent advices have been taken on the economic benefits being stated to be offered as a result of the development and are material planning considerations.

The site should be yielding round 800 jobs as that's what Rolls Royce employed. Sainsbury's promised 500 and yet this will only net 100 jobs, one eighth of its potential.

369. The lower rate of employment offering is noted and accounted for within the report.

Existing amenities already under pressure eg schools

370. There are no objections offered by any of the statutory consultees with regards infrastructure and utilities.

The argument that the site is not on the motorway network applies to all the employment zonings containing undeveloped land in Castlereagh.

371. The site is acknowledged not to be on the regional main infrastructure but its proximity to same is noted and considered.

372. 45 letters of support were received. These broadly offer the following areas of support:

- Concerns with NI Water have been addressed
- This is correct and has been addressed in the last consultation response which allows for connection to the mains network.
- Acknowledges no interest in industry and failed supermarket application
- Welcomes the petrol station for local residents
- Best mix for the site which is a blight on the landscape
- Laid unused for 15 years so good to be reused. A magnet for antisocial behaviour and fly tipping
- Removes health and safety hazard form the area
- Council has sufficient land for employment
- Failure of old Quarry Inn site.

## Conclusions

373. In conclusion, the Council's view on this proposal is to refuse planning permission as it is considered that the proposal is contrary to the SPPS and Policy PED 7 and 8 of PPS 4 Economic Development, Policy QD1 of PPS7 Quality Residential Environments and Policy OS2 of PPS8 Open Space, Sport and Outdoor Recreation.
374. It is considered the proposal is contrary to the SPPS and Policy PED 7 of PPS 4 Planning and Economic Development in that the proposal would result in the loss of land zoned for economic development use in a development plan and an exception has not been adequately demonstrated.
375. It is also considered that the proposal is contrary to the SPPS and Policy PED 8 of PPS 4 Planning and Economic Development in that the proposal is for residential development in the vicinity of an existing or approved economic development use that would be incompatible with this use or would prejudice its future operation
376. The application is contrary to Paragraph 6.271 and 6.280 of the SPPS in that alternative sequentially preferable sites exist within a proposal's whole catchment. In addition it has not been demonstrated that the proposal is supported with robust and up to date evidence in relation to need and capacity as well as a realistic catchment area.
377. In addition the proposal is contrary to the SPPS and Policy QD1(a) (c) (d) and (h) of Planning Policy Statement 7: Quality Residential Environments in that it would, if permitted, result in over development of the site, and would be detrimental to the character and appearance of the local area by virtue of its scale, form, massing and design, and would be harmful to the living conditions of existing residents through dominance and overlooking, resulting in a loss of residential amenity; adequate provision is not made for public and private open space and landscaped areas as an integral part of the development; and adequate provision is not made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development.
378. Finally the proposal is contrary to the SPPS and Policy OS2 of PPS8 Open Space, Sport and Outdoor Recreation in that sufficient public open space is not provided as an integral part of the development.

## Recommendations

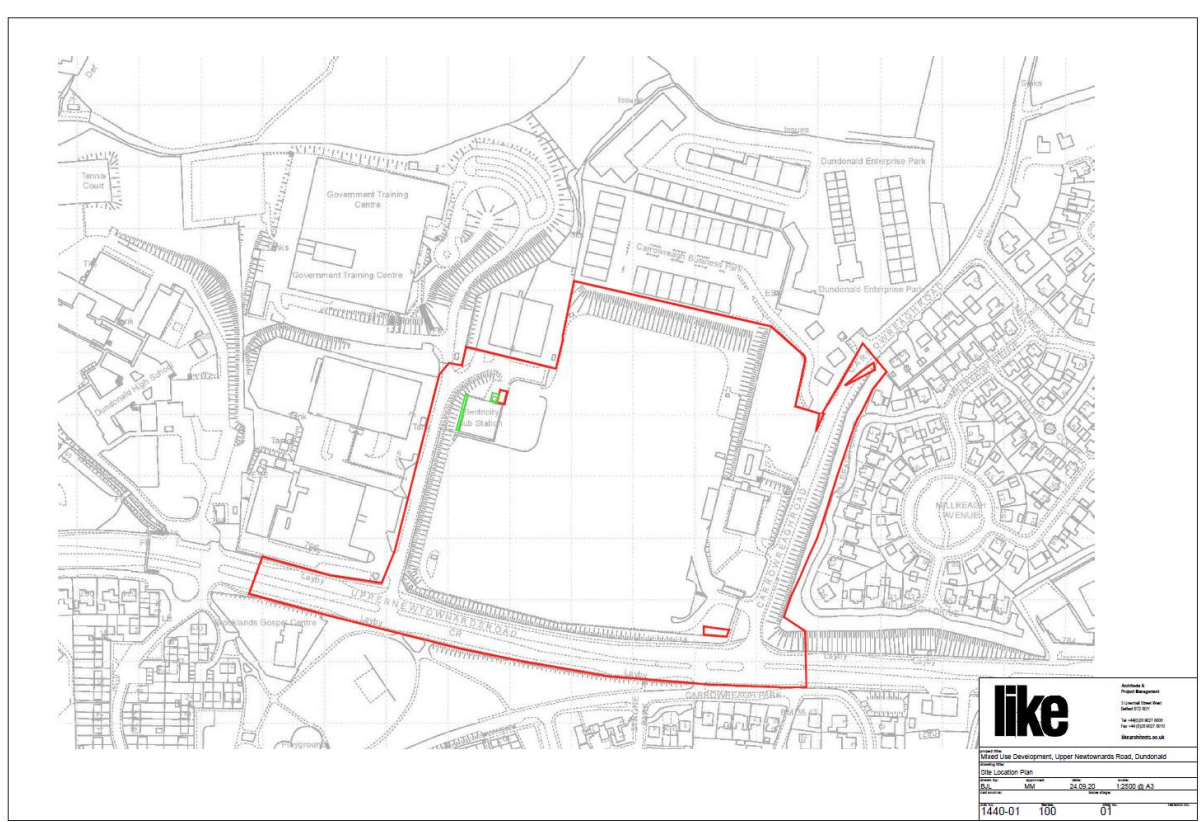
379. It is recommended that planning permission is refused.

**Conditions/Reasons**

380. The following refusal reasons are recommended:

- The proposal is contrary to the SPPS and Policy PED 7 of PPS4 in that the proposal would result in the loss of land zoned for economic development use in a development plan and an exception has not been adequately demonstrated.
- The proposal is contrary to the SPPS and Policy PED 8 of PPS 4 Planning and Economic Development in that the proposal is for residential development in the vicinity of an existing or approved economic development use that would be incompatible with this use or would prejudice its future operation
- The application is contrary to Paragraph 6.271 and 6.280 of the SPPS in that alternative sequentially preferable sites exist within a proposal's whole catchment. In addition it has not been demonstrated that the proposal is supported with robust and up to date evidence in relation to need and capacity as well as a realistic catchment area.
- The proposal is contrary to the SPPS and Policy QD1 (a) (c) (d) and (h) of Planning Policy Statement 7: Quality Residential Environments in that it would, if permitted, result in over development of the site, and would be detrimental to the character and appearance of the local area by virtue of its scale, form, massing and design, and would be harmful to the living conditions of existing residents through dominance and overlooking, resulting in a loss of residential amenity; adequate provision is not made for public and private open space and landscaped areas as an integral part of the development; and adequate provision is not made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development
- The proposal is contrary to the SPPS and Policy OS2 of PPS8 Open Space, Sport and Outdoor Recreation in that sufficient public open space is not provided as an integral part of the development,

### Site Location Plan – LA05/2021/0033/F



## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	06 February 2023
Committee Interest	Local Application (Called In) - Addendum
Application Reference	LA05/2021/1263/F
Date of Application	04/11/2021
District Electoral Area	Downshire East
Proposal Description	Proposed two storey dwelling with alterations to existing garage so it is part of the curtilage and accessed from 5 Ballycrune Road
Location	Site between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt BT26 6NQ
Representations	Nine
Case Officer	Cara Breen
Recommendation	<b>APPROVAL</b>

### Background

1. The application was presented to the Planning Committee in January 2023 with a recommendation approve as it was considered that the requirements of the SPPS and policy QD 1 of PPS 7 are met in full.
2. Prior to the application being heard, Members agreed to defer consideration of the application to allow for a site visit to take place. The site visit took place on 20 January 2023. Officials from DfI Roads were also in attendance. A separate note of the meeting is available as part of the bundle of documents. It should be read alongside this report.

### Further Consideration

3. Members were advised that the existing house had used the existing access (onto Ballynahinch Road) but as part of the application, a new access was to be created onto Ballycrune Road.

4. Representatives from DfI Roads provided confirmation that there would be no intensification of the existing access to the Ballynahinch Road and that the existing splays would be improved to provide a better standard of visibility.
5. The proposal has been further considered against the requirements of policy AMP 2 of PPS 3. The other factors in terms of the nature and scale of the development, the character of existing development and the contribution of the proposal to create a quality environment are considered.
6. This is a gap site in the Ballynahinch Road frontage large enough to accommodate one house only and is consistent with the character of existing development either side and behind. It will create a quality residential environment for the reasons outlined in the main report.
7. There is also no reason to disagree with the advice of DfI Roads in terms of the road safety or traffic impacts arising from the development. There is nil detriment in terms of the existing arrangement and a reason for refusal on the grounds of policy AMP 2 is not advised.
8. In terms of separation distances to adjacent dwellings the proposed building is 4.5 metres from the adjacent property at 1b Ballynahinch Road. The dwelling would be sited at a lower ground level than 1b and would have a ridge height 0.9 metres lower than this property.
9. The windows to the ground floor gable of 1b are noted. The impact is not to main habitable rooms and whilst some loss of amenity is expected in such suburban locations there is insufficient evidence to demonstrate that a significant loss of light would occur as a result of the proposed development.
10. In terms of the separation distances to the adjacent dwelling at 277 Ballynahinch Road, it is noted that there are no openings proposed to the gable end at this side.
11. Whilst it is noted that the proposed dwelling will sit forward of the dwelling at 277, the proposal satisfies the 45 degree light test and as such, it is considered that there will be no significant adverse impact to this property.

## Conclusions

12. The planning advice offered in the initial DM Officer report is not changed and it is still recommended that planning permission is approved.
13. The information contained in this addendum should be read in conjunction with the main officers report previously brought before the Committee on 09 January 2023 and site visit report all of which are provided as part of the papers for this meeting.



## Recommendations

14. It is recommended that planning permission is granted.

## Conditions

15. The following conditions are recommended:

- 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 access, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02\2, bearing the date stamp 13 May 2022, 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 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.

- The access gradient to the dwelling 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 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.

- No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved drawing no. 02\2, bearing date stamp 13 May 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.

Reason: To ensure that adequate provision has been made for parking.

- 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.

- Foul sewage shall be connected to the main sewer with Northern Ireland Water approval

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

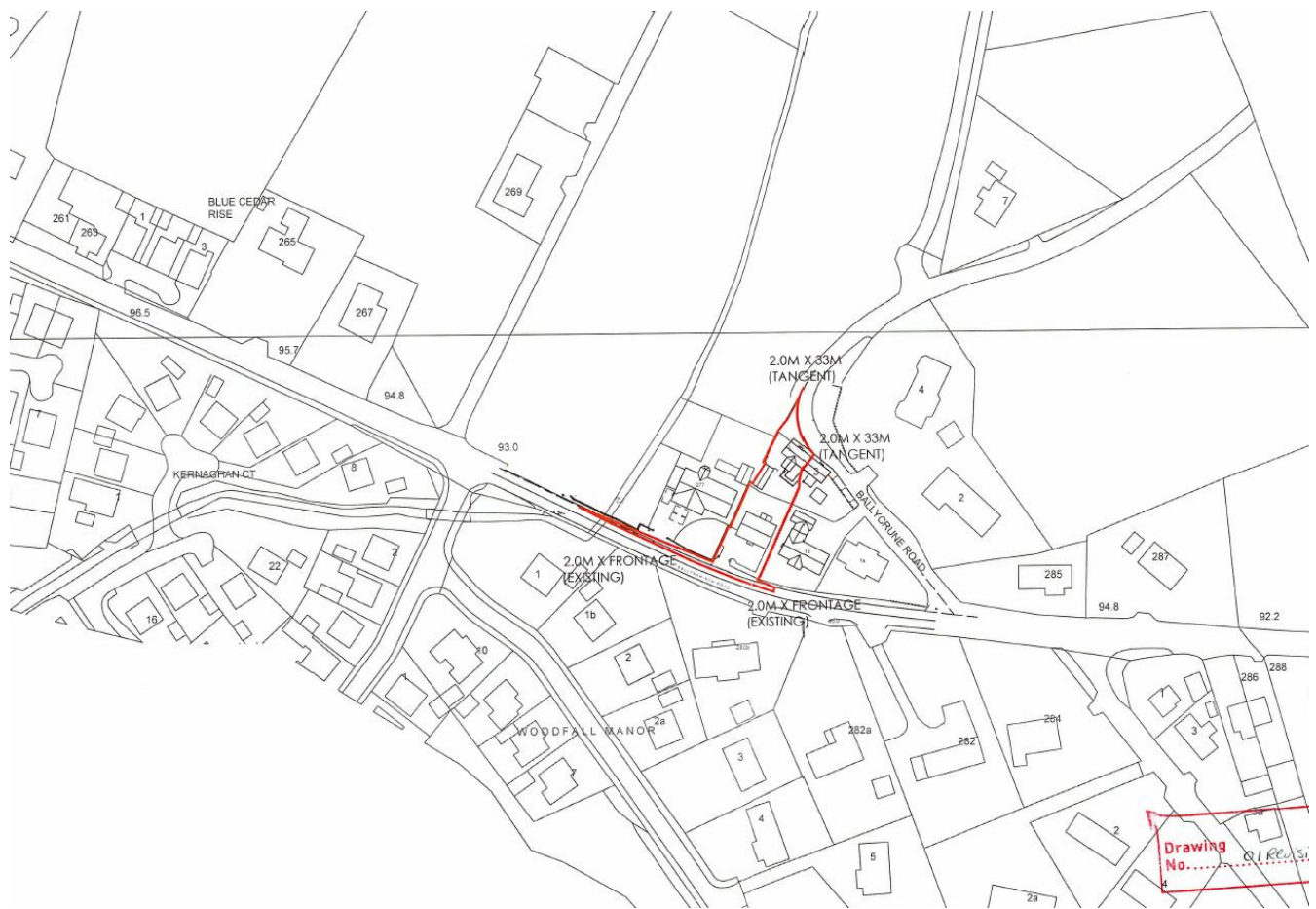
- All hard and soft landscape works shall be carried out in accordance with Drawing 02/3 bearing the date stamped 8 November 2022 and the approved details. The works shall be carried out no later than the first available planting season after occupation of that phase of the development.

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

- 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 – LA05/2021/1263/F



**LISBURN & CASTLEREAGH CITY COUNCIL****Report of a Planning Committee Site Meeting held at 11.10 am on Friday, 20 January, 2023 at Ballycrune Road/Ballynahinch Road, Annahilt**

<b><u>PRESENT:</u></b>	Alderman J Tinsley (Chairman)
	Councillor John Palmer (Vice-Chairman)
	Aldermen D Drysdale and O Gawith
	Councillors D J Craig, U Mackin and A Swan
<b><u>IN ATTENDANCE:</u></b>	Head of Planning & Capital Development
	Planning Officer (RH)
	Member Services Officer (CR)
	DfI Road Service Representatives

Apologies were received from Aldermen W J Dillon and A Grehan and Councillor M Gregg.

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

LA05/2021/1263/F – Proposed two storey dwelling with alteration of existing garage and a new access for 5 Ballycrune Road between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt

This application had been presented for determination at the meeting of the Planning Committee held on 9 January, 2023. The Committee had agreed to defer consideration to allow for a site visit to take place.

Members and Officers met at the site. In accordance with the Protocol for the Operation of the Planning Committee, the Principal Planning Officer provided background to the application.

Members were advised that the existing house facing the Ballycrune Road had used the existing access (onto Ballynahinch Road) but as part of the application, a new access was to be created onto Ballycrune Road for that dwelling. A new door would also be inserted into the gable wall of the garage facing onto the Ballycrune Road and the existing garage door would be blocked up.

The existing access to the Ballynahinch Road would then be used for the new proposed dwelling. Given that this was an existing access, representatives from DfI Roads confirmed that there would be no intensification of use. Members were also advised that the existing access whilst not to the required standard in DCAN 15 was to be improved to provide a better standard of visibility splay.

The Principal Planning Officer indicated the proposed dwelling on a site location map and referred to its relationship with neighbouring properties.

The Head of Planning & Capital Development stated that objections had been received from neighbours regarding the relationship of the proposed dwelling with existing buildings and their windows. The relationship between the openings in side elevations in the context of the existing buildings were explained with aid of floor plan drawings.

In response to a query regarding loss of light, the Head of Planning & Capital Development advised that Planning Officers were normally more concerned with back to back relationships and the impact of development on the amenity of existing residents for main habitable rooms. The right to light and loss of light was normally a civil matter but the Head of Planning & Capital Development agreed to provide clarity at the next meeting of the Planning Committee in relation to the side to side separation distances.

One of the issues raised by objectors had been the speed of traffic on the Ballynahinch Road. Councillor U Mackin advised that a meeting was planned this week to consider the provision of a Speed Indicator Device (SID) in the area. Over the last 4-5 years improved signage had also been provided in this area. A DfI Roads representative advised that there was a proposal to provide a footway on the opposite side of the road; however, this was considered by DfI Roads to be too expensive to schedule currently.

There being no further business, the site visit was terminated at 11.34 am.

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	9 January 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/1263/F
Date of Application	04/11/2021
District Electoral Area	Downshire East
Proposal Description	Proposed two storey dwelling with alterations to existing garage so it is part of the curtilage and accessed from 5 Ballycrune Road
Location	Site between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt BT26 6NQ
Representations	9 objections
Case Officer	Cara Breen
Recommendation	<b>APPROVAL</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Planning Committee in that it has been Called In.
2. This application is presented to the Planning Committee with a recommendation to approve as the requirements of the SPPS and policy QD 1 of PPS 7 are met in full. The detailed layout, general arrangement and design of the proposed development creates a quality residential environment.
3. It is also considered that the buildings when constructed will not adversely impact on the character of the area or have a detrimental impact on the amenity of existing residents in properties adjoining the site by reason of overlooking or being dominant or over-bearing.

4. It is also considered that the proposal complies with the SPPS and policies AMP 2 and AMP 7 of PPS 3 in that the detail submitted demonstrates that an access to the public road can be accommodated that will not prejudice road safety or significantly inconvenience the flow of traffic and adequate provision for car parking and servicing arrangements is provided.

## Description of Site and Surroundings

### Site

5. The application site is located on lands between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt and comprised of a 0.08 hectare parcel of land which is currently part of the residential curtilage of 5 Ballycrune Road.
6. The site is currently accessed via an existing vehicular access point onto the Ballynahinch Road. The land is relatively flat throughout.
7. The north eastern boundary of the application site is undefined; the north western boundary is demarcated by a 1.8 metre (approximately) high painted render wall and a smaller rendered wall with decorative planted border to the inside; the south western boundary is defined by a rendered wall with coping stones to top and matching vehicular entrance piers with decorative conifer trees to the inside; and the south eastern boundary is defined by a 1.2 metre (approximately) high post and rail timber fence. A section of mature hedgerow is planted to the outside of this from the Ballynahinch Road to the dwelling at. 1B.

### Surroundings

8. The site towards the edge of the settlement limit of Annahilt and the surrounding context, to the south, southeast and west is primarily residential in nature and is composed of a mix of dwelling types including both single storey and two storey.
9. The lands beyond to the north and the northeast is primarily rural in character and mainly in agricultural

## Proposed Development

10. Full Planning permission is sought for a proposed two storey dwelling with alterations to existing garage so it is part of the curtilage and accessed from 5 Ballycrune Road.

## Relevant Planning History

11. There is no relevant planning history associated with the application site.

## Consultations

12. The following consultations were carried out:

Consultee	Response
NI Water	No objection
LCCC Environmental Health	No objection
DAERA Water Management Unit	No objection
NIE	No objection
DfI Roads	No objection

## Representations

13. Nine representations (9 objections) in relation to the proposal have been received by the Council to date following the statutory advertisement and neighbour notification (publicity) process.

14. In summary, the issues raised in the objections are as follows;

- Siting of Proposed Dwelling too Close to 1B Ballycrune Road
- Height of Dwelling Unacceptable
- Impact of Vehicular Access/Road Safety Concerns
- Overshadow No. 277 – Block Solar Panels
- Hinder Appearance of Village
- Overlooking
- Overshadowing of 3 Ballycrune Road
- Increase Noise and Light Pollution
- Construction Disruption Would Damage Well-Being

## Planning Policy Context

### Relevant Policy and Guidance Documents



15. The relevant policy documents are:

- Regional Development Strategy (2035)
- Lisburn Area Plan (2001)
- Belfast Metropolitan Area Plan (Draft) 2004
- Strategic Planning Policy Statement for Northern Ireland; Planning for Sustainable Development (2015)
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 7 (Addendum): Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 12: Housing in Settlements

16. The relevant guidance is:

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

### **Local Development Plan Context**

17. 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.

18. On 18th May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had not been lawfully adopted.

19. As a consequence, the Lisburn Area Plan (2001) operates as the statutory development plan for the area. However, the Belfast Metropolitan Area Plan (Draft) 2004 remains a material consideration in the assessment of individual Planning applications.

20. In both the statutory development plan and the draft BMAP, the application site is identified within the defined settlement limits of Annahilt, and as such, there is no distinguishable difference in the local plan context.

21. No other plan designations are applicable to the application site.

### **Regional Policy Context**

22. The SPPS states;

*'Until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.'*

23. The local development plan is currently at Stage 1, and there is no Stage 2 draft. Thus, no weight can be given to the emerging plan at present.

24. The transitional period remains operational.

25. During this transitional period, planning policy within existing retained documents and guidance will apply.

26. It is stated that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. For example, where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

27. 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.'*

28. 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. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

29. Paragraph 4.11 of the SPPS outlines that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by Planning authorities when proposing policies or managing development.

30. By way of example, it explains that the Planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.

31. It also advises that the Planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the Planning process is set out at Annex A of the SPPS.

32. Paragraph 4.12 of the SPPS states;

*'Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

33. It also advises that adverse environmental impacts associated with development can also include; sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the Planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

### **PPS 7 – Quality Residential Environments**

34. PPS 7 – Quality Residential Environments sets out planning policy for achieving quality in new residential development.

35. Policy QD 1 – Quality in New Residential Development states;

*'Planning permission will only be granted for a new residential development where it is demonstrated that the proposal will create quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.*

*All proposals for residential development will be expected to conform to all of the following criteria:*

- (a) The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;*
- (b) Features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*
- (c) Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;*
- (d) Adequate provision is made for necessary local neighbourhood facilities to be provided by the developer as an integral part of the development;*
- (e) A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of*

- way, provides adequate and convenient access to public transport and incorporates traffic calming measures;*
- (f) Adequate and appropriate provision is made for parking;*
  - (g) The design of the development draws upon the best local traditions of form, materials and detailing;*
  - (h) The design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and*
  - (i) The development is designed to deter crime and promote personal safety.*

*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.'*

36. Policy QD 2 – Design Concept Statements, Concept Master Plans and Comprehensive Planning states the following;

*'The Council will require the submission of a Design Concept Statement, or where appropriate a Concept Master Plan, to accompany all planning applications for residential development.*

### **PPS 7 (Addendum) – Safeguarding the Character of Established Residential Areas**

37. The addendum provides additional Planning policy provisions on the protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements.
38. Policy LC 1: Protecting Local Character, Environmental Quality and Residential Amenity states;

*In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all additional criteria set out below are met:*

- (a) The proposed density is not significantly higher than that found in the established residential area;*
- (b) The pattern of development is in keeping with the overall character and environmental quality of the established residential area; and*
- (c) All dwelling units and apartments are built to a size not less than those set out in Annex A.*

### Creating Places:

39. Creating Places describes the contributions to quality and sustainability that developers in Northern Ireland will be expected to make through the design of new residential developments. It seeks to ensure that what is designed and built today will be cherished by both present and future generations.
40. It notes that the creation of attractive residential environments with a genuine sense of place is a prerequisite to achieving sustainability. The quality of where we live depends not just on the design of buildings, but on their layout and landscaping, the arrangements made for access, and in particular, how they relate to their surroundings.
41. Creating Places asserts the need to create places which serve the needs of all people who use them, not just car drivers. The layout of housing areas should be based on the nature of the local place, rather than as in the past, on rigid requirements for vehicle movement. Plans for new development should provide for travel by foot, cycle and public transport just as they should for travel by car.
42. Creating Places is a guide that is intended for use in the design of all proposals for residential development throughout Northern Ireland, from small-scale infill housing schemes to major projects on large sites incorporating a mix of uses. It therefore contains more information than is needed for any one site - nevertheless, the principles and standards in the guide will be used by the Council as a basis for assessing any proposal. Accordingly, the guide should be read and understood as a whole.
43. The Creating Places guide is supplementary planning guidance. It does not take precedence over the provisions of local development plans or regional policy publications, such as Planning Policy Statements but should be read in conjunction with the relevant contents of these publications and any applicable non-statutory local design guides, development briefs or master-plans.

### Development Control Advice Note (DCAN) 8: Housing in Existing Urban Areas:

44. Development Control Advice Notes provide non-statutory Planning guidance which is intended to supplement, elucidate and exemplify policy documents, including Planning Policy Statements and development plans.
45. The purpose of DCAN 8: Housing in Existing Urban Areas, is to provide advice to assist in ensuring that urban and environmental quality is maintained, amenity preserved and privacy respected when proposals are being considered for new housing development in existing urban areas.

### **PPS 2 - Natural Heritage**

46. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.

47. Policy NH 2 – Species Protected by Law states;

*‘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:-*

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

48. The policy also states;

*‘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.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.’*

49. 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:*

- *priority habitats;*
- *priority species;*
- *active peatland;*
- *ancient and long-established woodland;*
- *features of earth science conservation importance;*
- *features of the landscape which are of major importance for wild flora and fauna;*
- *rare or threatened native species;*
- *wetlands (includes river corridors); or*
- *other natural heritage features worthy of protection.’*

59. The policy also states;

*'a development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features 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.'*

### **PPS 3 - Access, Movement and Parking**

60. PPS 3 - Access, Movement and Parking sets out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

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

62. Policy AMP 7 – Car Parking and Servicing Arrangements states;

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

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

63. Paragraph 1.1 of Development Control Advice Note 15 – Vehicular Access Standards states;

*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

49. Within the context of the Planning policy tests outlined above, the following assessment is made relative to this particular application.
50. It is considered that there is no conflict or change in policy direction between the provisions of the SPPS and the retained Planning policies, insofar as they pertain to this application.
51. Accordingly, the retained policies provide the appropriate policy context for assessing this application. In addition, Creating Places, DCAN 8 and DCAN 15 set out supplementary planning guidance which has been taken into account in the assessment.

### Quality Residential Environments

52. The proposed building is 1.5 storeys with a ridge height (dual pitch) of 6.8 metres above a finished floor level (FFL) of 94.109. It would occupy a footprint of approximately 226.17 metres squared. It would be linear in form and relatively simple in design with a single storey dual pitched storm porch centrally positioned to the front elevation and a single storey dual pitched garden room to the rear elevation. Two dormer window units (dual pitch) would project from the front roof profile. A single velux type window would also provide light from the south western facing roof profile. Three dual pitched dormer units would project from the rear roof profile.
53. The proposed schedule of external finishes include smooth render (painted cream) to the external walls, grey non-profiled roof tiles, white UPVC rainwater goods, white fascias and soffits and white UPVC sliding sash and casement hung window units.
54. As noted, the proposal also includes alterations to the existing detached single storey domestic garage within the site. The primary alteration is the installation of a roller shutter to the existing north eastern elevation of the garage (Ballycrune Road end) and the blocking up of the existing roller shutter opening to the south western elevation. The garage will be used as ancillary accommodation for 5 Ballycrune Road.
55. The established residential character is comprised of a mix of dwelling types/designs, to include; single storey, 1.5 storey and two storey dwellings, set within various sized plots/curtilages.
56. The appearance of the proposed dwelling would not be dissimilar to the existing dwelling immediately to the south east of the site at No. 1B Ballycrune Road which was built in what appears to be the former garden area of No. 3 Ballycrune Road. Taking this into account, the proposal meets the requirements of criteria (a).



57. No features of archaeological or built heritage importance were identified within close proximity to the application site. The application site comprises an established residential curtilage. The majority of the area which would form the curtilage of the proposed dwelling is currently laid in lawn or is hard standing in form. Whilst some ornamental garden planting also is present and will largely be removed to accommodate the proposed development it is not of any merit and it is noted that new boundary landscaping in the form of a beech hedgerow has been proposed. Therefore, the proposal meets the requirements of criteria (b).
58. Public open space is not required for a scheme of this size. In terms of private open (amenity) space, an area in excess of 75 square metres is proposed to the rear of the dwelling. This exceeds the upper limit in the guidance of 70 square metres as outlined in Creating Places and is therefore considered to be acceptable. Boundary planting in the form of Beech hedgerow and 3 trees have been proposed to assist integrating the development into the streetscape. It is also considered that the landscaping would aid with the integration of the proposed dwelling into the surrounding area and would soften the visual impact of the proposed scheme.
59. It is further noted that the existing dwelling at 5 would be left with a private amenity space in excess of 60 square metres, which for the size of the property is considered to be acceptable. Taking this into account, the proposal meets the requirements of criteria (c).
60. Taking the scale of the proposal (for a single dwelling) into account, it is considered that the requirements for the provision of necessary local neighbourhood facilities by the developer is not required given the scale of development. Therefore the proposal meets the requirements of criteria (d).
61. Taking the scale of the proposal (single dwelling) into account again, it is not considered that it meets the requirements for a movement pattern. It is noted that the proposal pertains to a dwelling in the existing garden of No. 5 Ballycrune Road and it is therefore considered that the proposal could avail of the existing pedestrian footpaths, transport links etc. which already exist in the immediate vicinity. Therefore, the proposal meets the requirements of criteria (e).
62. A courtyard parking area has been proposed to the front of the proposed dwelling. This would essentially include two owner/occupier car parking spaces and one visitor car parking space. A manoeuvring bay which would permit vehicles to enter and leave the site from the Ballynahinch Road in forward gear has also been included. The parking provision is in accordance with the guidance in Creating Places. The requirements of policy AMP 7 are met in full.
63. The existing roadside walls and piers are to be demolished to upgrade the vehicular access and no gates between the new piers have been included in

order to improve the access geometry. DfI Roads offer no objection to the proposal on the grounds of road safety or traffic impact. The requirement of policy AMP 2 are met in full and criteria. (f) of PPS 7.

64. The design is considered to be relatively simple and typical of the suburban in character. No single dominant architectural style is observed. The design is similar to the existing dwelling at No. 1B Ballycrune Road, immediately to the south east of the application site. Therefore, the proposal meets the requirements of criteria (g).
65. No perceived conflict with adjacent land uses is identified. The proposed dwelling would largely follow the existing building line of 1B Ballycrune Road and 277 Ballynahinch Road. In terms of overlooking, it is noted that fenestration to the gable elevations only includes obscure glazed window units.
66. In terms of separation distances between rear to rear first floor windows, it is acknowledged that the minimum separation distance would be 17 metres (approximately) and this would be between the window serving bedroom 2 of the proposed dwelling and the closest of the two first floor windows of the two storey rear extension to 3 Ballycrune Road. However, it is acknowledged that the two closest first floor windows (to the extension) at 3 Ballycrune Road appear to serve a bathroom (a non-habitable room). It is noted that the main private amenity area of 3 Ballycrune Road appears to be to the south east of the dwelling some 20 metres plus and at an angle from the closest first floor window (bedroom 2) of the proposed dwelling. The minimum separation distance between the rear first floor windows of the proposed dwelling and those of No. 5 Ballycrune Road is 19 metres (approximately) and this is on balance considered to be acceptable.
67. There are no concerns with regards to potential overlooking to an unreasonable degree. It is noted that the site is to be primarily enclosed by 1.8 metre high timber fencing (to rear) and beech hedgerow.
68. In terms of overshadowing or loss of light, it is considered that the proposal complies with the 45 degree light test guidance (taken from 277 Ballynahinch Road). No adverse amenity impacts are identified. LCCC Environmental Health were also consulted as part of the processing of the application and offered no objection on the grounds of potential noise or nuisance. Therefore, the proposal meets the requirements of criteria (h).
69. The proposed dwelling will back on to an existing dwelling at 5 Ballycrune Road. The site will be enclosed by fencing and beech hedgerow predominantly. It is accepted that the site will benefit from informal neighbouring/public surveillance. Therefore, the proposal meets the requirements of criteria (i).
70. A Design Concept Statement was provided during the processing of the application for consideration in accordance with Policy QD 2 of PPS 7. This was taken into account in the assessment and this helped inform the assessment of criteria above.

71. This is a development within the development limit of Annahilt. NI Water are content that there is capacity at Annahilt/Ballycrune WWTW and that there is capacity for connection without the need for works to the network.

#### Safeguarding the Character of Established Residential Areas

72. The insertion of a new dwelling into this plot is considered to be in keeping with the overall character of the area. It is noted that the proposed dwelling would follow a similar building line to 1B Ballycrune Road and 277 Ballynahinch Road.
73. The size of the dwelling is considered acceptable in the context of the guidance set out at Annex A of the policy document.

#### Natural Heritage

74. The proposed dwelling is to be located within an existing maintained residential garden. Aside from the removal of some existing garden vegetation, it is not considered that the proposal would involve substantial vegetation clearance. The proposal would also not involve the demolition of any buildings.
75. Taking the above into account, there is no requirement to consider the proposal against the requirements of Planning Policy Statement 2: Natural Heritage.

### Consideration of Representations

76. Nine representations (objections) in relation to the proposal have been received by the Council:

▪ **Siting of Proposed Dwelling too Close to No. 1B – Reduce Light**

The proposed dwelling would be sited 4.5 metres from 1B Ballycrune Road at its closest point and it would be a gable to gable relationship. The side by side relationships between the two buildings is fairly typical of the area. The proposed dwelling would be sited at a lower ground level than 1B and would have a ridge height 0.9 metres lower than 1B. It is acknowledged that two ground floor window units are located to the north western side elevation of 1B. There would normally be some loss of amenity in suburban locations but the insufficient evidence to suggest that a significant loss of light would occur as result of the construction of a dwelling at this location.

▪ **Height of Dwelling Unacceptable**

The proposed dwelling would present a ridge height of 6.8 metres above finished floor level (FFL). It would sit 0.9m below the ridge height of 1B Ballycrune Road and approximately 0.9m above the ridge height of No. 277 Ballynahinch Road. The height of the proposed dwelling is considered to be acceptable in the context of the adjacent buildings.

- **Impact of Vehicular Access/Road Safety Concerns**

The vehicular access from Ballynahinch Road would serve the proposed dwelling only. The proposal also incorporates the installation of a new vehicular access arrangement the dwelling at 5 Ballycrune Road. There is no evidence to support a conclusion that this access is unsafe.

- **Overshadow No. 277 – Block Solar Panels**

Whilst it is acknowledged that the proposed dwelling is set forward approximately 3.6 metres from the part of the dwelling at 277 closest to the application site, it is noted that it satisfies the 45 degree light test and no significant adverse impact is identified on the residents of the property.

- **Hinder Appearance of Village**

The proposed building is in keeping with the established character of other buildings in the vicinity of the site. It will not be out of keeping with the wider appearance of the village for the reasons outlined above.

- **Overlooking**

The question of overlooking is dealt with in the substance of the report above and there is no evidence to support a conclusion that the properties adjacent will be overlooked to an unacceptable degree.

- **Increase Noise and Light Pollution**

LCCC Environmental Health were consulted as part of the processing of the application. In their consultation response of 10<sup>th</sup> December 2021 they offer no objection to the proposal.

- **Construction Disruption Would Damage Well-Being**

The Council is concerned with the use of the impact and the question of whether the proposal will create an enduring adverse impact on the amenity of neighbouring residents.

The construction phase of any project will have some short term limited impact but this is not a matter which is afforded significant weight and for which a refusal of permission could be sustained.

▪ **Overshadowing to No. 3**

The question of overshadowing is dealt with in the substance of the report above and there is no evidence to support a conclusion that the properties adjacent will be overshadowed to an unacceptable degree.

## Conclusions

77. It is considered that the requirements of the SPPS and policy QD 1 of PPS 7 are met in full as the detailed layout, general arrangement and design of the proposed development creates a quality residential environment.
78. It is also considered that the buildings when constructed will not adversely impact on the character of the area or have a detrimental impact on the amenity of existing residents in properties adjoining the site by reason of overlooking or being dominant or over-bearing.
79. The proposal complies with the SPPS and policy tests associated with policies AMP 2 and AMP 7 of PPS an access to the public road can be accommodated that will not prejudice road safety or significantly inconvenience the flow of traffic and adequate provision for car parking and servicing arrangements is provided.

## Recommendations

80. It is recommended that Planning permission is granted, subject to stipulated conditions.

## Conditions

81. The following conditions are recommended:
- 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 access, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02\2, bearing the date stamp 13 May 2022, 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 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.

- The access gradient to the dwelling 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 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.

- No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved drawing no. 02\2, bearing date stamp 13 May 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.

Reason: To ensure that adequate provision has been made for parking.

- 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.

- Foul sewage shall be connected to the main sewer with Northern Ireland Water approval

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

- All hard and soft landscape works shall be carried out in accordance with Drawing 02/3 bearing the date stamped 8 November 2022 and the

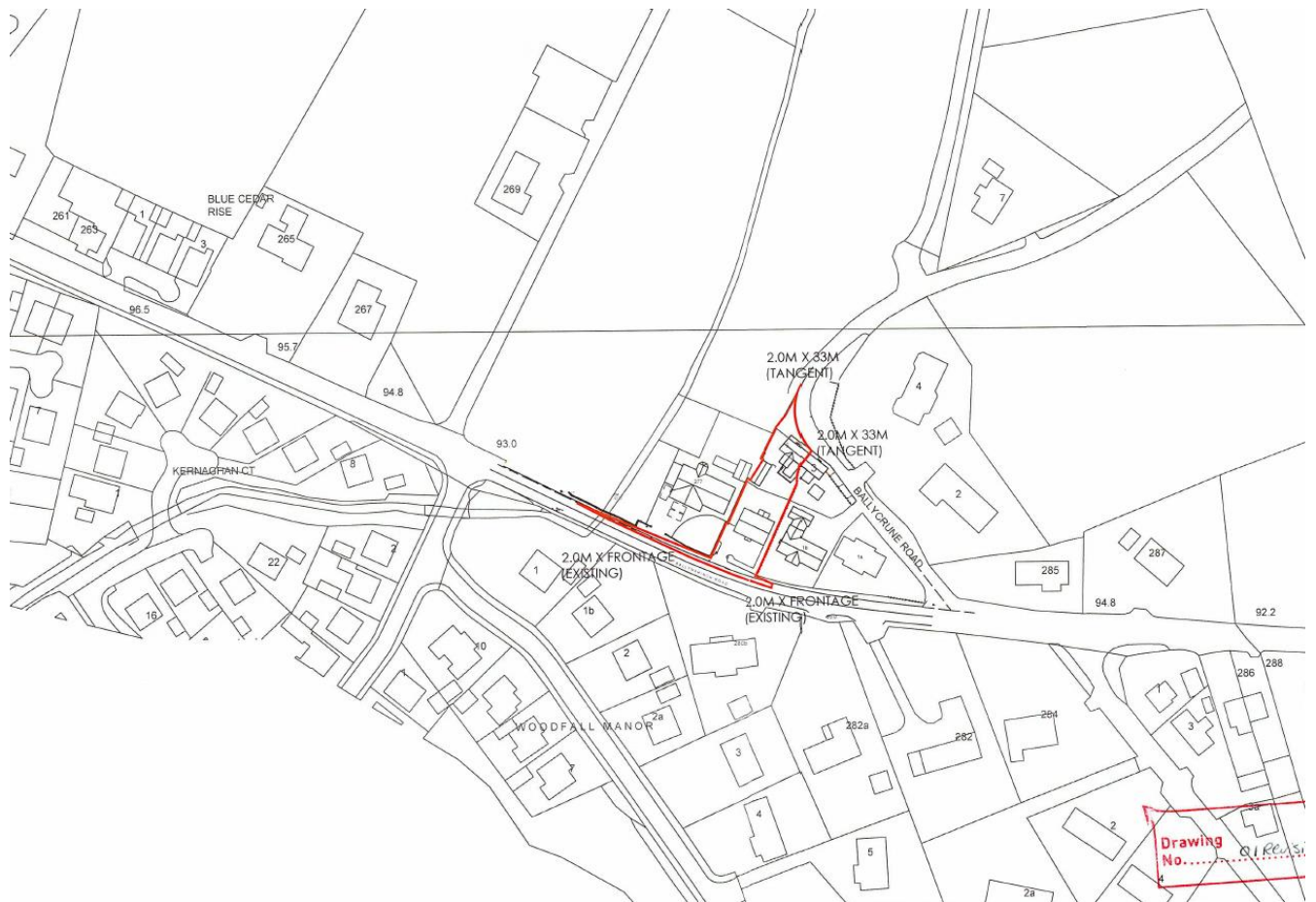
approved details. The works shall be carried out no later than the first available planting season after occupation of that phase of the development.

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

- 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 – LA05/2021/1263/F



Drawing No. 01/RES/14



## Lisburn & Castlereagh City Council

Committee Report	
Date of Committee Meeting	06 February 2023
Committee Interest	Local Application (Called In) - Addendum
Application Reference	LA05/2021/1014/O
Date of Application	21 September 2021
District Electoral Area	Downshire East
Proposal Description	Proposed infill dwelling and garage
Location	50 metres northeast of 75 Drennan Road Lisburn
Representations	Seven
Case Officer	Grainne Rice
Recommendation	<b>Refusal</b>

### Background

1. The application was presented to the Planning Committee in January 2023 with a recommendation to refuse it was considered that the proposal does not constitute a small gap in a substantial and built up frontage and in addition does not respect the existing development pattern along the frontage in terms of siting and plot size and would, if permitted, result in the addition to a ribbon of development.
2. Following the presentation, the Committee agreed to defer consideration of the application to allow for a site visit to take place and to enable the Members to view the site and in its context.
3. A site visit was facilitated on 20 January 2023. A separate note of the meeting is available as part of the bundle of documents. It should be read alongside this report.

### Further Consideration

4. At the site the Principal Planning Officer provided background to the application process and explained that the purpose of the site visit was to check the boundaries of the site and the observe the proposed development in the surrounding context.
5. The buildings relied upon by the applicant to constitute a substantial and continuously built up frontage were identified. The planning officer's observations in relation to the site and whether the policy tests were met were explored with the members.
6. It was agreed that further clarification would be provided in relation to the following matters
  - Planning History
  - Flooding

#### Planning History

7. The planning history associated with the application is clarified in the table below:

Reference Number	Description	Location	Decision
LA05/2015/0752/F	Erection of dwelling and garage in compliance with planning policy statement 21 CTY 10	40m north east of 73 Drennan Road, Boardmills, Lisburn	Permission Refused 07/12/2016
LA05/2019/0195/F	Erection of Dwelling and Garage	50m north east of 75 Drennan Road, Bressagh Td, Boardmills, Lisburn	Permission Refused 01/08/2019 Appeal dismissed 08 June 2020
LA05/2021/1013/O	Proposed infill dwelling and garage	80m NE of 75 Drennan Road, Lisburn	Withdrawn

8. Planning application LA05/2019/0195/F was presented and assessed against Policy CTY 2a – Dwelling in Cluster. The application was refused as it was considered that a number of criteria associated with Policy CTY 2a were not met.
9. This proposal is for an infill dwelling and is assessed against the requirements of policy CTY 8. The applicant requests that significant be afforded to the appeal decision. Whilst the Commissioner engages with the width of the plot

along the road frontage and provides an assessment as to whether the plot is consistent with the established pattern of development. The advice at paragraph 5.34 of PPS 21 that

*In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated. Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings.*

10. The Commissioner understands the gap is small but takes no account of the access in her consideration and the fact that it takes up most of the frontage to the road. The policy states that the proposal must respect the pattern of development not that it is 'broadly reflective' as suggested by the Commissioner.
11. No example is exhibited in the local context of a site with a similar narrow frontage and the proposed development is not considered to respect the pattern of development of the reasons detailed in the main report. No design solution is exhibited to integrate the new buildings in the way the Commissioner suggests.
12. More importantly however the Commission does not engage with the requirements of Building on Tradition document which is a material consideration.
13. Members had the opportunity to observe that there is a private drive, a river, and two rows of mature deciduous trees between the site and the next dwelling. This represents an important visual break between the site and the next dwelling and whilst it is acknowledged that the Commission has in the past allowed infill development on the basis of a sequential awareness of a build-up of development the Commissioner does not engage with the fact that this is an important gap in the developed appearance of the countryside.
14. To fill in this gap with a dwelling on land which has little or no mature boundary on at least sides to aid integration would harm the character of this area and diminish the value of the visual break.

### Flooding

15. As explained at paragraph 122 of the in the initial DM officer report, a Flood Risk Assessment dated was submitted in support of the application.
16. Paragraph 2.4 of the assessment explains that the nearest watercourse is located parallel to the laneway that forms the eastern site boundary. The watercourse flows from north east to south west, underneath the Drennan Road via a culvert.
17. The assessment advises that the Flood Maps NI indicate that the site is adjacent to the strategic Q100 fluvial flood extent and that modelling predicts

that the Q100 floods are contained within the river cross section and that they are further confined by the existing access road and its junction with the Drennan Road.

18. A response from DfI Rivers dated 07 April 2022 acknowledges receipt of the flood risk assessment dated November 2020. The advice received confirms that there are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within the site. Advice received indicates that the site may be affected by undesignated watercourses of which they have no record and that they [Rivers Agency] have no reason to disagree with the conclusions reached in the flood risk assessment.
19. With regard to policy FLD 3 – Development and Surface Water, Rivers Agency advised that a Drainage Assessment may be required if the proposal provides for hard surfacing in excess of 1000 square metres.
20. Given that this is an outline application, no detail of surface finishes are provided. This detail would be considered at reserved matters stage.
21. Policies FLD 2, 4 and 5 are not considered to be applicable to this site.
22. As previously advised, there is no reason not to accept the advice of DfI Rivers and the requirements of policy FLD 1 is met in full.

#### **Other Material Considerations**

23. The Agent in an email dated 10 January 2023 requested that an additional piece of correspondence be considered in support the case for the applicant that is primarily linked to the appeal decision. The substance and content of this is dealt with in the preceding paragraphs.
24. The agent also makes reference to Building on Tradition expressing the view that the application site is comparable to an example cited within the document.



25. The key associated with this scenario in Building on Traditions makes reference to Policy CTY2A not Policy CTY8. That said, the associated text provides guidance in relation to gap sites and ribbon development.
26. This is not considered to be a good example in the guidance document. The site is set back from the public road and access from a private driveway to a dwelling adjacent to the south. This Council dealt with a similar case at Whinney Hill and found to have correctly assessed the proposal. This example has no frontage to the road but is clustered with buildings on two sides. The writer of the guidance may have thought this a good example of a cluster and not an infill but there is no text to explain this.
27. The example does also not sit on all fours with the site that is presented as part of this application process. It is distinguishable and different for all the reasons detailed in this and the accompanying reports and no weight is attached that would alter the recommendation to refuse.

## Conclusions

28. The planning advice offered in the initial DM Officer report is not changed and the reasons for recommending refusal remain valid.
29. The information contained in this addendum should be read in conjunction with the main officers report previously brought before the Committee on 09 January 2023 and site visit report all of which are provided as part of the papers for this meeting.

## Summary of Recommendation

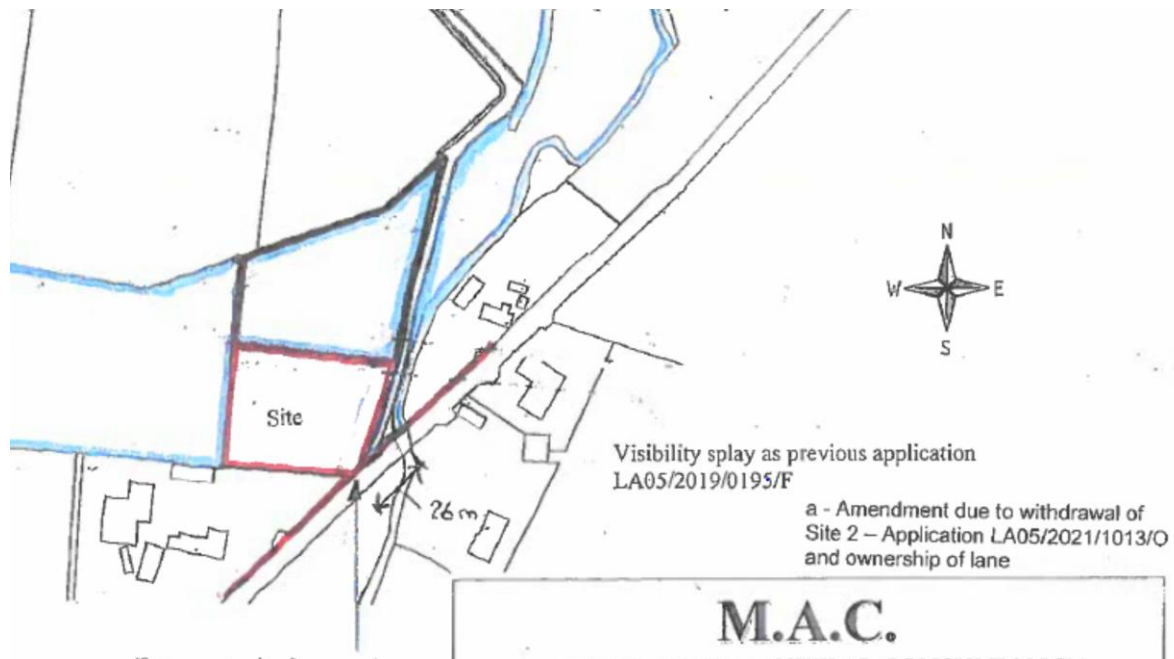
30. It is recommended that planning permission is refused.

## Refusal Reasons

31. The following refusal reasons are recommended.

- The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap in a substantial and built up frontage that respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and would, if permitted, result in the addition to a ribbon of development along Drennan Road.
- The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted not respect the traditional pattern of settlement exhibited in the area and would result in a suburban style build-up when viewed with existing buildings and would add to a ribbon of development and therefore result in a detrimental change to the rural character of the countryside.

Site Location Plan – LA05/2021/1014/O



**LISBURN & CASTLEREAGH CITY COUNCIL****Report of a Planning Committee Site Meeting held at 10.38 am on Friday, 20 January, 2023 at Drennan Road, Lisburn****PRESENT:**

Alderman J Tinsley (Chairman)

Councillor John Palmer (Vice-Chairman)

Aldermen D Drysdale and O Gawith

Councillors D J Craig, U Mackin and A Swan

**IN ATTENDANCE:**

Principal Planning Officer (RH)

Member Services Officer (CR)

Apologies were received from Aldermen W J Dillon and A Grehan, Councillor M Gregg and Head of Planning and Capital Development.

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

LA05/2021/1014/O – Proposed infill dwelling and garage on a site 50m N of 75 Drennan Road, Lisburn

This application had been presented for determination at the meeting of the Planning Committee held on 9 January, 2023. The Committee had agreed to defer consideration to allow for a site visit to take place.

Members and Officers met at the site. In accordance with the Protocol for the Operation of the Planning Committee, the Principal Planning Officer provided background to the application. Members were advised that the application was for a single dwelling and garage in accordance with CTY8.

There was a history on the site in that a previous application had been refused, had subsequently gone to Planning Appeal and been dismissed by the Planning Appeals Commission (PAC).

The Commissioner in her report had alluded to the fact that there may be an infill opportunity. The Principal Planning Officer explained that the Planning Committee was not bound by the advice of the Commission which relates to evidence supplied in support of an appeal for a proposal some 18 months to two years previous and that the advice of this Commissioner may not reflect more recent decisions or the officers' assessment of what the established pattern of development is having visited the site and taken account of the circumstances that prevail now.



The Principal Planning Officer advised Members that the purpose of the site visit was to observe whether there was a continuously built-up frontage at this site, the plot was consistent with the established pattern of development and whether the features on the ground meant that this site represented an important visual break.

Members were reminded that the report presented to the Planning Committee, had identified some of the principle characteristics of the site.

The Principal Planning Officer pointed out the boundaries of this site and explained that the advice provided to Members indicated that this site had only sufficient frontage to accommodate an access to the road.

In accordance with previous decisions by the PAC, an access only was not considered to be frontage and this is consistent with the approach taken by the Committee to date.

Members were also reminded that the policy requires the proposal to respect the tradition pattern of development along the frontage and that advice provided to date was that this site was not in keeping with the frontages of 75 and 83 Drennan Road.

The Principal Planning Officer also referred to there being a visual break at the site – laneway and a river. Members were reminded that this was explained in the earlier report. In balancing the differences between the advice of the officers and the case presented by the applicant members were reminded that they must consider whether the Commissioner dealt with all the criteria of the policy and that this was properly set out in her report.

With regard to visibility splays, the Principal Planning Officer confirmed that DfI Roads had expressed no concern in respect of visibility splays.

It was agreed that clarification would be provided in relation to the previous planning history whereby the PAC had expressed the view that there may be an infill opportunity. Clarification in respect of flooding would also be provided.

There being no further business, the site visit was terminated at 10.50 am.

**Lisburn & Castlereagh City Council**

<b>Committee Report</b>	
Date of Committee Meeting	09 January 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/1014/O
Date of Application	21 <sup>st</sup> September 2021
District Electoral Area	Downshire East
Proposal Description	Proposed infill dwelling and garage
Location	50 metres northeast of 75 Drennan Road Lisburn
Representations	7 objections
Case Officer	Grainne Rice
Recommendation	Refusal

**Summary of Recommendation**

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Scheme of Delegation in that it has been Called In.
2. This application is presented to the Planning Committee with a recommendation to refuse as it is considered to be contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
3. It is also considered that the proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap in a substantial and built up frontage and in addition does not respect the existing development pattern along the frontage in terms of siting and plot size and would, if permitted, result in the addition to a ribbon of development.

4. Finally the proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted not respect the traditional pattern of settlement exhibited in the area and would result in a suburban style build-up when viewed with existing buildings and would add to a ribbon of development and therefore result in a detrimental change to the rural character of the countryside.

## Description of Site and Surroundings

### Site

5. The site comprised part of a large agricultural field located to the western side of the Drennan Road, Lisburn.
6. The southern and eastern boundaries are defined by a mixed hedgerow with mature trees interspersed along the southern boundary. A low hedge and post and wire fence abuts the road. The northern (side) and western (rear) boundaries are currently undefined as the proposed site is part of a larger field.
7. The access to the site is from the Drennan Road and the land within the slopes gradually upwards in a northerly direction from the roadside boundary.

### Surroundings

8. The site is located within the countryside and the surrounding area is predominantly rural in character and the land mainly in agricultural use.
9. There is some evidence of a build-up of development locally. Located to the south west of the proposed site is a two storey dwelling and associated ancillary buildings No. 75 Drennan Road. Further west is a single storey dwelling No. 73 Drennan Road which is located set back from the Drennan Road. To the north east beyond an existing laneway is No. 83 Drennan Road a two storey dwelling and garage. Located opposite No. 83 on the opposite side of the Drennan Road are two single storey dwellings No. 82 and No. 84 and associated outbuildings.
10. A watercourse is located to the east of the proposed site on the opposite side of the shared laneway.

## Proposed Development

11. This is an outline application for a proposed dwelling and garage

## Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2015/0752/F	Proposed infill dwelling and garage	40m north east of 73 Drennan Road, Boardmills, Lisburn	Permission Refused 07/12/2016
LA05/2019/0195/F	Proposed infill dwelling and garage	50m north east of 75 Drennan Road, Bressagh Td, Boardmills, Lisburn	Permission Refused 01/08/2019 Appeal dismissed 08 June 2020
LA05/2021/1013/O	Proposed infill dwelling and garage	80m NE of 75 Drennan Road, Lisburn	Withdrawn

13. The associated planning history is a material consideration and includes a previous refusal for full permission an infill dwelling and garage under application LA05/2019/0195/F.
14. This application was also the subject of a planning appeal and was dismissed by the planning appeals commission on 08 June 2020. The Commission did offer some direction to the appellant in respect of whether this proposal could be treated as an exception to policy CTY 8. This is addressed in more detail later in the report.

## Consultations

15. The following consultations were carried out:

Consultee	Response
DAERA Water Management Unit	No objection
LCCC Environmental Health	No objection
Rivers Agency	No objection
NI Water	No objection
Dfi Roads	No objection

## Representations

16. The application was advertised and a neighbour notification took place. There are 7 objections to the application.
17. In summary, the following issues are raised:
  - The proposal does not meet the relevant planning policy tests.
  - Nothing has changed since the previously issued planning refusal
  - The site has recent flood history. Fear the proposed development will impede on the flood plain capacity and increase the likelihood of flooding (against point 6.18 of PPS 15). Concerns for neighbouring properties
  - Comments made regarding objectors are unprofessional and have no bearing on an application which does not satisfy PPS 21
  - Concern regarding safety of proposed vehicular access
  - Loss of privacy
  - Impact proposal will have on local wildlife
  - The same concerns apply to a separate application located in the same field
  - Proposal would result in ribbon development

The issues raised in these representations have been considered as part of the assessment of this application.

## Planning Policy Context

### Relevant Policy and Guidance Documents

18. The relevant policy documents are:
  - The Lisburn Area Plan
  - The draft Belfast Metropolitan Plan 2015
  - The Strategic Planning Policy Statement (SPPS), published in September 2015
  - Planning Policy Statement 2 (PPS 2) – Natural Heritage
  - Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking
  - Planning Policy Statement 15 (PPS 15) – Planning and Flood Risk
  - Planning Policy Statement 21 (PPS 21) – Sustainable Development in the Countryside
19. The relevant guidance is:
  - Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

- Development Control Advice Note 15 - Vehicular Access Standards

### Local Development Plan Context

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 determination must be in accordance with the plan unless material considerations indicate otherwise.
21. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
22. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
23. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit. In draft BMAP it also abuts Boardmills Local Landscape Policy Area.
24. Page 49 of the Lisburn Area Plan 2001 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.*

25. In respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

### Regional Policy Context

26. The SPPS states that

*until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

*The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.*

*During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.*

27. 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.*

28. 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. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

29. Paragraph 4.11 of the SPPS states that

*there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.*

30. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.

31. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.

32. Paragraph 4.12 of the SPPS states

*that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

33. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The

above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

34. Paragraph 6.73 of the SPPS states that

*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.*

35. Paragraph 6.78 of the SPPS states 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.*

### **Sustainable Development in the Countryside**

36. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.

37. Policy CTY 1 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 policy states:*

*Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.*

*All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.*

*Where a Special Countryside Area (SCA) is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan.*

38. The policy also states that

*planning permission will be granted for an individual dwelling house in the countryside in the following cases:*



- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*
  - *a replacement dwelling in accordance with Policy CTY 3;*
  - *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
  - *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
  - *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
  - *a dwelling on a farm in accordance with Policy CTY 10.*
39. This is a proposal for the development of a gap site for a dwelling and garage and is to be assessed against the requirements of policy CTY 8.
40. In addition to CTY 8, there are other CTY policies that are engaged as part of the assessment including CTY13, 14 and 16, and they are also considered.
41. Policy CTY 8 – Ribbon Development states:
- Planning permission will be refused for a building which creates or adds to a ribbon of development.*
- An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*
42. A building is defined in statute to include a structure or erection, and any part of a building as so defined.
43. Regard is also had to the justification and amplification which states:
- 5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*
- 5.33 For the purposes of this policy a road frontage includes a footpath or private lane. A ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.*

*5.34 Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated.*

### **Building on Tradition**

44. Whilst not policy, and a guidance document, the SPPS states

*that regard must be had to the guidance in assessing the proposal. This notes:*

*4.4.0 Introducing a new building to an existing cluster (CTY 2a) or ribbon CTY 8 will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character.*

*4.4.1 CTY 8 Ribbon Development sets out the circumstances under which a small gap site can, in certain circumstances, be developed to accommodate a maximum of two houses (or appropriate economic development project), within an otherwise substantial and continuous built up frontage. Where such opportunities arise, the policy requires the applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context.*

45. The guidance also suggests:

- 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.

46. It also notes at the following paragraphs that:

*4.5.0 There will also be some circumstance 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.*

47. Regard has been had to the principles and examples set out in Building on Tradition in considering this proposal and planning judgement applied to the issues to be addressed.
48. It includes infill principles with examples that have been considered as part of the assessment:
- 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
49. Policy CTY 13 – Integration and Design of Buildings in the Countryside states that
- planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*
50. The policy states that
- a new building will be unacceptable where:*
- (a) *it is a prominent feature in the landscape; or*
  - (b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
  - (c) *it relies primarily on the use of new landscaping for integration; or*
  - (d) *ancillary works do not integrate with their surroundings; or*
  - (e) *the design of the building is inappropriate for the site and its locality; or*
  - (f) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
  - (g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*
51. Policy CTY 14 – Rural Character states

*that planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*

52. The policy states that

*A new building will be unacceptable where:*

- (a) it is unduly prominent in the landscape; or*
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

53. With regards to Policy CTY14, Building on Tradition [page 131] states that

*Where appropriate, applications for buildings in the countryside should include details of proposals for site works, retention or reinstatement of boundaries, hedges and walls and details of new landscaping.*

*Applicants are encouraged to submit a design concept statement setting out the processes involved in site selection and analysis, building design, and should consider the use of renewable energy and drainage technologies as part of their planning application.*

54. Policy CTY 16 - Development Relying on Non-Mains Sewerage states

that Planning Permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.

55. The policy also states that

*Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.*

*In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.*

56. With regards to Policy CTY16, Building on Tradition [page 131] states that

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage,*

*including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.*

### **Natural Heritage**

57. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.

58. Policy NH 1 – European and Ramsar Sites states

*that Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:*

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

59. The policy also states that

*where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the planning authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.*

*In exceptional circumstances, a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where:*

- *there are no alternative solutions; and*
- *the proposed development is required for imperative reasons of overriding public interest; and*
- *compensatory measures are agreed and fully secured.*

60. 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:*

- priority habitats;
- priority species;
- active peatland;
- ancient and long-established woodland;
- features of earth science conservation importance;
- features of the landscape which are of major importance for wild flora and fauna;
- rare or threatened native species;
- wetlands (includes river corridors); or
- other natural heritage features worthy of protection.

61. The policy also states that

*a development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features 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, Movement and Parking**

62. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

63. Policy AMP 2 – 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) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

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

64. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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.*

### **PPS 15 – Planning and Flood Risk**

65. Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains states that

*Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

66. Policy FLD 2 – Protection of Flood Defence and Drainage Infrastructure states that

*the planning authority will not permit development that would impede the operational effectiveness of flood defence and drainage infrastructure or hinder access to enable their maintenance.*

67. Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states that

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

- *A residential development comprising of 10 or more dwelling units*
- *A development site in excess of 1 hectare*
- *A change of use involving new buildings and / or hardsurfacing exceeding 1000 square metres in area.*

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

- *The proposed development is located in an area where there is evidence of a history of surface water flooding.*
- *Surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage.*

*Such development will be permitted where it is demonstrated through the Drainage Assessment 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.*

*Where a Drainage Assessment is not required but there is potential for surface*

*water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.*

*Where the proposed development is also located within a fluvial or coastal plan, then Policy FLD 1 will take precedence.*

## Assessment

68. Within the context of the planning policy tests outlined above, the following assessment is made relative to this particular application.

### Ribbon Development

69. As the Courts have noted in the Glasdrumman Road, Ballynahinch case, officers bear in mind that the policy in Policy CTY 8 is restrictive, and there is a prohibition against ribbon development. There is a need to consider whether a proposal adds to ribbon development and if it does, does the proposal fall into the permissible exceptions to that policy. In this case, the proposal does engage ribbon development.
70. The dwelling with ancillary buildings 75 Drennan Road located to the south west of the proposed site are served by two individual accesses. The dwelling at 83 is a two storey dwelling and detached garage which are also served by an individual access off the Drennan Road. A further single storey dwelling at 73 Drennan Road is located further west and accessed via a laneway set back from the public road.
71. It is accepted that there are sufficient buildings at 75 and 83 Drennan Road to confirm that there is an existing ribbon of development at this location.
72. The next step of the policy test is to demonstrate that an **otherwise substantial and continuously built up frontage** exists.
73. As you travel along this portion of the Drennan Road it is acknowledged there is a line of three or more buildings along the Drennan Road consisting of the dwelling at 75 Drennan Road associated ancillary buildings located to the south west of the proposed site and the dwelling and garage at 83 Drennan Road located to the north east.
74. 73 Drennan Road is discounted from this assessment as it is accessed of an existing laneway that runs parallel to the public road and the buildings are set back with no frontage to the Drennan Road. As such it is considered it does not form part of the substantial and continuously built up frontage.



75. The next step of the policy test is to demonstrate if **a small gap site sufficient only to accommodate up to a maximum of two houses** exists.
76. In considering whether a small gap site exists, officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
77. The gap is between the outbuilding to the rear of 75 and the large detached garage to the rear of 83. The gap has a width of 108 metres from building to building. However the frontages on number 75 and 83 are broad and practically meet in the middle but for an access lane and a field gate thus there is no frontage to Drennan Road within the gap except the access.
78. There is no indicative layout plan submitted however the distance building to building of 108 metres is nevertheless a small gap site sufficient only to accommodate up to a maximum of two houses exists.
79. It is considered that the second step of the policy test has been complied with.
80. The third step of the policy test is to demonstrate that the proposed development **respects the existing development pattern along the frontage in terms of size, scale, siting and plot size.**
81. The buildings at 75 and 83 Drennan Road both have a substantial frontage onto Drennan Road. In contrast it is noted that approximately 34 metres of the proposed site fronts a private shared laneway located to the east. Only 10 metres of the proposed site which would form the vehicular access to the site fronting the Drennan Road. If a building were sited anywhere in this site it would not have frontage to the road and be out of keeping with the established pattern of development.
82. It is further considered that the intervening vegetation by way of a river corridor consisting of mature trees and vegetation to the west of 83 and along the laneway provides a strong visual break and that a building on the proposed site could not be read in the same frontage as 75 Drennan Road and 83 Drennan Road.
83. An annotation added to show the entrance to site as 26 metres is not accepted as robust evidence of a frontage to Drennan Road. Nowhere in Policy CTY 8 nor in the justification and amplification section does it state that visibility splays should be considered part of an otherwise substantial and continuously built up frontage.
84. The average plot frontage width of the proposed site and relationship with adjoining properties is not considered to respect the established pattern in line with policy and guidance. It is contended the proposed frontage is not similar and not in keeping with the surrounding development.
85. For the reasons considered the frontage width and plot size of the proposed site is considered to be significantly at odds with the existing pattern of

- development within the identified frontage.
86. It is considered that the proposal does not respect the existing development pattern along the frontage in terms of siting and plot size. It is considered that the gap is an important visual break that would help maintain rural character.
  87. The agent submitted a number of documents are also considered as part of the assessment. They include a Statement of Case and Design and Access Statement received 17 September 2021, an e-mail from the planning agent to the Head of Planning dated 07 March 2022, additional supporting information received on 21 February and 27 April 2022.
  88. The documents point out the application LA05/2019/0195/F for erection of dwelling was refused before and the subject of a planning appeal 2019/A0173 which was dismissed on 8 June 2020.
  89. This appeal decision has been considered in the processing of this application. It is considered the Planning Appeals Commission are an independent authority and the assessment offered by the Commissioner in the appeal decision is expressed in evidential context. It is acknowledged the Commissioner provided a different policy emphasis on the relationship between the buildings along the frontage and the established pattern of development.
  90. The appeal was dismissed and the Councils decision to refuse planning permission is sustained. The appeal decision is a material consideration in the determination of this application. The Council is concerned with making good decisions weighed against policy and other material considerations. On this basis any new planning application will be assessed on its own merits.
  91. The agent makes reference to the site being referred to as the antithesis of what's on the ground in terms of plot shape as asserted by the Commissioner in Paragraph 18 of her decision. With regard to the PAC decision on this site (PAC case 2019/A0173) the assessment made by the commissioner in terms of CTY 8 was that the access only frontage and variation in plot width throughout the appeal site is indicative of the two adjoining plots, albeit as a mirror image.
  92. The Council is not bound by the Commission's decision and the advice contained in the report is not consistent with the policy. It would be entirely improper to accept that a site in which only the access has a frontage to the road consistent with the established pattern of development.
  93. The agent also offers two examples of approvals in different Council areas were provided application G/12/0092 and G/12/0093 in which the agent advised 175 had an entrance and used for two infills. The only information submitted was a typical design concept proposal.
  94. Again on the basis of the information submitted it is considered this proposal is not comparable to the application site as the proposal is for 2 no. infill dwellings which have a common frontage of Knockan Road and the gap respects the existing pattern of development to accommodate a maximum of two houses

within an otherwise substantial and continuously built up frontage that respects the existing development pattern in terms of siting and plot size.

95. In turn a location map provided in Appendix D of the agents submissions 2012/A0260 is provided as an example of an approval in which existing frontage and plot sizes vary. From an overview of this decision it is considered this proposal is not comparable as the buildings relied upon to form the substantial and continuously built up frontage and the proposed site have a significant uniform common road frontage which is not the case with the subject application.
96. The agent also compares LA02/2021/1208/RM and previous outline application LA02/2021/0246/O, supplying a site layout drawing but no rationale with it. As such it is not possible to make specific comment other than from the site provided it is difficult to draw any comparison between the proposal and the application site and the proposal is also for a different council area.
97. The agent makes reference to the history of the site containing a row of 3 cottages and the Corn Mill and acknowledges they are no longer there but simply refers to the planning history for consideration. In consideration this is noted but as the buildings are no longer in existence they cannot be considered to form part of any substantial and continuously built up frontage as required as an exception under Policy CTY 8 Ribbon Development.
98. It is accepted the examples given in Building on Tradition do not preclude smaller frontages of the gap site. That said the examples given by the agent are in no way comparable to the proposed site. The assessment section of this report above clearly details how the Council considers with regard to this application the circumstances of under a small gap site can be developed within an otherwise substantial and continuous built up frontage are not met.
99. The examples given in Building on Tradition all have a clear substantial and built up frontage along the same road frontage which respects the existing pattern of development. This is not the case with the proposed site which has only a frontage of 10m to the Drennan Road and there is an adjacent lane (second frontage) serving another dwelling.
100. Under the heading "Plot Sizes" the agent puts forward the material consideration that the proposed site is a small gap site sufficient to accommodate one dwelling whilst recognising that plot sizes vary.
101. It is acknowledged that the agent has a different policy emphasis on the relationship between the buildings along the frontage and the established pattern of development. It is reiterated that the Councils consideration of the plot sizes and pattern of development in relation to the proposed site is fully considered in the assessment above.
102. Reference is made by the agent to further PAC cases recognising that sizes can vary, 2011/A0111, 2011/A0327, 2011/A0130, 2021/A0260, 2013/A0214 and 2017/A0109.

103. Unfortunately no further details how any of these examples sit on all fours with this application or are directly comparable were provided. It is for the agent to explain why these should be treated as precedent in this case.

#### Integration and Design

104. During the processing of application LA05/2019/0195/F the Council was satisfied that the proposed dwelling and garage would be visually integrated into the landscape and there was not issue in this regard. As such it is contended a refusal reason on the grounds of CTY 13 would not be sustained.
105. The present application is also an outline planning application and therefore the design of any proposed dwelling can be dealt with by of planning condition. As the land rises to the rear, a suitably designed dwelling could not be considered prominent in the landscape.
106. There is an existing hedgerow along the access lane to the north east and a mature boundary with the dwelling to the south west therefore it could not be contended that the site lacks established natural boundaries nor relies on new landscaping for integration.

#### Rural Character

107. Turning to policy CTY 14, in terms of criteria (a), as detailed above it is considered that the proposal would not be a prominent feature in the landscape.
108. In terms of criteria (b) and (d), it is considered that the proposal is not in compliance Policy CTY 14 in that it would if permitted result in a suburban style build-up of development when added to the other buildings along the frontage..
109. In terms of criteria (c), for the reasons explained above it is also contended the proposal would not respect the traditional pattern of development exhibited within the area.
110. It is considered that the proposal would have a detrimental impact on the rural character of the area and policy tests (b), (c) and (d) associated with Policy CTY 14 are not met.

#### Development Relying on Non-Mains Sewerage

111. In terms of policy CTY 16, the P1 form states that the proposed method of sewage disposal is by a septic tank.
112. Water Management Unit and Environmental Health have both been consulted and have raised no objections to the proposal. Environmental Health

requested at the subsequent planning stage the applicant shall provide a detailed site plan which includes the location of the proposed dwelling, the septic tank/biodisc and the area of subsoil irrigation for the disposal of effluent. The drawing should also include the position of the septic tank and soakaway for any other relevant adjacent dwelling.

113. Based on an assessment of the detail and the advice received, it is considered that the proposal will not create or add to a pollution problem. The policy tests associated with Policy CTY 16 are met.

#### Access, Movement and Parking

114. Detail associated with the application indicates the current field gate access is proposed to be used from the Drennan Road and this will be upgraded to provide the require visibility splays.
115. Dfl Roads have been consulted on the application and have raised no objections and provided conditions.
116. Taking the above into account, and having regard to the advice of Dfl Roads it is accepted that the requirements of policy AMP 2 of PPS 2 Access, Movement and Parking are met and that the access arrangements can be provided in accordance with published standards in DCAN 15. No road safety or adverse traffic impacts are identified.

#### **Natural Heritage**

117. The application site forms part of an agricultural field. The application site lies in the open countryside and abuts the Boardmills Local Landscape Policy Area.
118. There no significant vegetation being removed. As no landscape features are identified that will be impacted by the development the proposal is not assessed against the requirements of PPS 2.

#### **Planning and Flood Risk**

119. Policy FLD 1 states that development will not be permitted within a 1 in a 100 year flood unless the applicant can demonstrate that the proposal constitutes one of the specified exceptions.
120. Rivers Agency requested the submission of a Flood Risk Assessment under the previous planning application LA05/2019/0195/F so the applicant could demonstrate that all sources of flood risk to and from the proposed development were identified.
121. At this time and in the absence of the requested Flood Risk Assessment it was impossible to ascertain the potential impact of flooding for this site. As the appellants at that time failed to demonstrate how the proposal met the relevant

policies of PPS 15 the proposal was refused on these grounds and sustained at planning appeal.

122. A flood risk assessment was submitted with the current application and Rivers Agency having considered the proposal in line with the current Planning Policy Statement 15 Planning and commented that there were no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site and further confirmed that whilst not being responsible for the preparation of the Flood Risk Assessment, they accepted its logic and has no reason to disagree with its conclusions. There is no reason to not accept the advice of DfI Rivers and the requirements of policy FLD 1 is met in full.

### Consideration of Representations

113. In consideration of the representations received:

- Issue: The proposal does not meet the relevant planning policy tests.

Consideration: This planning application was submitted as a proposed infill dwelling and garage and assessed accordingly. As demonstrated by the refusal reasons and recommendation it is considered the application is contrary to the planning policies SPPS, Policy CTY 1, CTY 8 and CTY 14.

- Issue: Nothing has changed since the previously issued planning refusal

Consideration: It is acknowledged that planning permission was refused for a similar planning application LA05/2019/0195/F. Since then circumstances have not significantly changed. That said each planning application is considered on its own merits.

- Issue: The site has recent flood history. Fear the proposed development will impede on the flood plain capacity and increase the likelihood of flooding (against point 6.18 of PPS 15).

Consideration: A flood risk assessment was submitted with the application and Rivers Agency has no reason to disagree with its conclusions..

- Issue: Comments made regarding objectors are unprofessional and have no bearing on an application which does not satisfy PPS 21.

Consideration: All comments made in assessing a planning application are processed in line with the General Data Protection Regulations (GDPR) requirements. All parties are informed that any details provided during the application process will be published on the internet on public access and will be made available for public viewing. The Council processes all information in an open and transparent manner and were necessary anything of a derogatory or offensive nature will be redacted.

- Issue: Concern regarding safety of proposed vehicular access

Consideration: DfI Roads have been consulted on the application and offers no objection to this development proposal in principle. The Council has no reason to disagree with the advice offered. It is considered the proposal complies with PPS 3 Access Movement and Parking.

- Issue: Loss of privacy

Consideration: The proposed site is located in the open countryside and given the separation distances and intervening boundary treatment it is considered that the proposal will not conflict with adjacent land uses and there is no unacceptable adverse effect in terms of loss of privacy or amenity of neighbouring residents.

- Issue: Impact proposal will have on local wildlife

Consideration: On the basis of the information submitted the proposal is unlikely to impact protected or priority species habitats. In this case no significant vegetation is being removed. No further assessment was required.

- Issue: The same concerns apply to a separate application located in the same field.

Consideration: It is acknowledged another planning application for a second dwelling LA05/2021/1013/O was submitted in conjunction with this planning application. The second planning application was withdrawn by the planning agent/applicant on 04<sup>th</sup> April 2022.

- Issue: Proposal would result in ribbon development

Consideration: It is contended the site would read with the existing development located at No.75 Drennan Road and No. 83 Drennan Road and would result in the addition of ribbon development along Drennan Road.

## Conclusions

119. The proposal has been assessment against all relevant material planning and environmental considerations and it is considered to be contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
120. The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap in a substantial and built up frontage and in addition does not respect the existing development pattern along the frontage in terms of siting and plot size and would, if permitted, result in the addition to a ribbon of development.

121. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted not respect the traditional pattern of settlement exhibited in the area and would result in a suburban style build-up when viewed with existing buildings and would add to a ribbon of development and therefore result in a detrimental change to the rural character of the countryside.

### Recommendations

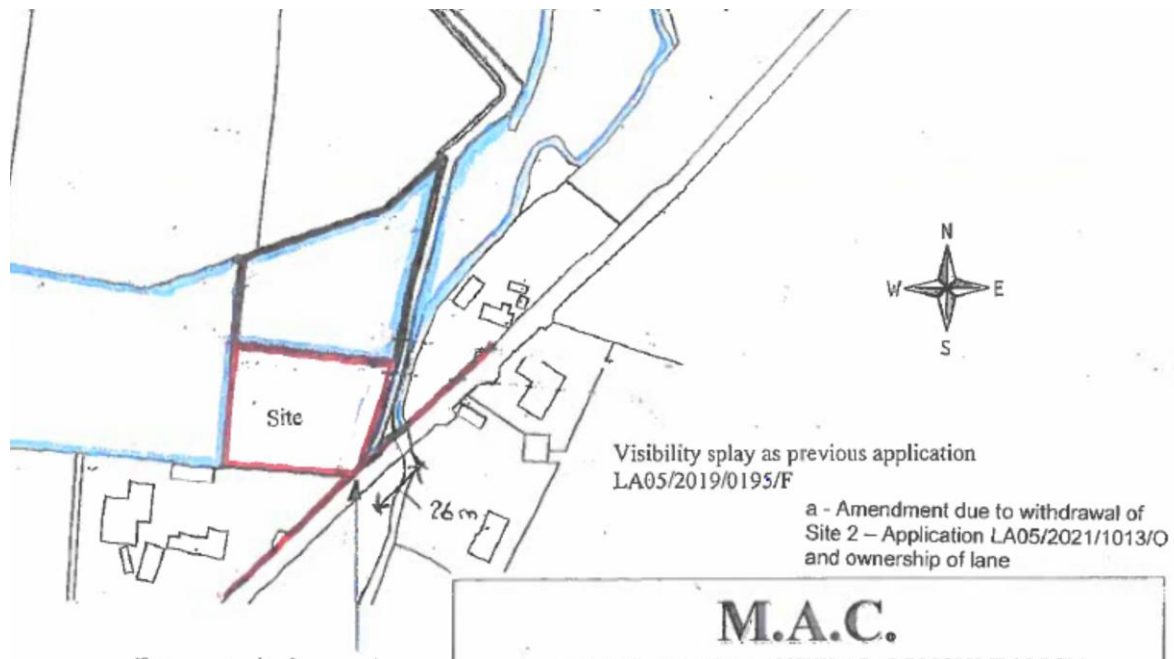
122. It is recommended that planning permission is refused

### Conditions

123. The following refusal reasons are recommended:
- The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
  - The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap in a substantial and built up frontage that respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and would, if permitted, result in the addition to a ribbon of development along Drennan Road.
  - The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted not respect the traditional pattern of settlement exhibited in the area and would result in a suburban style build-up when viewed with existing buildings and would add to a ribbon of development and therefore result in a detrimental change to the rural character of the countryside.



### Site Location Plan – LA05/2021/1014/O



## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	6 February 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/0324/F
Date of Application	24 March 2021
District Electoral Area	Downshire West
Proposal Description	Conversion of existing dwelling to two apartments
Location	49 Castlevue Park, Moira
Representations	9 objections
Case Officer	Grainne Rice
Recommendation	<b>REFUSAL</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Planning Committee in that it has been Called In.
2. This application is presented to the Planning Committee with a recommendation to refuse as the proposal is contrary to the SPPS and criteria (c) of policy LC2 of the addendum to PPS 7: - Safeguarding the Character of Established Residential Areas in that the original property is not greater than 150 square metres gross internal floor space.

### Description of Site and Surroundings

#### Site

3. The site consists of the buildings and curtilage of a two storey semi-detached dwelling located at the end of a cul-de-sac at 49 Castlevue Park Moira. Foundations have been laid to extend the dwelling at the south western side of the existing building.

4. The boundaries of the proposed site are defined by a blockwork wall along the south western and north eastern boundaries. There is a close boarded timber fence located along the rear north western boundary. A rendered wall and palisade fence bounds the site along the front south eastern boundary.

### Surroundings

5. The site is in Moira and the surrounding area is primarily residential in character. Castlevue Park is mainly comprised of two storey semi-detached and terraced dwellings.

### Proposed Development

6. This is a full planning application for the conversion of existing dwelling to two apartments.

### Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2016/0290/F	2 storey rear and side extension to existing dwelling	49 Castlevue Park, Moira	Approval - 08.03.2017
S/2011/0004/F	Alterations and extension to dwelling to form two apartments	49 Castlevue Park, Moira, BT67 0JU,	Refusal - 16.02.2012 Appeal dismissed - 27.03.2013
S/2009/0826/F	Demolition of 2no dwellings & erection of 5no dwellings off a private drive	49 Castlevue Park, Moira, Craigavon	Approval – 11.01.2007
S/2007/0848/F	Extension and renovation of dwelling, and 1 new bungalow and garage	Lands at 283 and 285 Kingsway, Kilmakee, Dunmurry	Approval - 22.10.2010
LA05/2019/1150/NMC	Non material change to S/2012/0330/F- removal of chimneys, removal of garden railings	Adjacent to 49 Castlevue Park, Moira	Non Material Change granted

Reference Number	Description	Location	Decision
	to front, amended block built boundary wall to number 49, window styles slightly different, 1.8m high close boarded timber fence to boundary in lieu of 1.2m high post and wire fence, brick base to front bay windows and 1.8m high timber fence/pass gate to sides in lieu of block wall		
S/2008/0729/F	Two and a half storey development of four two bedroom apartments	Lands adjacent to 49 Castlevue Park, Moira, Craigavon	Withdrawn - 09.04.2009
S/2012/0330/F	Erection of two semi- detached dwelling houses	Lands adjacent to 49 Castlevue Park, Moira	Approval - 31.01.2014
S/2007/1133/F	Two and a half storey development of five two bedroom apartments	Lands adjacent to 49 Castlevue Park Moira	Refusal - 06.05.2008

8. It is acknowledged that the planning permission granted under planning application LA05/2016/0290/F for a two storey rear and side extension to existing dwelling on 08<sup>th</sup> March 2017 may have been commenced. A site inspection confirms foundations have been laid in the general location of the approved drawing.
9. The extension to the dwelling was previously used in a planning appeal against refusal of planning permission to justify the conversion to a dwelling to two dwellings (2012/A0121).
10. The Planning Appeals Commission considered in that appeal that the requirements of policy LC 2 of PPS7 had not been met for the conversion of the building to two apartments as the area of the building was less than 150 square metres and that the proposed extension could not be counted because it was not constructed and part of the original building fabric.

11. Even if a Certificate of Lawfulness had been submitted to demonstrate that a lawful start had been made for the extension it is of limited weight as the works are not substantially completed and the extension cannot be considered to be part of the original floor area of the existing building.

### Consultations

12. The following consultations were carried out:

Consultee	Response
Environmental Health	No objection
DfI Roads	No objection
NI Water	No objection
NIEA	No objection

### Representations

13. Nine representations have been received from the occupiers of the following properties:

- 37 Castlevue Park, Moira
- 39 Castlevue Park, Moira
- 43 Castlevue Park, Moira
- 47 Castelvue Park, Moira
- 51 Castlevue Park, Moira

14. In summary, the following issues are raised:

- As per a similar previous application on the same site by the same developer the original property does not have a gross internal floor space of 150 square metres or more. In fact it is considerably less. Planning permission was granted under LA05/2016/0290/F at the proposed site for an extension to the dwelling house only.
- Long planning history on the site stretching from 2009-2014 which culminated in a Planning Appeals Commission to dismiss an appeal to convert the application site to two apartments. There is no reason why LCCC planning would overturn the PAC decision.
- The proposed site is not located in a town centre.
- Restricted access to the rear of several houses, this development would only add to this. Insufficient parking.
- No demand or need for flats in the area. There are no other flats in the Castlevue Park and they would be in stark contrast to the existing layout.
- Loss of privacy.

15. The issues raised in these representations have been considered as part of the assessment of this application.

## Planning Policy Context

### Relevant Policy and Guidance Documents

16. The relevant policy documents are
  - Regional Development Strategy (2035)
  - Lisburn Area Plan (2001)
  - Belfast Metropolitan Area Plan (Draft) 2004
  - The Strategic Planning Policy Statement (SPPS), published in September 2015,
  - Planning policy Statement 3 – Access, Movement and Parking
  - Planning Policy statement 7 – Quality Residential Environments
  - Planning Policy Statement 7 (Addendum) – Safeguarding the Character of Established Residential Areas
  - Planning Policy Statement 2 – Natural Heritage
  - Planning Policy Statement 15 – Planning and Flood Risk
17. The relevant guidance is:
  - Guidance of DCAN 8: Housing in Existing Urban Areas
  - Guidance of DCAN 15: Vehicular Access Standards
  - Guidance of Creating Places
  - Parking Standards

### Local Development Plan

18. 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.
19. On 18th May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had not been lawfully adopted.
20. As a consequence, the Lisburn Area Plan (2001) operates as the statutory development plan for the area. However, the Belfast Metropolitan Area Plan (Draft) 2004 remains a material consideration in the assessment of individual Planning applications.
21. In both the statutory development plan and the draft BMAP, the application site is identified within the defined settlement limits of Moira, and as such, there is no distinguishable difference in the local plan context.

22. No other plan designations are applicable to the application site.

### **Regional Policy Context**

23. The SPPS states that

*until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

24. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
25. During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.
26. 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.*

27. 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.
28. With regard to housing, the SPPS states

*that the policy approach must be to facilitate and promote more sustainable housing development within the existing urban area along with the provision of mixed housing development with homes in a range of sizes and tenures.*

29. Strategic policy states

*that the key to successful place making is the relationship between different buildings, the relationship between buildings and streets and that the compatibility of a development with its immediate and wider context and the settlement pattern of a particular area are important considerations.*

### **Access, Movement and Parking**

30. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

31. Policy AMP 2 – 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) *such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
- b) *the proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

32. Paragraph 5.16 of the Justification and Amplification to Policy AMP 2 states that

*Development Control Advice Note 15 ‘Vehicular Access Standards’ sets out the current standards for sightlines, radii, gradient etc. that will be applied to both new access and intensified use of an existing vehicular access onto existing public roads. DCAN 15 also includes guidance on special requirements for access onto a Trunk Road. The current standards for access within new residential developments are set out in the ‘Creating Places’ design guide.*

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

33. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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.*

#### **Parking Standards**

34. The purpose of this document is to clarify that the guidance contained in Parking Standards will continue to have effect (where relevant) unless and until such guidance is updated, revised or replaced by new Departmental guidance on this planning issue.

35. Paragraph 1 states that

*the document sets out the parking standards that the Department will have regard to in assessing proposals for new development. It includes parking standards for residential development previously published in Creating Places – Achieving Quality in Residential Developments.*

#### **Quality Residential Environments**

36. PPS 7 - Quality Residential Environments sets out the Department’s planning policies for achieving quality in new residential development.



37. Paragraph 1.18 of the policy states that Creating Places – Achieving Quality in Residential Developments (May 2000) is the principal guide for use by intending developers in the design of all new housing areas.
38. 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.
39. Paragraph 1.19 of the policy advises that Development Control Advice Note 8 Small Unit Housing – New Development in Existing Residential provides specific guidance to intending developers on two main areas: the development of brownfield sites in urban areas; and housing development within established residential areas. It is important to note that this advice note is superseded by a revised DCAN 8 – Housing in Existing Urban Areas.
40. Policy QD 1 - Quality in New Residential Development states

*Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.*

*In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.*

*In Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances.*

*All proposals for residential development will be expected to conform to all of the following criteria:*

- (a) *the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;*
- (b) *features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*
- (c) *adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where*

- appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;*
- (d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;*
  - (e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;*
  - (f) adequate and appropriate provision is made for parking;*
  - (g) the design of the development draws upon the best local traditions of form, materials and detailing;*
  - (h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and*
  - (i) the development is designed to deter crime and promote personal safety.*

*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.*

41. Policy LC2 - The Conversion or Change of Use of Existing Buildings to Flats or Apartments states that

*planning permission will only be granted for the conversion or change of use of existing buildings to flats or apartments (including those for multiple occupancy) where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:*

- (a) there is no adverse effect on the local character, environmental quality or residential amenity of the surrounding area;*
- (b) the proposal maintains or enhances the form, character and architectural features, design and setting of the existing building;*
- (c) the original property is greater than 150 square metres gross internal floor space;*
- (a) all flats or apartments are self-contained (i.e. having separate bathroom, w.c. and kitchen available for use only by the occupiers); and*
- (b) the development does not contain any flat or apartment which is wholly in the rear of the property and without access to the public street.*

### **Creating Places – Achieving Quality in Residential Developments**

42. Paragraph 8 of the document states that

*the guide constitutes supplementary planning guidance and that such a document may be especially relevant in respects such as*

- *The design character of the development*

- *The protection of existing trees and other important natural or topographical features*
- *The protection of archaeological remains and historic sites or buildings*
- *Access routes for pedestrians, cyclists, public transport and other vehicles*
- *Requirements for open space provision;*
- *Requirements of the provision of local neighbourhood facilities*
- *Building density or mixture of dwelling types and tenures to be provided*
- *The amount of provision to be made for parking.*

*In the case of apartment or flat developments, or 1 and 2 bedroomed houses on small urban infill sites, private communal open space will be acceptable in the form of landscaped areas, courtyards or roof gardens. These should range from a minimum of 10 square metre per unit to around 30 square metre per unit.*

### **Housing in Existing Urban Areas**

43. DCAN 8 - Housing in Existing Urban Areas provides advice which will help to ensure that urban and environmental quality is maintained, amenity preserved, and privacy respected when proposals are being considered for new housing development within existing urban areas.

44. *Paragraph 5 of the advice note states that the following detailed design principles need to be considered*

- *creating a safe environment;*
- *clearly defining public and private space;*
- *ensuring adequate privacy and daylight;*
- *providing appropriate garden and amenity open space;*
- *creating an attractive landscape setting;*
- *responding to opportunities created by corner sites;*
- *providing for enhanced public transport, walking and cycling facilities; and*
- *accommodating car parking and determining the appropriate level.*

45. Paragraph 6 states

*that proposes for housing in established residential areas need to illustrate that they have taken these design principles into account, clearly demonstrate an appreciation of context and reinforcing local character. This is particularly important in relation to:*

- *Building lines;*
- *Boundary treatments*
- *Scale and built form; and*
- *Varied roof lines.*

## Assessment

46. Within the context of the planning policy tests outlined above, the following assessment is relevant to this proposal.

### Safeguarding the Character of Established Residential Areas

47. It is explained in the planning history section of this report that the planning history to extend the dwelling is of limited weight in assessment of this proposal as the works are not substantially completed.
48. In assessment of Policy LC 2 - The Conversion or Change of Use of Existing Buildings to flats or apartments only the original building fabric is considered.
49. With regards to criteria (c) policy LC2 places a minimum size limit on dwellings which will be permitted for conversion of flats or apartments. For properties to be suitable for conversion **the original** [my emphasis] property must be greater than 150 square metres gross internal floor space.
50. The existing property is measured at approximately 94.66 square metres which is well below the recommended minimum size limit. The proposal therefore fails to comply with criteria (c) of LC 2 of the addendum to PPS 7.
51. At paragraph 19 of the appeal 2012/A0121 it is stated that:
- the approved extension to the dwelling S/2009/0826/F has not been built and there is no guarantee that it will be. The appellants reliance on having to extend the dwelling to meet the size requirement is misplaced given the wording of criteria (c) and Policy LC2 which refer specifically to “the original property” and “existing buildings” respectively.’*
52. The Commissioner goes on to reiterate the exceptions which can be considered for a property less than 150 square within designated city and town centres along key link transport corridors and accepts that the proposed site is not located within any of these exception.
53. The circumstances are not changed since the previous appeal and it is a relevant material consideration in this application. The proposal fails to meet the requirements of criteria (c) of policy LC 2.
54. In terms of the balance of the criteria in respect of criteria (a) the surrounding area would fall under the definition of an established residential area as referenced in Annex E of the addendum to PPS 7.
55. Within this context, it is considered that the increase in density and resulting conversion to two apartments would result in the loss of family sized housing and will have a negative impact on the character and environmental quality of the area.

56. Whilst it is acknowledged within appeal reference 2012/A0121 at paragraph 16 that the Commissioner expresses the view that the area has a very homogenous character of single family dwellings of a similar size and design and there are no apartment developments, it goes on to state that the planning authority would be best placed to control the type and scale of future residential development in this area and in the appeal case, found that the appeal site did not fail LC2 criteria (a).
57. It is therefore considered that the Council could still not sustain refusal reason on LC2 criteria (a) as the proposal still resembles the character of the established residential properties with no adverse effect likely to be caused to the local character, environmental quality or residential amenity of the surrounding area.
58. With regards to criteria (b) it is considered the proposal would maintain the form, character and architectural features, design and setting of the existing building.
59. The scale form and massing of the proposal is also similar to previous approval LA05/2016/0290/F for a two storey rear and side extension. As such it is contended criteria (b) is met.
60. With regards to criteria (e) the proposed flats or apartments are self-contained (i.e. having separate bathroom, W.C. and kitchen available for use only by the occupiers). It is considered this criteria is met.
61. Finally the development does not contain any flat or apartment which is wholly in the rear of the property and without access to the public street. It is contended this criteria is met.

#### Quality Residential Environments

62. In consideration criteria (a) of PPS 7, the proposed apartments are two storey in nature. Materials consist of white rendered walls with concrete roof tiles. Existing windows are to be replaced. All new and replaced windows to be uPVC with black outer colour and white internal colour. New external doors to be composite with black external colour to match windows. Black uPVC gutters and rainwater pipes on black PVC clad fascia and soffits.
63. The proposed ground floor apartment would be accessed from the front of the property and would serve a dining/living/kitchen area, with two bedrooms and a bathroom and storage area. The proposed first floor apartment would be accessed from the side of the property and a proposed stairwell would lead to a dining/living/kitchen area, with two bedrooms and a bathroom and storage area.
64. The proposed site layout details boundary walls to the front of the property to be 215 mm blockwork finished with white coloured render to match the existing. Railings to be ppc black to match proposed new windows and door colour. Close boarded timber fencing used at rear. Existing close boarded timber fence enhanced with concrete support posts between 49 Castlevue Park and

- 51 Castlevue Park. The existing blockwork wall located along the south western boundary is also detailed.
65. The proposed site layout also details a private front garden to the ground floor apartment with a private yard to the rear of the building to be enclosed by a new close boarded timber fence with the existing blockwork party wall to be finished in white coloured render to the boundary with 49 Castlevue Park .
  66. This area would also house bins for the proposed ground floor apartments. A rendered boundary wall with railings to match those to the front of the site would house a bin storage area to the side of the property to serve the first floor apartment.
  67. The proposed apartments would extend some five metres into the rear of the site leaving 12 metres of space between it and the site boundary. This would facilitate three in curtilage parking spaces along with a landscaped area beyond in the form of a loose gravel/broken slate finish planted with low shrubbery.
  68. The scale and massing of the building is similar to that approved under LA05/2016/0290/F for a two storey rear and side extension to the dwelling and as such has been accepted in design terms.
  69. Given the sites location at the end of a cul-de-sac it is also considered the proposed parking spaces and hard standing would be largely obscured from public views. As such in this regard it is contended that the proposal would not significantly adversely impact on the character of the area.
  70. The surrounding land use is residential in nature mainly semi-detached two storey dwellings. It is contended that the scale and form of the proposal is on balance respective of neighbouring dwellings.
  71. On this basis and given the fall-back position of previous approvals on this site it is considered a refusal reason based on layout scale proportions, massing and appearance of buildings, structures, landscaped and hard surfaced areas under Criteria (a) could not be sustained.
  72. With regard to criteria (b) there are no features of archaeological or built heritage located on the site or within close proximity to it. No significant landscape features will be affected by the proposed development. Criteria (b) is met.
  73. In relation to criteria (c) as this application proposes two apartments private communal open space is required. On balance it is considered the landscaped area in the form of a loose gravel/broken slate finish planted with low shrubbery to the rear and side of the proposed site would meet the amenity provision as set out in Creating Places and adequately serve both apartments (a minimum of 10 square metres per unit to around 30 square metres per unit).
  74. It is considered the proposal meets the criteria (d) as the application site is located within an established residential area within walking distance of existing neighbourhood facilities.

75. The application site is located within a residential area already served by an established movement pattern. Convenient access to public transport is available and as such, criteria (e) is considered to be met.
76. The site layout plan details three in curtilage parking spaces to the rear of the proposed site. There is also additional space for on street parking in general for residents and visitors. Roads Service offer no objection to the proposal and as such, criteria (f) is met.
77. The design of the proposed dwelling is reflective of the established dwellings in this area. The dwelling will have a facing brick external finish to match the external finish of neighbouring dwellings. It is considered that the scale and form of the dwelling is characteristic of this established residential area meeting criteria (g).
78. The proposed first floor apartment would present two windows and one French door to the rear elevation. One window on the original building would serve a bedroom and one window and French door located on the proposed rear extension would serve the living dining area. The proposed first floor apartment presents two windows on the side elevation to serve a kitchen and store
79. It is acknowledged that there will be some degree of overlooking from the upper floor windows into adjacent private amenity areas. However given the distance and the angle of view it is contended that any resultant overlooking would not be significant. Furthermore the scale and massing of the proposal is similar to that approved under application LA05/2016/0290/F and the distance between this proposal and the common boundary of neighbouring properties would be the same.
80. It is considered that the separation distances and orientation of the proposed building would ensure that the design and layout will not conflict with adjacent land uses and that there will be no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. The Councils Environmental Health Unit did not raise any concerns regarding noise or other disturbance.
81. The relationship and the effect upon the use and enjoyment of the respective neighbouring private amenity areas would be adequately safeguarded by the proposed boundary treatment along the sites boundaries. For the reasons outlined, it is considered that the proposal will not have a significant impact on the residential amenity of any neighbouring properties and as such, criteria (h) is met.
82. Existing neighbouring dwellings will provide a level of surveillance for the proposed dwelling. Criteria (i) is met.

### **Access, Movement and Parking**

83. The proposed development involves the use of an existing unaltered access to a public road. It also makes provision within the side and rear of the site for access, parking and turning with provision for three parking spaces.

84. DfI Roads have been consulted on the application and have raised no objections.
85. Taking the above into account, and having regard to the advice of DfI Roads it is accepted that the requirements of policy AMP 2 of PPS 2 - Access, Movement and Parking are met and that the parking and access arrangements can be provided in accordance with published standards in DCAN 15.
86. The proposal is considered to comply with the SPPS and PPS 3 in that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

### Consideration of Representations

87. Nine representations have been received in opposition to the proposed development. Consideration of the issues raised is set out in the paragraphs below.

Similar to previous application on the site, the original property does not have 150 sq. m or more floorspace. Long planning history on the site 2009-2014 with dismissed appeal to convert the application site to 2 apartments. No difference. LA05/2016/0290/F is an extension to the dwelling house only

88. It is acknowledged that a previous application S/2011/0004/F was refused planning permission on 04th February 2012 and dismissed at planning appeal 2012/A0121 on 27 March 2013. However this application is assessed on its own merits.
89. As demonstrated in the assessment above, the proposal is contrary to Policy LC2 of PPS 7 Addendum - Safeguarding the Character of Established Residential Areas in that the original property is not greater than 150 square metres gross internal floor space.
90. It is acknowledged that planning permission was granted under application LA05/2016/0290/F for a two storey rear and side extension to the existing dwelling on 08th March 2017.

The proposed site is not located in a town centre

91. It is acknowledged the proposed site is not located in a town centre. The proposed site is located within the development limit of Moira. The existing two storey semi-detached dwelling is located at the end of a cul de sac within an established residential area.

Restricted access to the rear of several houses, this development would only add to this. Insufficient parking

92. DFI Roads have considered the detail of the proposed layout, parking and access arrangements and offers no objection to this development proposal.



As explained above, the proposal provides for three incurtilage car parking spaces to the rear of the site. There is also additional space for on street parking in general for residents and visitors.

93. For the reasons outline above, it is considered the proposal complies with Planning Policy Statement 3: Access, Movement and Parking.

No demand or need for flats in the area – there are no other flats in the Castlevue Park and they would be in stark contrast to the existing layout

94. It is acknowledged the character of the area consists of single family dwelling of a similar size and design with no other apartment developments. As demonstrated by the refusal reason the original dwelling does not meet the minimum size requirements to warrant conversion to apartments.

Planning permission was granted under planning application LA05/2016/0290/F to extend 49 Castlevue Park. Therefore this application does not meet the criteria to convert apartments. Even if it were extended it would still not meet the criteria

95. It is acknowledged that planning permission was granted under planning application LA05/2016/0290/F for a two storey rear and side extension to existing dwelling on 08<sup>th</sup> March 2017. A site inspection confirms foundations have been laid with one row of brick. A planning history check indicates a Certificate of Lawful Development has not been submitted to the Council to demonstrate a lawful start has been made to the development. No planning permission has been granted for apartment development at the proposed site

Loss of privacy

96. As demonstrated in the main body of this report, the proposed first floor apartment would present two windows and one French door to the rear elevation – one window on the original building would serve a bedroom and 1 no. window and French door located on the proposed rear extension would serve the living dining area. The proposed first floor apartment presents two windows on the side elevation to serve a kitchen and store.
97. It is acknowledged that there will be some degree of overlooking from the upper floor windows into adjacent private amenity areas. However given the distance and the angle of view it is contended any resultant overlooking would not be significant.
98. Furthermore the scale and massing of the proposal is similar to that approved under application LA05/2016/0290/F and the distance between this proposal and the common boundary of neighbouring properties would be the same. For these reasons, it is contended that no unacceptable adverse loss of privacy to neighbouring properties will occur.

**Conclusion**

99. In conclusion the application is contrary to the SPPS and criteria (c) of policy LC2 of the addendum to PPS 7: Safeguarding the Character of Established Residential Areas in that the original property is not greater than 150 square metres gross internal floor space.

**Recommendations**

100. It is recommended that planning permission is refused.

**Refusal Reasons/Conditions**

101. The following refusal reason is recommended.
- The proposal is contrary to the SPPS and criteria (c) of policy LC2 of PPS 7 Addendum: Safeguarding the Character of Established Residential Areas in that the original property is not greater than 150 square metres gross internal floorspace.

Site Location Plan – LA05/2022/0324/F



LOCATION MAP (1:1250)  
 49 CASTLEVUE PARK  
 MOIRA, BT67 0LN

## Lisburn & Castlereagh City Council

Committee Report	
Date of Committee Meeting	06 February 2023
Committee Interest	Local Application (Called In) - Addendum
Application Reference	LA05/2020/0853/O
Date of Application	23 October 2020
District Electoral Area	Killultagh
Proposal Description	New dwelling (detached)
Location	Between 23a and 23 Ballinderry Road, Aghalee, Craigavon, BT67 0DZ
Representations	None
Case Officer	Catherine Gray
Recommendation	<b>Refusal</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Planning Committee in that it has been Called In.
2. This application is presented to the Planning Committee with a recommendation to refuse as the proposal is contrary to the SPPS and Policy CTY 1 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to the SPPS and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it fails to meet the provisions for an infill dwelling as the application site does not respect the existing development pattern along the frontage in terms of size, scale and siting, and would if permitted result in the addition of ribbon development.
4. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the proposal would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings, not respect the traditional

pattern of settlement exhibited in that area, add to a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

## Description of Site and Surroundings

### Site

5. The site is located to eastern side of the Ballinderry Road, Aghalee and is comprised part of the driveway and the side/rear garden of a dwelling at 23a Ballinderry Road and part of a large agricultural field.
6. The agricultural field is set in behind and east of the curtilages of properties 23 and 23a Ballinderry Road. There is a post and wire fence through the middle of the application site that is the rear boundary to property 23a Ballinderry Road.
7. The northern, eastern and part of the southern boundaries are not currently defined. The other part of the southern boundary is defined by a post in wire fence and some sparse vegetation. The western boundary is defined by a wooden ranch style fence with a grassed area to its outside that abuts the Ballinderry Road.

### Surroundings

8. The site is located within the countryside and the surrounding area is rural in character and the land mainly in agricultural use. .

## Proposed Development

9. This is an outline application for a new detached dwelling.

## Relevant Planning History

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

Reference Number	Description	Location	Decision
S/2000/0970/O	Site for dwelling	Site adj to 25 Ballinderry Road, Aghalee	Permission Granted 18.12.2000
S/2001/1474/RM	Dwelling	Site Adjacent to 25 Ballinderry Road, Aghalee, Aghalee, Northern Ireland, BT67 0DZ	Permission Granted 21.05.2002

### Consultations

11. The following consultations were carried out:

Consultee	Response
NI Water	No objection
DAERA Water Management Unit	No objection
DAERA Natural Environment Division	No objection
LCCC Environmental Health	No objection
DfI Roads	No objection

### Representations

12. No representations have been received in respect of this proposal.

### Planning Policy Context

#### Relevant Policy and Guidance

13. The relevant policy documents are:

- The Lisburn Area Plan
- The draft Belfast Metropolitan Plan 2015

- The Strategic Planning Policy Statement (SPPS), published in September 2015
- Planning Policy Statement 2 (PPS 2)– Natural Heritage
- Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking
- Planning Policy Statement 15 (PPS 15) – Planning and Flood Risk
- Planning Policy Statement 21 (PPS 21) – Sustainable Development in the Countryside

14. The relevant guidance is:

- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
- Development Control Advice Note 15 - Vehicular Access Standards

### **Local Development Plan Context**

15. 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.
16. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
17. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
18. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit and as there is no difference in the local plan context.
19. Page 49 of the Lisburn Area Plan 2001 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 respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will*

*reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

### **Regional Policy Context**

21. The SPPS states that

*until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

22. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
23. During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

24. 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.*

25. 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. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.
26. Paragraph 4.11 of the SPPS outlines there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.
27. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.
28. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic



guidance on noise and air quality as material considerations in the planning process is set out at Annex A.

29. Paragraph 4.12 of the SPPS states

*that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

30. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

31. Paragraph 6.73 of the SPPS states that

*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.*

32. Paragraph 6.78 of the SPPS states 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.*

### **Sustainable Development in the Countryside**

33. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.

34. Policy CTY 1 –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 policy states:*

*Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.*

*All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning*

*and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.*

*Where a Special Countryside Area (SCA) is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan.*

*Planning permission will be granted for an individual dwelling house in the countryside in the following cases:*

- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*
- *a replacement dwelling in accordance with Policy CTY 3;*
- *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
- *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
- *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
- *a dwelling on a farm in accordance with Policy CTY 10.*

35. This is a proposal for the development of a gap site for two dwellings and is to be assessed against the requirements of policy CTY 8.

36. In addition to CTY 8, there are other CTY policies that are engaged as part of the assessment including CTY13, 14 and 16, and they are also considered.

37. Policy CTY 8 – Ribbon Development states:

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

*An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*

38. A building is defined in statute to include a structure or erection, and any part of a building as so defined.

39. Regard is also had to the justification and amplification to Policy CTY 8 which states:

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up*

*appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

*5.33 For the purposes of this policy a road frontage includes a footpath or private lane. A ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.*

*5.34 Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated.*

#### **Consideration of the Courts:**

40. Officers have paid close attention to any consideration of this planning policy by the High Court. On the 24<sup>th</sup> May 2022 Mr Justice Scofield delivered judgment in Gordon Duff's Application (Re Glassdrumman Road, Ballynahinch) for Judicial Review. Whilst Officers are advised that this decision is under appeal, the Court discussed the general approach to be taken to the policy assessment of such applications, and they are of general application and important to bear in mind as the interpretation of policy is a matter for the Courts.
41. That case involved CTY8 and at paragraph [91] the Judge stated:

*"In light of the amount of litigation which has been generated in relation to Policy CTY8 and the designation of the present case as being in the nature of a 'lead' case in relation to Mr Duff's applications, I venture the following summary which (I hope) will be of assistance to decision-makers in this field:*

- (i) *Where planning permission is sought on the basis of the infill housing exception contained within Policy CTY8 (being one of those instances where development in the countryside is in principle acceptable for the purposes of Policy CTY1), the first question is whether the proposal would create or add to ribbon development. If the answer to that question is 'no', the exception within CTY8 is not relevant. Whilst this means the proposal would not fall foul of the first sentence of Policy CTY8, or sub-paragraph (d) of Policy CTY14, it also means that the exception within Policy CTY8 will not provide a basis for the grant of permission. Whether a proposal will create or add to a ribbon of development is a matter of planning judgement*

*but, in light of the purpose of the relevant policies, this concept should not be restrictively interpreted.*

- (ii) Where the proposal will create or add to ribbon development, it is in principle unacceptable. It will only be permissible to grant permission if the development falls within one of the exceptions set out in Policy CTY8 (either for infill housing development or infill economic development) or where, exceptionally, the planning authority rationally considers that other material planning considerations outweigh the non-compliance with Policy CTY8 and Policy CTY14 in this regard (taking into account the strength of the wording of those policies and the fact that Policy CTY8 contains an express exception which is not engaged in the case).*
- (iii) In the second of these instances, where the only basis for the argument that the proposal is acceptable in principle for the purposes of Policy CTY1 is the infill exception, and the planning authority is satisfied that the infill exception is not engaged, the authority should also direct itself to whether Policy CTY1 also requires refusal of the application. Where Policy CTY1 also points to refusal, there is a very strong policy presumption in favour of refusal and the planning authority should only grant permission if satisfied, on proper planning grounds, that it is appropriate to disregard breach of Policies CTY1, CTY8 and CTY14 because those breaches are outweighed by other material considerations pointing in favour of the grant of permission, again bearing in mind both the strength of the policy wording and the fact that the proposal does not fall within the specified exceptions built into the relevant policies.*
- (iv) Where the infill exception is relied upon, the next question is whether there is a substantial and continuously built up frontage. This concept is not identical to a 'ribbon of development' and is more narrowly defined. Whether there is such a frontage is also a question of planning judgement but, in light of the purpose of the policy, this concept should be interpreted and applied strictly, rather than generously.*
- (v) Where the planning authority is satisfied that there is a substantial and continuously built up frontage, the next question is whether there is a small gap site. Although the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, it should not be assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. The issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching purpose of the policy.*
- (vi) Where there is a small gap site, the authority should nonetheless consider whether, by permitting that site to be infilled, it is acting in accordance with, or contrary to, the purpose of the exception within the policy (which is to permit development where little or nothing is lost in terms of rural character because of the existing substantial and continuously built up frontage). Consistently with the guidance in Building in Tradition, this should include*

*consideration of whether the grant of permission will result in the loss of an important visual break in the developed appearance of the local area. That, again, is a matter of planning judgement.”*

42. Officers have borne in mind that the policy in CTY8 is restricted and that any infill application is an exception to the prohibition on ribbon development.

### **Building on Tradition:**

43. Whilst not policy, and a guidance document, the SPPS states

*that regard must be had to the guidance in assessing the proposal. This notes:*

*4.4.0 Introducing a new building to an existing cluster (CTY 2a) or ribbon **CTY 8** will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character.*

*4.4.1 **CTY 8** Ribbon Development sets out the circumstances under which a small gap site can, in certain circumstances, be developed to accommodate a maximum of two houses (or appropriate economic development project), within an otherwise substantial and continuous built up frontage. Where such opportunities arise, the policy requires the applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context.*

44. The guidance also suggests:

- a. It is not acceptable to extend the extremities of a ribbon by creating new sites at each end.*
- b. Where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill.*
- c. 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.*
- d. 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.*
- e. 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.*

45. It also notes at the following paragraphs that:

*4.5.0 There will also be some circumstance 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.*

46. Regard has been had to the principles and examples set out in Building on Tradition in considering this proposal and planning judgement applied to the issues to be addressed.
47. It includes infill principles with examples that have been considered as part of the assessment:
- 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

48. Policy CTY 13 – Integration and Design of Buildings in the Countryside states that

*planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*

*The policy directs that a new building will be unacceptable where:*

- (a) *it is a prominent feature in the landscape; or*
- (b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) *it relies primarily on the use of new landscaping for integration; or*
- (d) *ancillary works do not integrate with their surroundings; or*
- (e) *the design of the building is inappropriate for the site and its locality; or*
- (f) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

49. Policy CTY 14 – Rural Character states

*that planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*

50. The policy states that

*A new building will be unacceptable where:*

- (a) it is unduly prominent in the landscape; or*
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

51. Policy CTY 16 - Development Relying on Non-Mains Sewerage states

*that Planning Permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.*

52. The policy also states that:

*Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.*

*In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.*

53. With regards to Policy CTY16, Building on Tradition [page 131] states that

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage, including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.*

## Natural Heritage

54. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
55. Policy NH 1 – European and Ramsar Sites states

*that Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:*

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

56. The policy also states that

*where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the planning authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.*

*In exceptional circumstances, a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where:*

- *there are no alternative solutions; and*
- *the proposed development is required for imperative reasons of overriding public interest; and*
- *compensatory measures are agreed and fully secured.*

57. Policy NH 2 – 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:-*

- *there are no alternative solutions; and*
- *it is required for imperative reasons of overriding public interest; and*
- *there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- *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.*

58. 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:*

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

47. The policy also states that

*a development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features 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, Movement and Parking**

47. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.
59. Policy AMP 2 – 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) *such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
- b) *the proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

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

60. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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**

61. Within the context of the planning policy tests outlined above, the following assessment is made.

##### Ribbon Development

62. As the Courts have noted in the Glasdrumman Road, Ballynahinch case, officers bear in mind that the policy in CTY8 is restrictive, and there is a prohibition against ribbon development. The first step is to consider whether the proposal adds to ribbon development, and if it does, does the proposal fall into the permissible exceptions to that policy.
63. Officers are satisfied that the proposal does engage ribbon development.

##### The issue of exception

64. The next step of the policy test is to consider whether the proposal comes within the exception set out in the policy.
65. The applicant must satisfy the policy exception and demonstrate that an otherwise substantial and continuously built up frontage exists. As mentioned above, a substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.
66. A context map has been submitted in support of the application. It identifies all the buildings and includes the buildings from property number 21, 21a, 23, 23a, an outbuilding adjacent to number 23a, property 25, 25b, 25c and 25f, as

buildings to be taken into consideration as part of the substantial and continuously built up frontage.

67. The gap is identified on the site concept plan as a site between properties 23 and 23a Ballinderry Road. The site is effectively the side garden to 23a. One dwelling with a detached garage located to the rear are annotated on the plan.
68. The continuously built up frontage is taken as the single storey dwelling house at 25 that has frontage to the road, the outbuilding/workshop adjacent to property 23a which has its own curtilage and has a frontage to the road, the two-storey dwelling house with attached double garage number 23a which has a frontage to the road, the two storey dwelling house with attached garage at number 23 which has a frontage to the road, the single storey dwelling house and detached garage at number 21a both with a frontage to the road and finally the single storey dwelling house at number 21 which also has a frontage to the road.
69. The first part of the policy is engaged and there is a line of three or more buildings all of which have frontage to the road.
70. The second step of the policy test is to demonstrate if a small gap site sufficient only to accommodate up to a maximum of two houses exists.
71. In considering whether a small gap site exists, while the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, it is not assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
72. With that in mind, the characteristics of the gap identified have been considered.
73. The gap is measured as the distance between two buildings. In this case, the gap is identified as the land between the dwelling house number 23a and the dwelling house number 23 and measures 22 metres.
74. The submitted context plan indicates that a detached dwelling and garage can be sited within the gap demonstrating that it big enough only to accommodate one house with associated garage.
75. The frontage widths and plot sizes vary either side of the gap as follows:  
  
Number 25 = 33.2 metres  
Outbuilding = 16.3 metres  
Number 23a = 56.7 metres  
Number 23 = 18.5 metres  
Number 21a = 41 metres  
Number 21 = 42.1 metres

76. The average existing frontage width is measured at 34.6 metres. The frontage width of the proposed site is 19 metres which is similar to the adjacent plot which has a frontage of 18.5m [number 23]. The gap fits within the range of sizes and is small. The second part of the test is met.
77. Consideration is also given to the significance of the gap. There are no local features recorded or observed to indicate that the gap frames a viewpoint however it is considered that it does provide a setting for the amenity and character of the established dwelling of 23a Ballinderry Road. The site is not comprised of a woodland or other feature to suggest that it is an important visual break in the developed and built up appearance at this location, however it is noted that it is the side garden associated with number 23a.
78. Guidance in Building on Tradition does state at paragraph 4.5.0 that it may not be appropriate to fill gaps with development that are important visual break. For the reasons discussed, this is not considered to be one of these gaps.
79. Furthermore, the assessment of other planning matters pertaining to the plot frontages and plot sizes as outlined below, demonstrates that a dwelling within this gap would not respect the pattern of development making the gap unsuitable in this instance for infill.
80. Whilst not expressly stated in CTY 8 and the exceptions policy, regard is had to Policy CTY 13 in considering the issue and this is dealt with later in the report.
81. The exceptions test of Policy CTY 8 also requires consideration as to whether the proposed development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size.
82. As explained above, the frontage width for the proposed site is 19m. A proposed concept plan and area plan has been submitted identifying the notional siting and plot size of each of the dwellings.
83. The existing frontage measurements are as calculated above with the average frontage measuring 34.6 metres
84. The respective plot sizes are as follows:
  - Number 25 = 814 square metres
  - Outbuilding = 1234 square metres
  - Number 23a = 1866 square metres
  - Number 23 = 925 square metres
  - Number 21a = 3874 square metres
  - Number 21 = 1201 square metres
85. The average plot size based on the above figures is 1652.33 square metres. The proposed plot size is 1060 square metres.
86. Building on Tradition states that a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot

width in the existing ribbon. The proposed plot width does not equate to the average size plot width in the existing ribbon of development and is considerably less.

87. It is noted that Building on Tradition is guidance only and cannot be rigidly applied and the language used therein is not mandatory. In deciding whether the proposal would accord with the policy, it is acknowledged that one should not rely merely on a mathematical exercise. Instead, planning judgement must come into play taking into account the site and its surroundings.
88. With this in mind and having regard to the site and its surroundings, it is noted that there is considerable spacing between the existing dwelling houses within the frontage. For example between the dwelling of number 21a and 23 there is approximately 25 metres and between the dwelling of number 23 and 23a there is 22 metres.
89. This pattern of spacing between the houses would not be replicated by the proposed development. The development would distort what is generally the generous spacing between dwellings that characterises this part of the Ballinderry Road settlement pattern.
90. For the reasons outlined above, the proposed development is not capable of being sited and designed so as to respect the existing development pattern along the frontage in terms of size, scale and siting. Instead, the sub-division of the existing curtilage of 23a would result in a development that appeared crammed into the gap. This crammed appearance would be noticeable in the street scene giving rise to further build-up of development and not respect the existing pattern of development. The third part of the test is not met.
91. Paragraph 5.32 of the Justification and Amplification to Policy CTY 8 states that ribbon development creates and reinforces a built up appearance to roads, footpaths and private laneways and that such development has consistently been opposed and will continue to be unacceptable. In this case the proposal would add to an existing ribbon of development and does not meet with the exception within policy CTY 8.
92. An assessment against other planning and environmental requirements are set out below.

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

93. Turning then to Policy CTY13 in terms of criteria (a), although the site is road side, the land is relatively flat in nature and a dwelling in line with properties 23 and 23a would not be a prominent feature in the landscape.
94. In terms of criteria (b), the site does lack long established boundaries as it is a part of a side garden and an agricultural field, however it would have a suitable degree of enclosure from the existing built development surrounding it that would allow it to integrate into the landscape. On approach to the site from the

south, the existing built development would screen the proposal.

95. In terms of criteria (c), the proposal not would rely primarily on the use of new landscaping for integration.
96. In terms of criteria (d), as the application is for outline permission, no detail is provided in terms of ancillary works however the indicative site layout on the context plan shows that an access along the boundary. Existing and proposed levels along with ancillary works would be assessed at Reserved Matters stage if this application is approved. It is considered that ancillary works could be designed to integrate into the landscape.
97. In terms of criteria (e), as the application is for outline permission, no detail is provided with regards to design. The design of the building would be assessed at Reserved Matters stage if this application is approved and must comply with also with Building on Tradition.
98. In terms of criteria (f), the site level is relatively flat and there is a backdrop of a rolling landscape. A dwelling and garage on the site could be designed to blend with the landform and development around it.
99. Criteria (g) is not applicable.

#### Rural Character

100. In terms of policy CTY 14, in terms of criteria (a), it is considered that the proposal would not be unduly prominent in the landscape.
101. In terms of criteria (b), it would result in a sub-urban style build-up of development when viewed with existing and approve buildings.
102. In terms of criteria (c), as stated above the proposal would not respect the established pattern of development in which there is more generous spacing between the dwellings along this part of the Ballinderry Road. For this reason, the proposal would not respect the traditional pattern of settlement exhibited in the area.
103. In terms of criteria (d), as already indicated above, the proposal would add to ribbon development at this location.
104. In terms of criteria (e), it is considered that the impact of ancillary works would not damage rural character.
105. It is considered that the proposal is contrary to policy CTY 14 and would further erode the rural character of the area.

### **Access, Movement and Parking**

106. The site location plans and context map provide an indicative/approximate position for a proposed vehicular access onto the Ballinderry Road. It is noted that the Ballinderry Road is not a Protected Route.
107. The construction of a new access to the public road is proposed and the proposal would need to have provision for in curtilage parking.
108. DfI Roads have been consulted on the application and have raised no objections.
109. Taking the above into account, and having regard to the advice of DfI Roads it is accepted that the requirements of policy AMP 2 of PPS 3 Access, Movement and Parking can be met and that the access arrangements can be provided in accordance with published standards in DCAN 15.

### **Natural Heritage**

110. PPS 2 – Natural Heritage makes provision for ensuring that development does not harm or have a negative impact on any natural heritage or conservation.
111. The application site forms part of a side/rear garden and part of an agricultural field of semi-improve grassland.
112. 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.
113. To facilitate the proposed development a small area of grassland would be required to be removed. No buildings or other vegetation is required to be removed to accommodate the proposal within the site.
114. Taking the above into account, it is accepted that the proposal would not result in demonstrable harm being cause to any features of natural heritage importance and as such the requirements of PPS 2 are considered to be met.

### **Conclusions**

115. The proposal has been assessed against all relevant material planning an environmental considerations and it is considered that the proposal does not comply with the SPPS and Policy CTY 8 of PPS 21 in that it fails to meet the provisions for an infill dwelling as the application site does not respect the existing development pattern along the frontage in terms of size, scale and siting, and would if permitted result in the addition of ribbon development.

116. As the proposal does not comply with policy CTY 8, the proposal also fails to meet the policy requirements of the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
117. It is also considered that the proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the proposal would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings, not respect the traditional pattern of settlement exhibited in that area, add to a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

### Recommendations

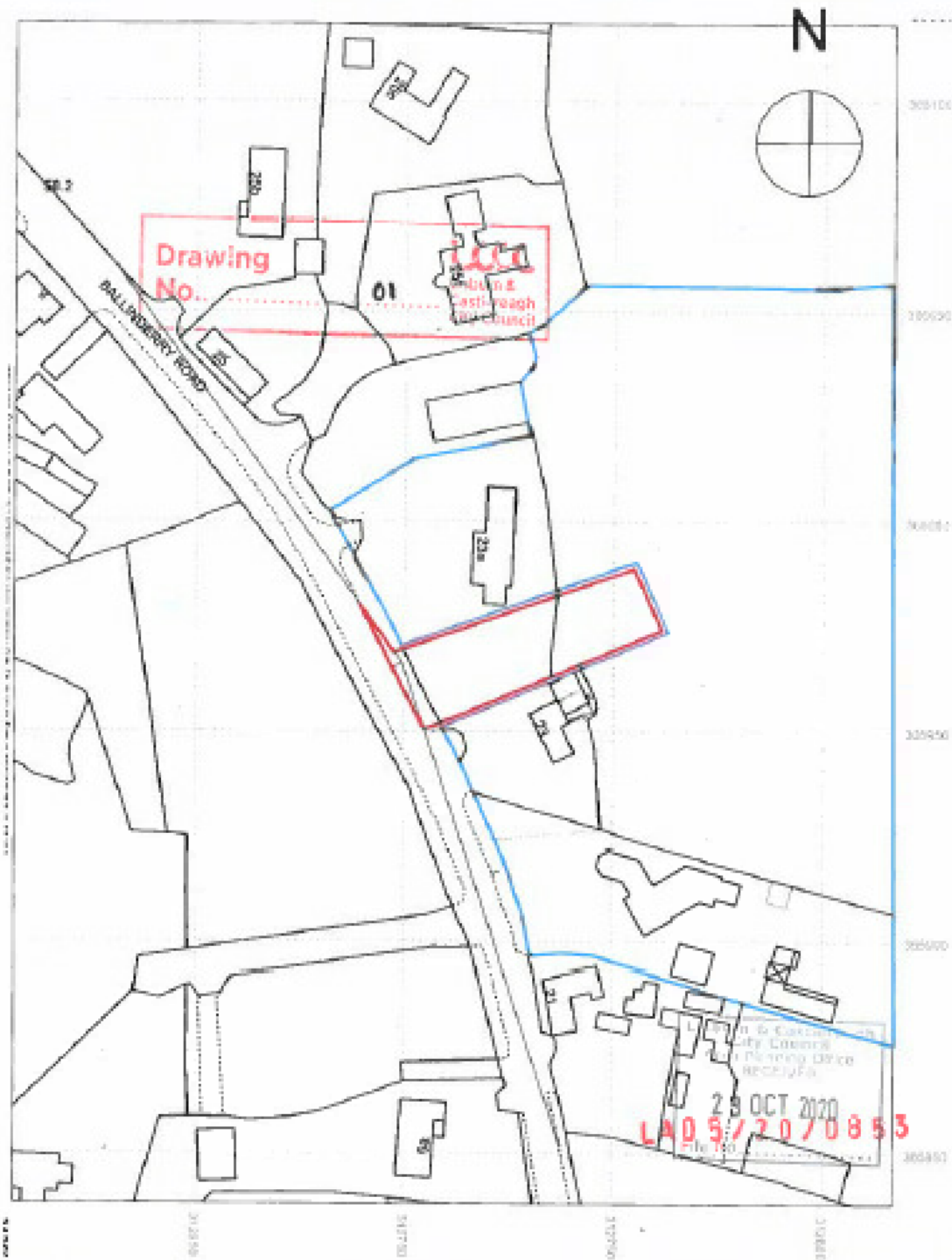
118. It is recommended that planning permission is refused.

### Refusal Reason(s)

119. The following refusal reasons are recommended:
- The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
  - The proposal is contrary to the SPPS and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it fails to meet the provisions for an infill dwelling as the application site does not respect the existing development pattern along the frontage in terms of size, scale and siting, and would if permitted result in the addition of ribbon development.
  - The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the proposal would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings, not respect the traditional pattern of settlement exhibited in that area, add to a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.



Site Location Plan – LA05/2020/0853/O

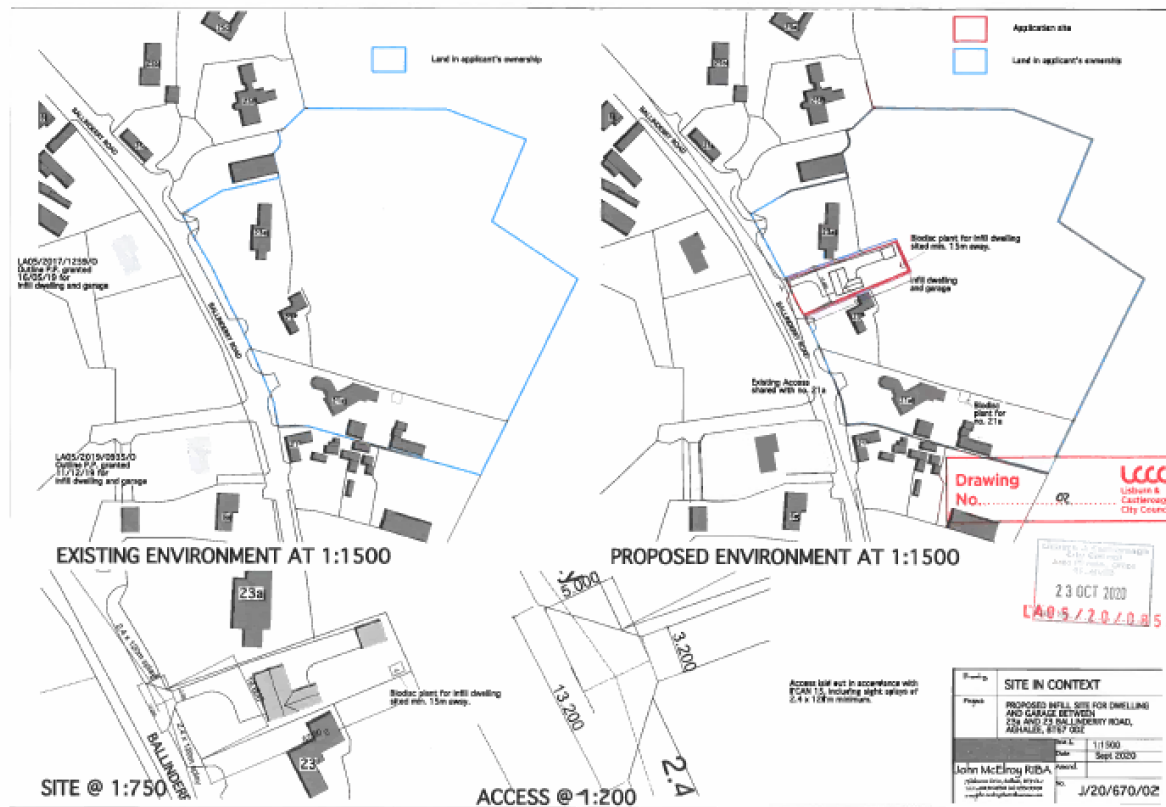


Scale: 1/1250

OS Reference: 312730 Easting 365975 Northing

PROPOSED INFILL SITE BETWEEN 23a and 23 BALLINDERRY ROAD, AGHALEE, BT67 ODZ

### Site Layout Plan / Context Plan – LA05/2020/0853/O



## Lisburn & Castlereagh City Council

Committee Report	
Date of Committee Meeting	06 February 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/0571/O
Date of Application	21 May 2021
District Electoral Area	Killtulagh
Proposal Description	Site for infill dwelling
Location	60m South West of 4a Magees Road, Ballinderry Upper, Lisburn
Representations	Forty
Case Officer	Cara Breen
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
2. This application is presented to the Planning Committee with a recommendation to approve as the proposal is considered to meet the requirements of the SPPS and policies CTY 1 and CTY 8 of PPS 21 in that a small gap site exists sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage.
3. Furthermore, the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
4. In addition, the proposal is considered to meet the requirements of policies CTY 13 and CTY 14 of PPS 21 in that a dwelling can be sited and designed so as to integrate into the landscape without causing a detrimental change to the rural character of this part of the open countryside.

5. The proposal also complies with the SPPS and Policy CTY 16 in that the detail submitted demonstrates that the proposal will not create or add to a pollution problem.
6. The proposal complies with the SPPS and policies NH 2 and NH 5 of PPS 2 - Natural Heritage in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
7. The proposal also complies with the SPPS and policy AMP 2 of PPS 3 – Access, Movement and Parking in that the detail submitted demonstrates that an access to the public road can be accommodated that will not prejudice road safety or significantly inconvenience the flow of traffic.

## Description of Site and Surroundings

### Site

8. The 0.34 hectare site is located 60 metres south west of 4A Magees Road, Upper Ballinderry and is a rectangular plot cut out of a much larger agricultural field.
9. The site is currently accessed from Magees Road via an agricultural field gate and the land within is relatively flat throughout.
10. The roadside (south eastern) boundary is defined by roadside hedgerow, two oak trees and the gate. The south western and north western boundaries are undefined. The north eastern boundary is defined by a 1.2 metre high timber post and wire fence.

### Surroundings

11. the application site is located within a built up frontage, consisting primarily of residential dwellings and their associated ancillary buildings.
12. The area beyond is mainly rural in character and the land predominantly agricultural in use.

## Proposed Development

13. Outline planning permission is sought for a dwelling.

## Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2021/0572/O	Site for infill dwelling	100m NE of 6 Magees Road, Ballinderry Upper, Lisburn	Pending
S/1989/0333	Dwelling	60 METRES NORTH OF 6 MAGEES ROAD UPPER BALLINDERRY	Permission Granted
S/1988/0512	Dwelling	60 METRES NORTH OF 6 MAGEES ROAD UPPER BALLINDERRY	Permission Granted
S/1986/0817	DWELLING AND DOUBLE GARAGE	125 METRES NORTH OF 6 MAGEE'S ROAD, UPPER BALLINDERRY, LISBURN	Permission Granted
S/1985/1139	DWELLING	125 METRES NORTH OF NO 6 MAGEE'S ROAD, UPPER BALLINDERRY, LISBURN	Permission Granted

### Consultations

15. The following consultations were carried out:

Consultee	Response
NI Water	No objection
DAERA Water Management Unit	Refer to Standing Advice
DAERA Natural Environment Division	No objection
LCCC Environmental Health	No objection
DfI Roads	No objection

Consultee	Response
NI Water	No objection
DAERA Water Management Unit	Refer to Standing Advice
DAERA Natural Environment Division	No objection
Shared Environmental Services	No objection

## Representations

16. Forty representations in opposition to the proposal have been received. In summary the issues raised in the objections are as follows;

- Impact on Road Safety.
- Environmental Impact – Wildlife/Natural Heritage.
- Impact on Rural Character.
- Cannot Satisfy Policy CTY 8 as each application is dependent on each other to satisfy policy.
- Gap represents a natural break.
- Would cause ribbon development.
- No detail given to make a full assessment.
- Contrary to Policy CTY 13 (a), (b) and (c).
- P2 (land ownership) Challenge – P2A Forms not viewable.
- Substantial and continuously built up frontage not visually linked.
- Site prone to flooding.
- Refusal of S/2001/0308/O.
- Substantial volume of development in the area.
- Application site (red line) has been amended.
- Request for TPO's.
- Need for EIA.
- Impact on housing density in the area.
- Contributing to piecemeal development.
- Contrary to Policies CTY 2, 2a, 10, 11, 12, 14 and 15.
- Loss of light.
- Could cause financial harm.
- Could cause groundwater pollution.
- Could cause difficulties for community care requirements of any future occupiers.
- Bat survey undertaken before seasonal roost was occupied.
- Removal of ivy from tree and facing of hedgerow not in the ownership of the applicant.
- Increased traffic would lead to increased noise and air pollution.
- Remaining land to northeast of Site 1.

- Removal of ivy from trees between PEA and bat re-entry and emergence surveys.
- Inaccuracies of P1 Form.
- Adjoining land ownership has not been accurately identified in the public domain throughout the process.

## Planning Policy Context

### Relevant Policy and Guidance Documents

17. The relevant policy documents are:
  - Regional Development Strategy (2035)
  - Lisburn Area Plan (2001)
  - Belfast Metropolitan Area Plan (Draft) 2004
  - Strategic Planning Policy Statement (SPPS) for Northern Ireland; Planning for Sustainable Development (2015)
  - Planning Policy Statement 2: Natural Heritage
  - Planning Policy Statement 3: Access, Movement and Parking
  - Planning Policy Statement 21: Sustainable Development in the Countryside
18. The relevant guidance is:
  - Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside
  - Development Control Advice Note 15: Vehicular Access Standards

### Local Development Plan Context

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.
20. On 18th May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had not been lawfully adopted.
21. As a consequence, the Lisburn Area Plan (2001) is the statutory development plan for the area. However, the draft Belfast Metropolitan Area Plan 2004 remains a material consideration in the assessment of individual planning applications.
22. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside, outwith any designated settlement limit, and as such, there is no difference in the local plan context. No other designations are applicable.

23. Page 49 of the Lisburn Area Plan (2001) states;

*'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.'*

24. In respect of draft BMAP, page 16 states;

*'Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.'*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.'*

### **Regional Policy Context**

25. The SPPS states;

*'Until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.'*

26. The local development plan is at Stage 1, and there is no Stage 2 draft. Thus, no weight can be given to the emerging plan. The transitional period remains operational.

27. The SPPS states;

*'During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.'*

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



prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

29. 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.'*

30. 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. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

31. Paragraph 4.11 of the SPPS states;

*'There are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.'*

32. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.

33. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.

34. Paragraph 4.12 of the SPPS states;

*'Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.'*

35. It also advises that adverse environmental impacts associated with development can also include; sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

36. In relation to development in the countryside and infill development (to which this application seeks approval for) specifically, 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.'*

37. Paragraph 6.78 of the SPPS states;

*'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.'*

### **Sustainable Development in the Countryside**

38. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.

39. Policy CTY 1 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.'*

*'Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.'*

*'All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.'*

*'Where a Special Countryside Area (SCA) is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan.'*

40. The policy states;

*'Planning permission will be granted for an individual dwelling house in the countryside in the following cases:*

- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*
- *a replacement dwelling in accordance with Policy CTY 3;*

- *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
- *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
- *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
- *a dwelling on a farm in accordance with Policy CTY 10.'*

41. As per the proposal description, this application pertains to an infill dwelling. As such, the policy requirements of Policy CTY 8 are applicable.

42. In addition to Policy CTY 8, it is noted that there are other CTY policies that are engaged as part of the assessment including; Policy CTY 13, Policy CTY 14 and Policy CTY 16.

43. Policy CTY 8 – Ribbon Development states:

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

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

*For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.'*

44. A building is defined in statute to include; a structure or erection, and any part of a building as so defined.

45. Regard is also had to the Justification and Amplification text which states;

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

*5.33 For the purposes of this policy a road frontage includes a footpath or private lane. A ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.*

5.34 *Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated.*

#### **Consideration of the Courts:**

46. Officers have paid close attention to any consideration of this planning policy by the High Court. On the 24<sup>th</sup> May 2022 Mr Justice Scofield delivered judgment in Gordon Duff's Application (Re Glassdrumman Road, Ballynahinch) for Judicial Review. Whilst Officers are advised that this decision is under appeal, the Court discussed the general approach to be taken to the policy assessment of such applications, and they are of general application and important to bear in mind as the interpretation of policy is a matter for the Courts.

47. That case involved CTY8 and at paragraph [91] the Judge stated:

*"In light of the amount of litigation which has been generated in relation to Policy CTY8 and the designation of the present case as being in the nature of a 'lead' case in relation to Mr Duff's applications, I venture the following summary which (I hope) will be of assistance to decision-makers in this field:*

- (i) *Where planning permission is sought on the basis of the infill housing exception contained within Policy CTY8 (being one of those instances where development in the countryside is in principle acceptable for the purposes of Policy CTY1), the first question is whether the proposal would create or add to ribbon development. If the answer to that question is 'no', the exception within CTY8 is not relevant. Whilst this means the proposal would not fall foul of the first sentence of Policy CTY8, or sub-paragraph (d) of Policy CTY14, it also means that the exception within Policy CTY8 will not provide a basis for the grant of permission. Whether a proposal will create or add to a ribbon of development is a matter of planning judgement but, in light of the purpose of the relevant policies, this concept should not be restrictively interpreted.*
- (ii) *Where the proposal will create or add to ribbon development, it is in principle unacceptable. It will only be permissible to grant permission if the development falls within one of the exceptions set out in Policy CTY8 (either for infill housing development or infill economic development) or where, exceptionally, the planning authority rationally considers that other material planning considerations outweigh the non-compliance with Policy CTY8 and Policy CTY14 in this regard (taking into account the strength of the wording of those policies and the fact that Policy CTY8 contains an express exception which is not engaged in the case).*

- (iii) *In the second of these instances, where the only basis for the argument that the proposal is acceptable in principle for the purposes of Policy CTY1 is the infill exception, and the planning authority is satisfied that the infill exception is not engaged, the authority should also direct itself to whether Policy CTY1 also requires refusal of the application. Where Policy CTY1 also points to refusal, there is a very strong policy presumption in favour of refusal and the planning authority should only grant permission if satisfied, on proper planning grounds, that it is appropriate to disregard breach of Policies CTY1, CTY8 and CTY14 because those breaches are outweighed by other material considerations pointing in favour of the grant of permission, again bearing in mind both the strength of the policy wording and the fact that the proposal does not fall within the specified exceptions built into the relevant policies.*
- (iv) *Where the infill exception is relied upon, the next question is whether there is a substantial and continuously built up frontage. This concept is not identical to a 'ribbon of development' and is more narrowly defined. Whether there is such a frontage is also a question of planning judgement but, in light of the purpose of the policy, this concept should be interpreted and applied strictly, rather than generously.*
- (v) *Where the planning authority is satisfied that there is a substantial and continuously built up frontage, the next question is whether there is a small gap site. Although the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, it should not be assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. The issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching purpose of the policy.*
- (vi) *Where there is a small gap site, the authority should nonetheless consider whether, by permitting that site to be infilled, it is acting in accordance with, or contrary to, the purpose of the exception within the policy (which is to permit development where little or nothing is lost in terms of rural character because of the existing substantial and continuously built up frontage). Consistently with the guidance in Building in Tradition, this should include consideration of whether the grant of permission will result in the loss of an important visual break in the developed appearance of the local area. That, again, is a matter of planning judgement."*

48. Officers have borne in mind that the policy in CTY8 is restricted and that any infill application is an exception to the prohibition on ribbon development.

#### Building on Tradition

49. Whilst not policy, and of lesser weight as a guidance document, the SPPS states that regard must be had to this guidance in assessing the proposal.

50. With regards to Policy CTY 8, Building on Tradition states;

*4.4.0 Introducing a new building to an existing cluster (CTY 2a) or ribbon CTY 8 will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character.*

*4.4.1 CTY 8 Ribbon Development sets out the circumstances under which a small gap site can, in certain circumstances, be developed to accommodate a maximum of two houses (or appropriate economic development project), within an otherwise substantial and continuous built up frontage. Where such opportunities arise, the policy requires the applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context.*

51. The guidance also suggests:

- 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.

52. It also notes at the following paragraphs 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.*

53. Building on Tradition provides 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

54. Policy CTY 13 – Integration and Design of Buildings in the Countryside states;

*‘Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.’*

55. The policy states;

*‘A new building will be unacceptable where:*

- (a) it is a prominent feature in the landscape; or*
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) it relies primarily on the use of new landscaping for integration; or*
- (d) ancillary works do not integrate with their surroundings; or*
- (e) the design of the building is inappropriate for the site and its locality; or*
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.’*

56. Policy CTY 14 – Rural Character states;

*‘Planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.’*

57. The policy states;

*‘A new building will be unacceptable where:*

- (a) it is unduly prominent in the landscape; or*
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.’*

58. Policy CTY 16 - Development Relying on Non-Mains Sewerage states;

*'Planning Permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.'*

59. The policy also states;

*'Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.'*

*In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.'*

### Building on Tradition

60. With regards to Policy CTY16, Building on Tradition [page 131] states;

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage, including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.'*

### **Natural Heritage**

61. PPS 2 – Natural Heritage sets out Planning policies for the conservation, protection and enhancement of our natural heritage.

62. Policy NH 2 – Species Protected by Law states;

*'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:-*

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

63. The policy also states;

*'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.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.'*

64. Policy NH 5 - 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:*

- *priority habitats;*
- *priority species;*
- *active peatland;*
- *ancient and long-established woodland;*
- *features of earth science conservation importance;*
- *features of the landscape which are of major importance for wild flora and fauna;*
- *rare or threatened native species;*
- *wetlands (includes river corridors); or*
- *other natural heritage features worthy of protection.'*

65. The policy also states;

*'A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features 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, Movement and Parking

66. PPS 3 - Access, Movement and Parking sets out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.
67. Policy AMP 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) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.'*

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

68. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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

69. Within the context of the Planning policy tests outlined above, the following assessment is made relative to this particular application.

### Ribbon Development

70. As the Courts have noted in the Glassdrumman Road, Ballynahinch case, officers bear in mind that the policy in CTY8 is restrictive, and there is a prohibition against ribbon development. The first step is to consider whether the proposal adds to ribbon development, and if it does, does the proposal fall into the permissible exceptions to that policy.
71. Officers are satisfied that the proposal does engage ribbon development.

### The issue of exception

72. The next step of the policy test is to consider whether the proposal comes within the exception set out in the policy.
73. The applicant must satisfy the policy exception and demonstrate that an otherwise substantial and continuously built up frontage exists. As mentioned, a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
74. The assessment that follows assesses those buildings that are considered to form part of the frontage.
75. Regard is had to the statutory definition of a building. The policy does not specify what type or size of building is to be considered as part of the substantial and continuously built-up frontage.
76. In terms of a substantial and continuously built up frontage, the application is relying upon the buildings at 4A Magees Road to the north east of the application site (beyond the site forming LA05/2021/0571/O) and a new bungalow under construction (although not occupied but considered to be substantially complete at site inspection) and buildings at 6 Magees Road to the south west of the application site.
77. The application site (and the site which forms LA05/2021/0572/O) currently make up a parcel of land that falls between 4A Magees Road and a new dwelling under construction to the north east of 6 Magees Road.
78. The buildings at 4A Magees Road, which is located to the north east of the application site consists of a detached 1.5 storey residential dwelling with associated detached domestic garage. The dwelling is set back approximately 27 metres from Magees Road, to which its front elevation faces. The front garden (curtilage) of 4A abuts Magees Road and the buildings present a frontage to the road.
79. The new dwelling which was still under construction, is considered substantially complete for the purposes of policy, is set back 35 metres from Magees Road. Its curtilage abuts Magees Road and the building presents a frontage to the road.
80. The buildings at 6 Magees Road, which is located immediately to the south west of the new dwelling under construction, is comprised of a two storey farmhouse style dwelling, the gable end of the dwelling abuts the Magees Road and presents a frontage to the road.
81. Taking all the buildings described above into account, it is considered that the application site falls within a substantial and continuously built up frontage consisting of 3 or more buildings and the first step of the exceptions test is met.
82. The second step of the exception test is to consider if a small gap site sufficient only to accommodate up to a maximum of two houses exists.

83. In considering whether a small gap site exists, while the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, officers have not assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
84. With that in mind, the characteristics of the gap identified have been considered.
85. The gap between the dwelling at 4A Magees Road and the new dwelling to the north east of 6 Magees Road measures approximately 134 metres building to building.
86. The frontage plot widths are as follows;
- 4A Magees Road – 46 metres
  - New dwelling – 50 metres
  - 6 Magees Road – 69 metres
87. This equates to an average frontage width of approximately 55 metres. The frontage of the application site measures approximately 47.5 metres.
88. Building on Tradition, provides guidance on said matters. It states that when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots. It also notes that a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.
89. Twice the length of the average ribbon plot width is approximately 110 metres. It is noted that the gap (building to building) measures approximately 134 metres.
90. Whilst it is acknowledged that the gap is approximately 24 metres more than twice the length of the average plot width there is not sufficient room to integrate a third dwelling consistent with the established pattern of development. The second part of the test is met.
91. In terms of assessing the proposal against the existing development pattern the site has the same characteristics as the other plots in the ribbon in terms of its size and shape and it has the capacity to accommodate a building of similar dimension, orientation and design to others found in the immediate local context.
92. It is acknowledged that the existing frontage is comprised of a range of varying plot sizes including
- 4A Magees Road – 0.33 hectares
  - Site adjacent to 6 Magees Road – 0.28 hectares

6 Magees Road – 0.43 hectares

93. For the purpose of assessment and to support the above conclusion that the site is consistent with the established pattern of development it is considered that the proposed plot size of 0.34 hectares fits within the range of plots sizes set out above and that no harm would be caused to the rural character of the area as a consequence of the development.
94. Taking the above into account, it is considered that the proposal satisfies the third element of the exceptions test in that a small gap sufficient only to accommodate a maximum of two dwellings exists and that the development of the site would respect the existing pattern of development along the the Magees Road frontage.
95. The fourth and final step of the exceptions test of Policy CTY 8 that must be considered is whether the proposal meets other planning and environmental requirements.
96. These matters are addressed in the assessments detailed below.

#### Visual Break

97. Consideration has also been given to the significance of the gap. There are no local features recorded or observed to indicate that the gap frames a viewpoint or provides an important setting for the amenity and character of the existing dwellings. The site is not comprised of a woodland or other feature to suggest that the site is an important visual break in the developed appearance of the landscape at this location.
98. Guidance in Building on Tradition does state at paragraph 4.5.0 that it may not be appropriate to fill gaps with development that are important visual break. For the reasons discussed, this is not considered to be one of these gaps.
99. Taking all of the above into account and having regard to the other planning and environmental considerations set out below, it is considered that the proposal satisfies the exceptions test as laid out in Policy CTY 8 of PPS 21.

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

100. Turning then to policy CTY 13, and taking into account the topography of the application site, the established mature vegetation on at least two boundaries and in the backdrop and orientation and position of the neighbouring buildings it is considered that a dwelling could be sited and designed so as not to appear as a prominent feature in the surrounding landscape.
101. It is noted that some of the hedgerow and one of the oak trees on the roadside boundary will require to be removed to achieve the visibility splays and ensure safe access to and from the application site.

102. However, it is considered that the existing buildings in situ immediately to the north east and south west would provide a sufficient degree of enclosure.
103. Whilst it is acknowledged that new landscaping would be required partly to the south eastern (to inside of visibility splay) to the north eastern, south western and north western boundaries, it is not considered that the proposal would rely primarily on new landscaping for the purposes of integration.
104. An indicative position for the proposed vehicular access has been shown. It is considered that the application site could accommodate a driveway which would not be largely sweeping in nature.
105. Taking the existing ground levels/topography of the application site into account, it is not considered that there would be a need for large scale excavation /cut and fill or retaining walls.
106. It is therefore considered that any ancillary works could be satisfactorily integrated with their surroundings with the specific detail considered further at the Reserved Matters stage.
107. As confirmed by Q20 of the submitted P1 Form, the application does not pertain to a dwelling on a farm (Policy CTY 10). Therefore, in this instance criterion (g) is not applicable.
108. For the reasons outlined, the proposal complies with the requirements of policy CTY 13.

#### Rural Character

109. In terms of policy CTY 14 the proposed development is considered to meet the exception test set out in policy CTY 8 for the reasons outlined above and as such it is considered that it would not create or add to a ribbon of development or create a sub-urban style of build-up.
110. It is considered that the proposal meets the requirements of policy CTY 14 and would not have a detrimental impact on the rural character of the area for the reasons outlined in the preceding paragraphs.

#### Development Relying on Non-Mains Sewerage

111. Detail submitted with the application indicates that foul sewage will be disposed of via a septic tank.
112. The Environmental Health unit advised in a response dated 15 June 2021 that they had no objection to the above proposed development.

113. Based on an assessment of the detail and the advice received, it is considered that the applicant has demonstrated that the proposal will not create or add to a pollution problem and that the tests associated with Policy CTY 16 are met.

### **Natural Heritage**

114. It is noted that the removal of approximately 83 metres of roadside hedgerow and a mature oak tree (x1) would be required to be removed to accommodate the necessary visibility splays.
115. A Biodiversity Checklist and Preliminary Ecological Assessment (PEA) was submitted as part of the processing of the application.
116. The PEA acknowledged that the proposed scheme would involve the loss of an area of species poor grassland assessed as having 'low' conservation value. It notes that part of the roadside hedgerow would require removal and should be compensated for on a like-for-like basis.
117. The PEA also acknowledged that a veteran oak tree along the roadside boundary was assessed as having 'moderate' bat roosting potential and should be retained with its root system protected. However, it notes that if this tree was to require felling further surveys would be required.
118. DAERA Natural Environment Division were consulted upon receipt of this information. In their subsequent consultation response, (they note receipt of BCPEA) dated 24 September 2021, they stated that in light of the identification of the oak tree having bat roosting potential further surveys would be required.
119. A Bat Emergence/Re-Entry Survey (BERS) was submitted to the Council for consideration on 10 June 2022.
120. This concluded that no bats were seen to emerge or re-enter a roost on the mature Oak tree under surveillance. It did note some level of bat activity in the area during the survey session. The survey notes that the felling of the mature Oak tree is unlikely to have an impact on roosting or foraging bats due to the abundance of other mature vegetation surrounding the site.
121. NED note that the BERS confirms the absence of roosting bats in the mature Oak tree. The consultation response states that NED has considered the potential impacts of the proposal on natural heritage interests and raise no objection in principle to the proposal in natural heritage terms.
122. The Council has no reason to disagree with the advice of NED and offer no objection to the proposal on the basis of policy NH 2 or NH 5 of PPS 2.

### **Access, Movement and Parking**

123. Detail submitted with the application indicates that the proposed scheme would incorporate the construction of a new vehicular access from Magees Road.

124. DfI Roads in a response dated 01 February 2022, offered no objection to the proposal.
125. Based on a review of the detail and advice from DfI Roads, it is considered that the application is in accordance with the requirements of policy AMP 2 of PPS3 and that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

### Consideration of Representations

126. As noted, forty representations in opposition to the proposal have been raised. Consideration of the issues raised are set out below. Consideration of the issues raised in these objections are addressed as follows;

#### Impact on Road Safety

127. DfI Roads were re-consulted upon receipt of Drawing No. 01/1 and Drawing No. 02. In their final consultation response of 1<sup>st</sup> February 2022, they offer no objection to the proposed scheme, subject to the inclusion of 3 no. stipulated conditions with any decision.
128. Their response acknowledges concerns expressed by third party on 22 December 2021. Advice confirms that they are still satisfied that the splays conditioned are acceptable for the speed of traffic on this section of Magees Road and that there was no 'unconscious bias' in respect of how they determined the speed of traffic.
129. In terms of other visibility splays on Magees Road, DfI Roads note that each application is determined on its own merit.

#### Environmental Impact – Wildlife/Natural Heritage

130. It is acknowledged that the proposal would require the removal of a section of roadside hedgerow and a mature Oak tree in order to accommodate required visibility splays to ensure safe access and egress from the application site.
131. A NI Biodiversity Checklist and Preliminary Ecological Assessment completed by a qualified Ecologist was submitted during the processing of the application. This identified that further bat surveys would be required if the tree with 'moderate' bat roost potential was to be felled.
132. DAERA Natural Environment Division were consulted upon receipt of this information. In their consultation response DAERA NED acknowledged receipt of this information and requested further bat surveys.



133. A Bat Emergence/Re-Entry Survey was submitted (Summer 2022). This concluded that no bats were seen to emerge or re-enter a roost on the mature Oak tree under surveillance. It did note some level of bat activity in the area during the survey session.
134. The survey notes that the felling of the mature Oak tree is unlikely to have an impact on roosting or foraging bats due to the abundance of other mature vegetation surrounding the site. DAERA NED were re-consulted upon receipt of this survey. In their subsequent consultation response, dated October 2022, they acknowledge receipt of the Bat Emergence and Re-Entry Survey and Drawing No. 01/1. DAERA NED note that they are content with the methodology and findings of the PEA and Bat Emergence and Re-Entry Surveys and is in agreement with the ecologists recommendations.
135. Shared Environmental Services were also consulted in relation to the proposal. Their response, dated 12<sup>th</sup> January 2022, states that having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site. It states that there is no viable hydrological pathway from the proposed development to any European site and there will be no new/additional disturbance of site features considering the proposals setting and extant anthropogenic activity.

#### Impact on Rural Character

136. The assessment above demonstrates how the application has been considered against Policy CTY 14 – Rural Character of Planning Policy Statement 21: Sustainable Development in the Countryside. The assessment concludes that the proposal will not cause a detrimental change to, or further erode the rural charact of the area.

#### Cannot Satisfy Policy CTY 8 - Each application is dependent on each other to satisfy policy

137. The exceptions test of Policy CTY 8 permits for the development of a small gap site sufficient only to accommodate up to a maximum of **two** houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
138. The policy does not preclude the submission of two individual applications to meet said requirement. As per the assessment, it is considered that the proposal satisfies the exceptions test of Policy CTY 8.

#### Gap represents a natural break

139. Taking the gap site into account, in the context of the local average plot width, it is not contended that it constitutes an important visual break. It is considered that it could appropriately accommodate only a maximum of two dwellings in accordance with Policy CTY 8. It is not perceived that it frames a viewpoint, nor provides an important setting for the amenity/character of established dwellings.

Would cause ribbon development

140. Policy CTY 8 is entitled 'Ribbon Development' and whilst its premise is that Planning permission will be refused for a building which creates or adds to a ribbon of development, it does however advise that an exception will be permitted for the development of a small gap site sufficient only to accommodate a maximum of two dwellings within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of; size, scale, siting and plot size and meets other planning and environmental requirements.
141. As demonstrated above, it is contended that the proposal, in combination with the associated application, fulfils the exceptions test of Policy CTY 8.

No detail given to make a full assessment

142. The application pertains to Outline Planning only. Outline Planning seeks to establish the principle of development on an application site only. Therefore, full design details have not been provided, nor have they been requested by the Council at any stage during the processing of the application.
143. Full details will be provided at Reserved Matters stage should the application be approved. It is contended that sufficient information has been submitted to make an Outline determination.

Contrary to Policy CTY 13 (a), (b) and (c)

144. As per the assessment above, the proposed development can be sited and designed so as to be visually integrated into the surrounding landscape. Detailed design will be considered at reserved matters stage.

P2 (land ownership) Challenge – P2A Forms not viewable

145. A P2 (land ownership) challenge was raised. Confirmation on land ownership was subsequently requested from the Agent. The certificate on the P1 Form was amended from Certificate A to Certificate C and notice was served on the relevant third party.

146. The associated P2A Form is available to view online also. It is acknowledged that Planning permission goes with the land and not the applicant. Planning permission does not confer title.

Substantial and continuously built up frontage not visually linked

147. Visual linkage in terms of a substantial and continuously built up frontage is not part of the policy test of Policy CTY 8.

Site prone to flooding

148. The Flood Maps (NI) have been checked and there are no concerns with regards to the application site and flooding. It is not perceived that the proposal would meet the thresholds for a Drainage Assessment.

Refusal of S/2001/0308/O

149. It is acknowledged that S/2001/0308/O was subject to a different policy context to Planning Policy Statement 21: Sustainable Development in the Countryside.

Substantial volume of development in the area

150. Each Planning application is assessed on its own merits.

Application site (red line) has been amended

151. The red line of the application site has been amended modestly from the original submission. It is acknowledged that a red line can be amended during the processing of an application whereby it is required in relation to access purposes.

152. Neighbours have been re-notified and the application has been subject to re-advertisement following this amendment.

Request for TPO's

153. A request for a TPO on the application site was requested when the application was submitted. A provisional TPO was placed on the application site in September 2022 following concerns regarding vandalism. It is noted that TPO's fall under separate legislation.

Need for EIA

154. It is not contended that the application meets the thresholds for an EIA.

Impact on housing density in the area

155. Each Planning application is assessed on its own merit. It is considered that the proposal satisfies the exceptions test of Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside and all other policy and is considered to be acceptable.

Contributing to piecemeal development

156. The application falls within the context of the open countryside. It is acknowledged that there is a presumption against development in the countryside, however Planning Policy Statement 21: Sustainable Development in the Countryside does permit certain types of development, such as infill development under Policy CTY 8.

Contrary to Policies CTY 2, 2a, 10, 11, 12, 14 and 15

157. As per the proposal description, the application pertains to an infill dwelling and therefore falls for assessment under Policy CTY 8 of PPS 21. Policies CTY 2, 2a, 10, 11 and 12 are therefore not applicable. The application has been assessed against Policy CTY 14 to which there are no concerns, as per the assessment in the Case Officer report.
158. The application site falls wholly within the open countryside and is not in close proximity to a defined settlement limit. Therefore, there are no concerns with regards to the proposal marring the distinction between a settlement and the open countryside.

Loss of light

159. The application pertains to Outline Planning only and therefore full design details have not been provided, nor have they been requested by the Council at any stage during the processing of the application.
160. However, it is considered that a modest, centrally positioned dwelling (with a ridge height restriction of no more than 6m above FFL) would not cause overshadowing to any neighbouring property to an unreasonable degree. Design details would be considered in full at Reserved Matters stage.

Could cause financial harm

161. This is not a material consideration of determining weight in this assessment.

Could cause groundwater pollution

162. LCCC Environmental Health, DAERA Water Management Unit, SES and NI Water have been consulted as part of the processing of the application and have subsequently responded with no concerns.

Could cause difficulties for community care requirements of any future occupier

163. This is not a material consideration of determining weight in this assessment.

Bat survey undertaken before seasonal roost was occupied

164. The Bat Emergence/Re-Entry Survey was conducted between May – June (2022). This is within the stipulated survey season (May – September). DAERA Natural Environment Division were consulted upon receipt of the survey and offer no objection.

Removal of ivy from tree and facing of hedgerow not in the ownership of the applicant

165. This is considered to be a civil matter and is outside the remit of Planning.

Increased traffic would lead to increased noise and air pollution

166. The application pertains to a single residential dwelling. DfI Roads and LCCC Environmental Health were consulted as part of the processing of the application and subsequently responded with no concerns, subject to stipulated conditions.

Remaining land to NE of Site 1

167. A strip of remnant land, akin in width to this, is often left to allow access to agricultural land to the rear. This is not uncommon.

Removal of ivy from trees between PEA and bat re-entry and emergence surveys

168. DAERA Natural Environment Division have been consulted a number of times in respect of the proposal. In their final consultation response they offer no objection to the proposed scheme.

Inaccuracies of P1 Form (Q4, Q7, Q11, Q20 and Q27)

169. It is considered that the information provided on the P1 Form is sufficient to determine the application.

Adjoining land ownership has not been accurately identified in the public domain throughout the process

170. A P2 (land ownership) challenge was raised. Certificate A on the P1 Form was amended to Certificate C following this. Notice has been served on the relevant third party. It is noted that Planning permission goes with the land and not the applicant and that Planning permission does not confer title.

Objector queries legality of applying for multiple dwellings to infill long distances between existing properties.

171. Policy CTY 8 provides for the development of a small gap site sufficient only to accommodate up to a maximum of **two** (my emphasis) houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

## Conclusions

172. This application is presented to the Planning Committee with a recommendation to approve as the proposal is considered to meet the requirements of the SPPS and policies CTY 1 and CTY 8 of PPS 21 in that a small gap site exists sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage.
173. Furthermore, the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
174. In addition, the proposal is considered to meet the requirements of policies CTY 13 and CTY 14 of PPS 21 in that a dwelling can be sited and designed so as to integrate into the landscape without causing a detrimental change to the rural character of this part of the open countryside.
175. The proposal also complies with the SPPS and Policy CTY 16 in that the detail submitted demonstrates that the proposal will not create or add to a pollution problem.
176. The proposal complies with the SPPS and policies NH 2 and NH 5 of PPS 2 - Natural Heritage in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
177. The proposal also complies with the SPPS and policy AMP 2 of PPS 3 – Access, Movement and Parking in that the detail submitted demonstrates that an access to the public road can be accommodated that will not prejudice road safety or significantly inconvenience the flow of traffic.

## Recommendations

178. It is recommended that Planning permission is approved.

### Conditions

179. The following conditions are recommended.

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

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

- Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

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

- A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

- The dwelling shall not be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 3 spaces per dwelling.

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

- Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility splays 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

- No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed contours, the finished floor level(s) of the proposed building(s) and the position, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

- At Reserved Matters stage full details of all existing and proposed tree and shrub planting and programme of works shall be submitted. This will include retention of all existing boundary vegetation with the exception of that to be removed for visibility splay provision.

Reason: To ensure the proposal is in keeping with the character of the rural area.

- All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

- If within a period of 5 years of planting for any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Planning Authority, seriously damaged or defective, another tree or shrub or hedge of the same species and size as originally planted shall be planted at the same place, unless the Planning Authority gives its written consent to any variation.

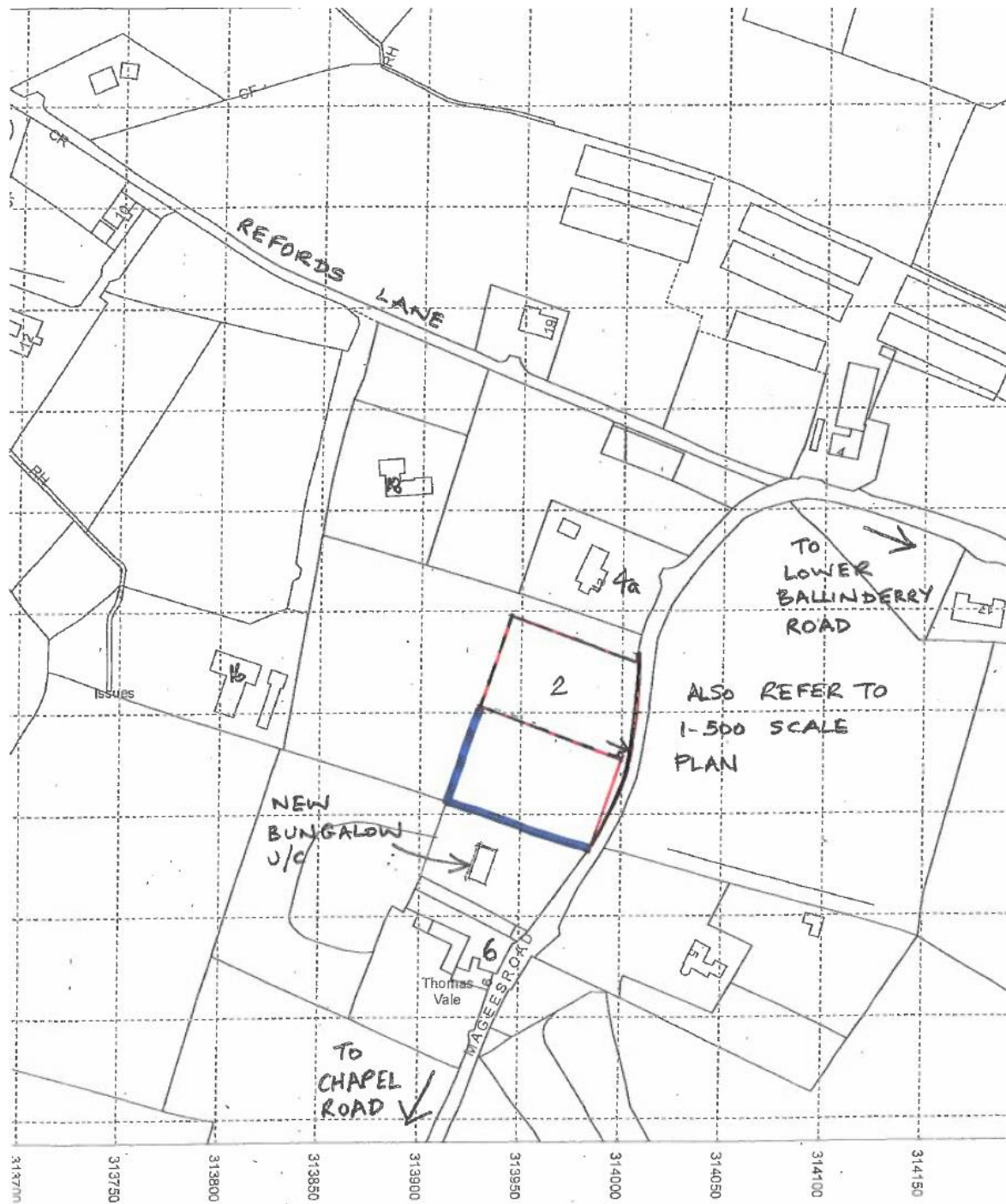
To ensure the provision, establishment and maintenance of a high standard of landscape.

- 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





### Site Location Plan – LA05/2021/0571/O



## Lisburn & Castlereagh City Council

Committee Report	
Date of Committee Meeting	06 February 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/0572/O
Date of Application	21 May 2021
District Electoral Area	Killultagh
Proposal Description	Site for infill dwelling
Location	100m North East of 6 Magees Road, Ballinderry Upper, Lisburn
Representations	Thirty Nine
Case Officer	Cara Breen
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
2. This application is presented to the Planning Committee with a recommendation to approve as the proposal is considered to meet the requirements of the SPPS and policies CTY 1 and CTY 8 of PPS 21 in that a small gap site exists sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage.
3. Furthermore, the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
4. In addition, the proposal is considered to meet the requirements of policies CTY 13 and CTY 14 of PPS 21 in that a dwelling can be sited and designed so as to integrate into the landscape without causing a detrimental change to the rural character of this part of the open countryside.

5. The proposal also complies with the SPPS and Policy CTY 16 in that the detail submitted demonstrates that the proposal will not create or add to a pollution problem.
6. The proposal complies with the SPPS and policies NH 2 and NH 5 of PPS 2 - Natural Heritage in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
7. The proposal also complies with the SPPS and policy AMP 2 of PPS 3 – Access, Movement and Parking in that the detail submitted demonstrates that an access to the public road can be accommodated that will not prejudice road safety or significantly inconvenience the flow of traffic.

## Description of Site and Surroundings

### Site

8. The 0.4 hectare site is located 100 metres north east of 6 Magees Road, Upper Ballinderry and is a rectangular plot cut out of a much larger agricultural field. The site is currently accessed from Magees Road via an agricultural field gate and the land within is relatively flat throughout.
9. The roadside (south eastern) boundary is defined by roadside hedgerow. The south western boundary is defined by mature trees and hedgerow. The north western and north eastern boundaries were undefined at the time of site inspection, as the site forms part of a larger parcel of land.

### Surroundings

10. The application site is located within a built up frontage, consisting primarily of residential dwellings and their associated ancillary buildings.
11. The area beyond is mainly rural in character and the land predominantly agricultural in use.

## Proposed Development

12. Outline Planning permission is sought for a dwelling.

## Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2021/0571/O	Site for infill dwelling	60m SW of 4a Magees Road, Ballinderry Upper, Lisburn	Pending
S/1989/0333	Dwelling	60 METRES NORTH OF 6 MAGEES ROAD UPPER BALLINDERRY	Permission Granted
S/1988/0512	Dwelling	60 METRES NORTH OF 6 MAGEES ROAD UPPER BALLINDERRY	Permission Granted
S/1986/0817	DWELLING AND DOUBLE GARAGE	125 METRES NORTH OF 6 MAGEE'S ROAD, UPPER BALLINDERRY, LISBURN	Permission Granted
S/1985/1139	DWELLING	125 METRES NORTH OF NO 6 MAGEE'S ROAD, UPPER BALLINDERRY, LISBURN	Permission Granted

### Consultations

14. The following consultations were carried out:

Consultee	Response
NI Water	No objection
DAERA Water Management Unit	No objection
DAERA Natural Environment Division	No objection
LCCC Environmental Health	No objection
DfI Roads	No objection
Shared Environmental Services	No objection

## Representations

15. Thirty nine representations in opposition to the proposal have been received. In summary, the issues raised in the objections are as follows;

- Impact on Road Safety.
- Environmental Impact – Wildlife/Natural Heritage.
- Impact on Rural Character.
- Cannot Satisfy Policy CTY 8 as each application is dependent on each other to satisfy policy.
- Gap represents a natural break.
- Would cause ribbon development.
- No detail given to make a full assessment.
- Contrary to Policy CTY 13 (a), (b) and (c).
- P2 (land ownership) Challenge – P2A Forms not viewable.
- Substantial and continuously built up frontage not visually linked.
- Site prone to flooding.
- Refusal of S/2001/0308/O.
- Substantial volume of development in the area.
- Application site (red line) has been amended.
- Request for TPO's.
- Need for EIA.
- Impact on housing density in the area.
- Contributing to piecemeal development.
- Contrary to Policies CTY 2, 2a, 10, 11, 12, 14 and 15.
- Loss of light.
- Could cause financial harm.
- Could cause groundwater pollution.
- Could cause difficulties for community care requirements of any future occupiers.
- Bat survey undertaken before seasonal roost was occupied.
- Removal of ivy from tree and facing of hedgerow not in the ownership of the applicant.
- Increased traffic would lead to increased noise and air pollution.
- Remaining land to NE of Site 1.
- Removal of ivy from trees between PEA and bat re-entry and emergence surveys.
- Inaccuracies of P1 Form.
- Adjoining land ownership has not been accurately identified in the public domain throughout the process.

## Planning Policy Context

### Relevant Policy and Guidance Documents

16. The relevant policy documents are:

- Regional Development Strategy (2035)
- Lisburn Area Plan (2001)

- Belfast Metropolitan Area Plan (Draft) 2004
- Strategic Planning Policy Statement (SPPS) for Northern Ireland; Planning for Sustainable Development (2015)
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

17. The relevant guidance is:

- Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside
- Development Control Advice Note 15: Vehicular Access Standards

### **Local Development Plan Context**

18. 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.
19. On 18th May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had not been lawfully adopted.
20. As a consequence, the Lisburn Area Plan (2001) is the statutory development plan for the area. However, the draft Belfast Metropolitan Area Plan 2004 remains a material consideration in the assessment of individual planning applications.
21. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside, outwith any designated settlement limit, and as such, there is no difference in the local plan context. No other designations are applicable.
22. Page 49 of the Lisburn Area Plan (2001) states;
- '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.'*
23. In respect of draft BMAP, page 16 states;
- 'Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.'*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.'*

### **Regional Policy Context**

24. The SPPS states;

*'Until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.'*

25. The local development plan is at Stage 1, and there is no Stage 2 draft. Thus, no weight can be given to the emerging plan. The transitional period remains operational.

26. The SPPS states;

*'During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.'*

27. It is stated that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. For example, where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

28. 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.'*

29. 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. As the statutory plan and draft BMAP are



silent on the regional policy issue, no determining weight can be given to those documents.

30. Paragraph 4.11 of the SPPS states;

*'There are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.'*

31. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.

32. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.

33. Paragraph 4.12 of the SPPS states;

*'Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.'*

34. It also advises that adverse environmental impacts associated with development can also include; sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

35. In relation to development in the countryside and infill development (to which this application seeks approval for) specifically, 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. Paragraph 6.78 of the SPPS states;

*'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.'*

## Sustainable Development in the Countryside

37. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.
38. Policy CTY 1 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.’*
- ‘Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.’*
- ‘All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department’s published guidance.’*
- ‘Where a Special Countryside Area (SCA) is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan.’*
39. The policy states;
- ‘Planning permission will be granted for an individual dwelling house in the countryside in the following cases:*
- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*
  - *a replacement dwelling in accordance with Policy CTY 3;*
  - *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
  - *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
  - *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
  - *a dwelling on a farm in accordance with Policy CTY 10.’*

40. As per the proposal description, this application pertains to an infill dwelling. As such, the policy requirements of Policy CTY 8 are applicable.

41. In addition to Policy CTY 8, it is noted that there are other CTY policies that are engaged as part of the assessment including; Policy CTY 13, Policy CTY 14 and Policy CTY 16.

42. Policy CTY 8 – Ribbon Development states:

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

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

*For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.’*

43. A building is defined in statute to include; a structure or erection, and any part of a building as so defined.

44. Regard is also had to the Justification and Amplification text which states;

5.32 *Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

5.33 *For the purposes of this policy a road frontage includes a footpath or private lane. A ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.*

5.34 *Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated.*

**Consideration of the Courts:**

45. Officers have paid close attention to any consideration of this planning policy by the High Court. On the 24<sup>th</sup> May 2022 Mr Justice Scofield delivered judgment in Gordon Duff’s Application (Re Glassdrumman Road, Ballynahinch) for Judicial Review. Whilst Officers are advised that this decision is under appeal,

the Court discussed the general approach to be taken to the policy assessment of such applications, and they are of general application and important to bear in mind as the interpretation of policy is a matter for the Courts.

46. That case involved CTY8 and at paragraph [91] the Judge stated:

*“In light of the amount of litigation which has been generated in relation to Policy CTY8 and the designation of the present case as being in the nature of a ‘lead’ case in relation to Mr Duff’s applications, I venture the following summary which (I hope) will be of assistance to decision-makers in this field:*

- (i) Where planning permission is sought on the basis of the infill housing exception contained within Policy CTY8 (being one of those instances where development in the countryside is in principle acceptable for the purposes of Policy CTY1), the first question is whether the proposal would create or add to ribbon development. If the answer to that question is ‘no’, the exception within CTY8 is not relevant. Whilst this means the proposal would not fall foul of the first sentence of Policy CTY8, or sub-paragraph (d) of Policy CTY14, it also means that the exception within Policy CTY8 will not provide a basis for the grant of permission. Whether a proposal will create or add to a ribbon of development is a matter of planning judgement but, in light of the purpose of the relevant policies, this concept should not be restrictively interpreted.*
- (ii) Where the proposal will create or add to ribbon development, it is in principle unacceptable. It will only be permissible to grant permission if the development falls within one of the exceptions set out in Policy CTY8 (either for infill housing development or infill economic development) or where, exceptionally, the planning authority rationally considers that other material planning considerations outweigh the non-compliance with Policy CTY8 and Policy CTY14 in this regard (taking into account the strength of the wording of those policies and the fact that Policy CTY8 contains an express exception which is not engaged in the case).*
- (iii) In the second of these instances, where the only basis for the argument that the proposal is acceptable in principle for the purposes of Policy CTY1 is the infill exception, and the planning authority is satisfied that the infill exception is not engaged, the authority should also direct itself to whether Policy CTY1 also requires refusal of the application. Where Policy CTY1 also points to refusal, there is a very strong policy presumption in favour of refusal and the planning authority should only grant permission if satisfied, on proper planning grounds, that it is appropriate to disregard breach of Policies CTY1, CTY8 and CTY14 because those breaches are outweighed by other material considerations pointing in favour of the grant of permission, again bearing in mind both the strength of the policy wording and the fact that the proposal does not fall within the specified exceptions built into the relevant policies.*

- (iv) *Where the infill exception is relied upon, the next question is whether there is a substantial and continuously built up frontage. This concept is not identical to a 'ribbon of development' and is more narrowly defined. Whether there is such a frontage is also a question of planning judgement but, in light of the purpose of the policy, this concept should be interpreted and applied strictly, rather than generously.*
- (v) *Where the planning authority is satisfied that there is a substantial and continuously built up frontage, the next question is whether there is a small gap site. Although the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, it should not be assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. The issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching purpose of the policy.*
- (vi) *Where there is a small gap site, the authority should nonetheless consider whether, by permitting that site to be infilled, it is acting in accordance with, or contrary to, the purpose of the exception within the policy (which is to permit development where little or nothing is lost in terms of rural character because of the existing substantial and continuously built up frontage). Consistently with the guidance in Building in Tradition, this should include consideration of whether the grant of permission will result in the loss of an important visual break in the developed appearance of the local area. That, again, is a matter of planning judgement."*

47. Officers have borne in mind that the policy in CTY8 is restricted and that any infill application is an exception to the prohibition on ribbon development.

#### Building on Tradition

48. Whilst not policy, and of lesser weight as a guidance document, the SPPS states that regard must be had to this guidance in assessing the proposal.
49. With regards to Policy CTY 8, Building on Tradition states;
- 4.4.0 *Introducing a new building to an existing cluster (CTY 2a) or ribbon CTY 8 will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character.*
  - 4.4.1 *CTY 8 Ribbon Development sets out the circumstances under which a small gap site can, in certain circumstances, be developed to accommodate a maximum of two houses (or appropriate economic development project), within an otherwise substantial and continuous built up frontage. Where such opportunities arise, the policy requires the applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context.*

50. The guidance also suggests:

- 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.

51. It also notes at the following paragraphs 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.*

52. Building on Tradition provides 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

53. Policy CTY 13 – Integration and Design of Buildings in the Countryside states;

*‘Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.’*

54. The policy states;

*‘A new building will be unacceptable where:*

- (a) *it is a prominent feature in the landscape; or*
- (b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) *it relies primarily on the use of new landscaping for integration; or*
- (d) *ancillary works do not integrate with their surroundings; or*
- (e) *the design of the building is inappropriate for the site and its locality; or*
- (f) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.'*

55. Policy CTY 14 – Rural Character states;

*'Planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.'*

56. The policy states;

*'A new building will be unacceptable where:*

- (a) *it is unduly prominent in the landscape; or*
- (b) *it results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) *it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) *it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) *the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.'*

57. Policy CTY 16 - Development Relying on Non-Mains Sewerage states;

*'Planning Permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.'*

58. The policy also states;

*'Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.'*

*In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.'*

#### Building on Tradition

59. With regards to Policy CTY16, Building on Tradition [page 131] states;

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage, including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.'*

### **Natural Heritage**

60. PPS 2 – Natural Heritage sets out Planning policies for the conservation, protection and enhancement of our natural heritage.

61. Policy NH 2 – Species Protected by Law states;

*'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:-*

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

62. The policy also states;

*'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.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall*



*agree to the development only after having ascertained that it will not adversely affect the integrity of the site.'*

63. Policy NH 5 - 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:*

- *priority habitats;*
- *priority species;*
- *active peatland;*
- *ancient and long-established woodland;*
- *features of earth science conservation importance;*
- *features of the landscape which are of major importance for wild flora and fauna;*
- *rare or threatened native species;*
- *wetlands (includes river corridors); or*
- *other natural heritage features worthy of protection.'*

64. The policy also states;

*'A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features 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, Movement and Parking**

65. PPS 3 - Access, Movement and Parking sets out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

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

Development Control Advice Note 15 – Vehicular Access Standards

67. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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

68. Within the context of the Planning policy tests outlined above, the following assessment is made relative to this particular application.

### Ribbon Development

69. As the Courts have noted in the Glasdrumman Road, Ballynahinch case, officers bear in mind that the policy in CTY8 is restrictive, and there is a prohibition against ribbon development. The first step is to consider whether the proposal adds to ribbon development, and if it does, does the proposal fall into the permissible exceptions to that policy.
70. Officers are satisfied that the proposal does engage ribbon development.

### The issue of exception

71. The next step of the policy test is to consider whether the proposal comes within the exception set out in the policy.
72. The applicant must satisfy the policy exception and demonstrate that an otherwise substantial and continuously built up frontage exists. As mentioned, a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
73. The assessment that follows assesses those buildings that are considered to form part of the frontage.
74. Regard is had to the statutory definition of a building. The policy does not specify what type or size of building is to be considered as part of the substantial and continuously built-up frontage.
75. In terms of a substantial and continuously built up frontage, the application is relying upon the buildings at 4A Magees Road to the north east of the application site (beyond the site forming LA05/2021/0571/O) and a new bungalow under construction (although not occupied but considered to be substantially complete at site inspection) and buildings at 6 Magees Road to the south west of the application site.

76. The application site (and the site which forms LA05/2021/0571/O), currently make up a parcel of land that falls between 4A Magees Road and the new dwelling under construction to the north east of 6 Magees Road.
77. The buildings at 4A Magees Road, which is located to the north east of the application site consists of a detached 1.5 storey residential dwelling with associated detached domestic garage. The dwelling is set back approximately 27 metres from Magees Road, to which its front elevation faces. The front garden (curtilage) of 4A abuts Magees Road. Therefore, it is contended that this dwelling presents a frontage to the road.
78. The new dwelling which was still under construction is considered substantially complete for the purposes of policy, is set back 35 metres from Magees Road. Its curtilage abuts Magees Road and the building presents a frontage to the road.
79. The buildings at 6 Magees Road, which is located immediately to the south west of the new dwelling under construction, is comprised of a two storey farmhouse style dwelling, the gable end of the dwelling abuts the Magees Road and presents a frontage to the road.
80. Taking all the buildings described above into account, it is considered that the application site falls within a substantial and continuously built up frontage consisting of 3 or more buildings and the first step of the exceptions test.
81. The second step of the exception test is to consider if a small gap site sufficient only to accommodate up to a maximum of two houses exists.
82. In considering whether a small gap site exists, while the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, officers have not assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
83. With that in mind, the characteristics of the gap identified have been considered.
84. The gap between the dwelling at 4A Magees Road and the new dwelling to the north east of 6 Magees Road measures approximately 134 metres building to building.
85. The approximate frontage plot widths are as follows;  
  
4A Magees Road – 46 metres  
New dwelling – 50 metres  
6 Magees Road – 69 metres

86. This equates to an average frontage width of approximately 55 metres. The frontage of the application site measures approximately 47.5 metres.
87. Building on Tradition, provides guidance on these matters. It states that when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots. It also notes that a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.
88. Twice the length of the average ribbon plot width is approximately 110 metres. It is noted that the gap (building to building) measures approximately 134 metres.
89. Whilst it is acknowledged that the gap is approximately 24 metres more than twice the length of the average plot width there is not sufficient room to integrate a third dwelling consistent with the established pattern of development. The second part of the test is met.
90. In terms of assessing the proposal against the existing development pattern the site has the same characteristics as the other plots in the ribbon in terms of its size and shape and it has the capacity to accommodate a building of similar dimension, orientation and design to others found in the immediate local context.
91. It is acknowledged that the existing frontage is comprised of a range of varying plot sizes including:
  - 4A Magees Road – 0.33 hectares
  - New dwelling – 0.28 hectares
  - 6 Magees Road – 0.43 hectares
92. For the purposes of assessment and to support the above conclusion that the site is consistent with the established pattern of development it is considered that the proposed plot size of 0.4 hectares fits with the range of plot sizes set out above and that no harm would be caused to the rural character of the area as a consequence of the development.
93. Taking the above into account, it is considered that the proposal satisfies the second and third element of the exceptions test in that a small gap sufficient only to accommodate a maximum of two dwellings exists and that the development of the site would respect the existing pattern of development along the Magees Road frontage.
94. The fourth and final step of the exceptions test of Policy CTY 8 that must be considered is whether the proposal meets other planning and environmental requirements.
95. These matters are addressed in the assessments detailed below:

### Visual Break

96. Consideration has also been given to the significance of the gap. There are no local features recorded or observed to indicate that the gap frames a viewpoint or provides an important setting for the amenity and character of the existing dwellings. The site is not comprised of a woodland or other feature to suggest that the site is an important visual break in the developed appearance of the landscape at this location.
97. Guidance in Building on Tradition does state at paragraph 4.5.0 that it may not be appropriate to fill gaps with development that are important visual break. For the reasons discussed, this is not considered to be one of these gaps.
98. Taking all of the above into account and having regard to the other planning and environmental considerations set out below, it is considered that the proposal satisfies the exceptions test as laid out in Policy CTY 8 of PPS 21.

### Integration and Design of Buildings in the Countryside

99. Turning then to policy CTY 13, and taking into account the topography of the application site, the established mature vegetation on at least two boundaries and in the backdrop and orientation and position of the neighbouring buildings it is considered that a dwelling could be sited and designed so as not to appear as a prominent feature in the surrounding landscape.
100. It is noted that some of the hedgerow and one of the oak trees on the roadside boundary will require to be removed to achieve the visibility splays and ensure safe access to and from the application site.
101. However, it is considered that the existing buildings in situ immediately to the north east and south west would provide a sufficient degree of enclosure.
102. Whilst it is acknowledged that new landscaping would be required partly to the south eastern (to inside of visibility splay) to the north eastern, south western and north western boundaries, it is not considered that the proposal would rely primarily on new landscaping for the purposes of integration.
103. An indicative position for the proposed vehicular access has been shown. It is considered that the application site could accommodate a driveway which would not be largely sweeping in nature.
104. Taking the existing ground levels/topography of the application site into account, it is not considered that there would be a need for large scale excavation /cut and fill or retaining walls.
105. It is therefore considered that any ancillary works could be satisfactorily integrated with their surroundings with the specific detail considered further at the Reserved Matters stage.

106. As confirmed by Q20 of the submitted P1 Form, the application does not pertain to a dwelling on a farm (Policy CTY 10). Therefore, in this instance criterion (g) is not applicable.
107. For the reasons outlined, the proposal complies with the requirements of policy CTY 13.

#### Rural Character

108. In terms of policy CTY 14 the proposed development is considered to meet the exception test set out in policy CTY 8 for the reasons outlined above and as such it is considered that it would not create or add to a ribbon of development or create a sub-urban style of build-up.
109. It is considered that the proposal meets the requirements of policy CTY 14 and would not have a detrimental impact on the rural character of the area for the reasons outlined in the preceding paragraphs.

#### Development Relying on Non-Mains Sewerage

110. Detail submitted with the application indicates that foul sewage will be disposed of via a septic tank.
111. The Councils Environmental Health unit advised in a response dated 15 June 2021 that they had no objection to the above proposed development.
112. Based on an assessment of the detail and the advice received, it is considered that the applicant has demonstrated that the proposal will not create or add to a pollution problem and that the tests associated with Policy CTY 16 are met.

#### **Natural Heritage**

113. It is noted that the removal of approximately 83 metres of roadside hedgerow and a mature oak tree (x1) would be required to be removed to accommodate the necessary visibility splays.
114. A Biodiversity Checklist and Preliminary Ecological Assessment (PEA) was submitted during the processing of the application.
115. The PEA acknowledged that the proposed scheme would involve the loss of an area of species poor grassland assessed as having 'low' conservation value. It notes that part of the roadside hedgerow would require removal and should be compensated for on a like-for-like basis.
116. The PEA also acknowledged that a veteran Oak tree along the roadside boundary was assessed as having 'moderate' bat roosting potential and should be retained with its root system protected. However, it notes that if this tree was to require felling further surveys would be required.

117. DAERA Natural Environment Division advised after nooting receipt of BCPEA that in light of the identification of the oak tree having bat roosting potential further surveys would be required.
118. A Bat Emergence/Re-Entry Survey was submitted to the Council for consideration on 26<sup>th</sup> July 2022.
119. This concluded that no bats were seen to emerge or re-enter a roost on the mature Oak tree under surveillance. It did note some level of bat activity in the area during the survey session. The survey notes that the felling of the mature Oak tree is unlikely to have an impact on roosting or foraging bats due to the abundance of other mature vegetation surrounding the site.
120. NED note that the BERS confirms the absence of roosting bats in the mature Oak tree. The consultation response states that NED has considered the potential impacts of the proposal on natural heritage interests and raise no objection in principle to the proposal in natural heritage terms.
121. The Council has no reason to disagree with the advice of NED and offer no objection to the proposal on the basis of policy NH 2 or NH 5 of PPS 2.

### **Access, Movement and Parking**

122. Detail submitted with the application indicates that the proposed scheme would incorporate the construction of a new vehicular access from Magees Road.
123. DfI Roads in a response dated 01 February 2022, offer no objection to the proposal, subject to the inclusion of three conditions.
124. Based on a review of the detail and advice from DfI Roads, it is considered that the application is in accordance with the requirements of policy AMP 2 of PPS3 and that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

### **Consideration of Representations**

125. As noted, thirty nine representations in opposition to the proposal have been raised. Consideration of the issues raised are set out below.

#### Impact on Road Safety

126. DfI Roads were re-consulted upon receipt of Drawing No. 01/1 and Drawing No. 02. In their final consultation response of 1<sup>st</sup> February 2022, they offer no objection to the proposed scheme, subject to the inclusion of 3 no. stipulated conditions with any decision.
127. Their response acknowledges concerns expressed by third party on 22 December 2021. Advice confirms that they are still satisfied that the splays

conditioned are acceptable for the speed of traffic on this section of Magees Road and that there was no 'unconscious bias' in respect of how they determined the speed of traffic.

128. In terms of other visibility splays on Magees Road, DfI Roads note that each application is determined on its own merit.

#### Environmental Impact – Wildlife/Natural Heritage

129. It is acknowledged that the proposal would require the removal of a section of roadside hedgerow and a mature Oak tree in order to accommodate required visibility splays to ensure safe access and egress from the application site.
130. A NI Biodiversity Checklist and Preliminary Ecological Assessment completed by a qualified Ecologist was submitted during the processing of the application. This identified that further bat surveys would be required if the tree with 'moderate' bat roost potential was to be felled.
131. DAERA Natural Environment Division were consulted upon receipt of this information. In their consultation response DAERA NED acknowledged receipt of this information and requested further bat surveys.
132. A Bat Emergence/Re-Entry Survey was submitted (Summer 2022). This concluded that no bats were seen to emerge or re-enter a roost on the mature Oak tree under surveillance. It did note some level of bat activity in the area during the survey session.
133. The survey notes that the felling of the mature Oak tree is unlikely to have an impact on roosting or foraging bats due to the abundance of other mature vegetation surrounding the site. DAERA NED were re-consulted upon receipt of this survey. In their subsequent consultation response, dated October 2022, they acknowledge receipt of the Bat Emergence and Re-Entry Survey and Drawing No. 01/1. DAERA NED note that they are content with the methodology and findings of the PEA and Bat Emergence and Re-Entry Surveys and is in agreement with the ecologists recommendations.
134. Shared Environmental Services were also consulted in relation to the proposal. Their response, dated 12<sup>th</sup> January 2022, states that having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site. It states that there is no viable hydrological pathway from the proposed development to any European site and there will be no new/additional disturbance of site features considering the proposals setting and extant anthropogenic activity.

#### Impact on Rural Character

135. The assessment above demonstrates how the application has been considered against Policy CTY 14 – Rural Character of Planning Policy Statement 21: Sustainable Development in the Countryside. The assessment concludes that



the proposal will not cause a detrimental change to, or further erode the rural charact of the area.

Cannot Satisfy Policy CTY 8 - Each application is dependent on each other to satisfy policy

136. The exceptions test of Policy CTY 8 permits for the development of a small gap site sufficient only to accommodate up to a maximum of **two** houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
137. The policy does not preclude the submission of two individual applications to meet said requirement. As per the assessment, it is considered that the proposal satisfies the exceptions test of Policy CTY 8.

Gap represents a natural break

138. Taking the gap site into account, in the context of the local average plot width, it is not contended that it constitutes an important visual break. It is considered that it could appropriately accommodate only a maximum of two dwellings in accordance with Policy CTY 8. It is not perceived that it frames a viewpoint, nor provides an important setting for the amenity/character of established dwellings.

Would cause ribbon development

139. Policy CTY 8 is entitled 'Ribbon Development' and whilst its premise is that Planning permission will be refused for a building which creates or adds to a ribbon of development, it does however advise that an exception will be permitted for the development of a small gap site sufficient only to accommodate a maximum of two dwellings within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of; size, scale, siting and plot size and meets other planning and environmental requirements.
140. As demonstrated above, it is contended that the proposal, in combination with the associated application, fulfils the exceptions test of Policy CTY 8.

No detail given to make a full assessment

141. The application pertains to Outline Planning only. Outline Planning seeks to establish the principle of development on an application site only. Therefore, full design details have not been provided, nor have they been requested by the Council at any stage during the processing of the application.
142. Full details will be provided at Reserved Matters stage should the application be approved. It is contended that sufficient information has been submitted to make an Outline determination.

Contrary to Policy CTY 13 (a), (b) and (c)

143. As per the assessment above, the proposed development can be sited and designed so as to be visually integrated into the surrounding landscape. Detailed design will be considered at reserved matters stage.

P2 (land ownership) Challenge – P2A Forms not viewable.

144. A P2 (land ownership) challenge was raised. Confirmation on land ownership was subsequently requested from the Agent. The certificate on the P1 Form was amended from Certificate A to Certificate C and notice was served on the relevant third party.
145. The associated P2A Form is available to view online also. It is acknowledged that planning permission goes with the land and not the applicant. Planning permission does not confer title.

Substantial and continuously built up frontage not visually linked.

146. Visual linkage in terms of a substantial and continuously built up frontage is not part of the policy test of Policy CTY 8.

Site prone to flooding.

147. The Flood Maps (NI) have been checked and there are no concerns with regards to the application site and flooding. It is not perceived that the proposal would meet the thresholds for a Drainage Assessment.

Refusal of S/2001/0308/O.

148. It is acknowledged that S/2001/0308/O was subject to a different policy context to Planning Policy Statement 21: Sustainable Development in the Countryside.

Substantial volume of development in the area.

149. Each Planning application is assessed on its own merits.

Application site (red line) has been amended

150. The red line of the application site has been amended modestly from the original submission. It is acknowledged that a red line can be amended during the processing of an application whereby it is required in relation to access purposes.
151. Neighbours have been re-notified and the application has been subject to re-advertisement following this amendment.

### Request for TPO's

152. A request for a TPO on the application site was requested when the application was submitted. A provisional TPO was placed on the application site in September 2022 following concerns regarding vandalism. It is noted that TPO's fall under separate legislation.

### Need for EIA

153. It is not contended that the application meets the thresholds for an EIA.

### Impact on housing density in the area.

154. Each planning application is assessed on its own merit. It is considered that the proposal satisfies the exceptions test of Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside and all other policy and is considered to be acceptable.

### Contributing to piecemeal development.

155. The application falls within the context of the open countryside. It is acknowledged that there is a presumption against development in the countryside, however Planning Policy Statement 21: Sustainable Development in the Countryside does permit certain types of development, such as infill development under Policy CTY 8.

### Contrary to Policies CTY 2, 2a, 10, 11, 12, 14 and 15.

156. As per the proposal description, the application pertains to an infill dwelling and therefore falls for assessment under Policy CTY 8 of PPS 21. Policies CTY 2, 2a, 10, 11 and 12 are therefore not applicable. The application has been assessed against Policy CTY 14 to which there are no concerns, as per the assessment in the Case Officer report.
157. The application site falls wholly within the open countryside and is not in close proximity to a defined settlement limit. Therefore, there are no concerns with regards to the proposal marring the distinction between a settlement and the open countryside.

### Loss of light.

158. The application pertains to Outline Planning only and therefore full design details have not been provided, nor have they been requested by the Council at any stage during the processing of the application.
159. However, it is considered that a modest, centrally positioned dwelling (with a ridge height restriction of no more than 6m above FFL) would not cause overshadowing to any neighbouring property to an unreasonable degree. Design details would be considered in full at Reserved Matters stage.

Could cause financial harm.

160. This is not a material consideration of determining weight in this assessment.

Could cause groundwater pollution.

161. LCCC Environmental Health, DAERA Water Management Unit, SES and NI Water have been consulted as part of the processing of the application and have subsequently responded with no concerns.

Could cause difficulties for community care requirements of any future occupiers.

162. This is not a material consideration of determining weight.

Bat survey undertaken before seasonal roost was occupied.

163. The Bat Emergence/Re-Entry Survey was conducted between May – June (2022). This is within the stipulated survey season (May – September). DAERA Natural Environment Division were consulted upon receipt of the survey and offer no objection.

Removal of ivy from tree and facing of hedgerow not in the ownership of the applicant.

164. This is considered to be a civil matter and is outside the remit of Planning.

Increased traffic would lead to increased noise and air pollution.

165. The application pertains to a single residential dwelling. DfI Roads and LCCC Environmental Health were consulted as part of the processing of the application and subsequently responded with no concerns, subject to stipulated conditions.

Remaining land to NE of Site 1.

166. A strip of remnant land, akin in width to this, is often left to allow access to agricultural land to the rear. This is not uncommon.

Removal of ivy from trees between PEA and bat re-entry and emergence surveys.

167. DAERA Natural Environment Division have been consulted a number of times in respect of the proposal. In their final consultation response they offer no objection to the proposed scheme.

Inaccuracies of P1 Form (Q4, Q7, Q11, Q20 and Q27).

168. It is considered that the information provided on the P1 Form is sufficient to determine the application.

Adjoining land ownership has not been accurately identified in the public domain throughout the process.

169. A P2 (land ownership) challenge was raised. Certificate A on the P1 Form was amended to Certificate C following this. Notice has been served on the relevant third party. It is noted that Planning permission goes with the land and not the applicant and that Planning permission does not confer title.

Objector queries legality of applying for multiple dwellings to infill long distances between existing properties.

170. Policy CTY 8 provides for the development of a small gap site sufficient only to accommodate up to a maximum of **two** (my emphasis) houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

## Conclusions

171. This application is presented to the Planning Committee with a recommendation to approve as the proposal is considered to meet the requirements of the SPPS and policies CTY 1 and CTY 8 of PPS 21 in that a small gap site exists sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage.
172. Furthermore, the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
173. In addition, the proposal is considered to meet the requirements of policies CTY 13 and CTY 14 of PPS 21 in that a dwelling can be sited and designed so as to integrate into the landscape without causing a detrimental change to the rural character of this part of the open countryside.
174. The proposal also complies with the SPPS and Policy CTY 16 in that the detail submitted demonstrates that the proposal will not create or add to a pollution problem.
175. The proposal complies with the SPPS and policies NH 2 and NH 5 of PPS 2 - Natural Heritage in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
176. The proposal also complies with the SPPS and policy AMP 2 of PPS 3 – Access, Movement and Parking in that the detail submitted demonstrates that an

access to the public road can be accommodated that will not prejudice road safety or significantly inconvenience the flow of traffic.

## Recommendations

179. It is recommended that planning permission is approved.

## Conditions

177. The conditions recommended are:

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

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

- Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

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

- A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

- The dwelling shall not be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 3 spaces per dwelling.

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

- Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility splays 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

- The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.35 metres at any point.

Reason: In the interest of visual amenity.

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

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

- No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed contours, the finished floor level(s) of the proposed building(s) and the position, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

- At Reserved Matters stage full details of all existing and proposed tree and shrub planting and programme of works shall be submitted. This will include retention of all existing boundary vegetation with the exception of that to be removed for visibility splay provision.

Reason: To ensure the proposal is in keeping with the character of the rural area.

- All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

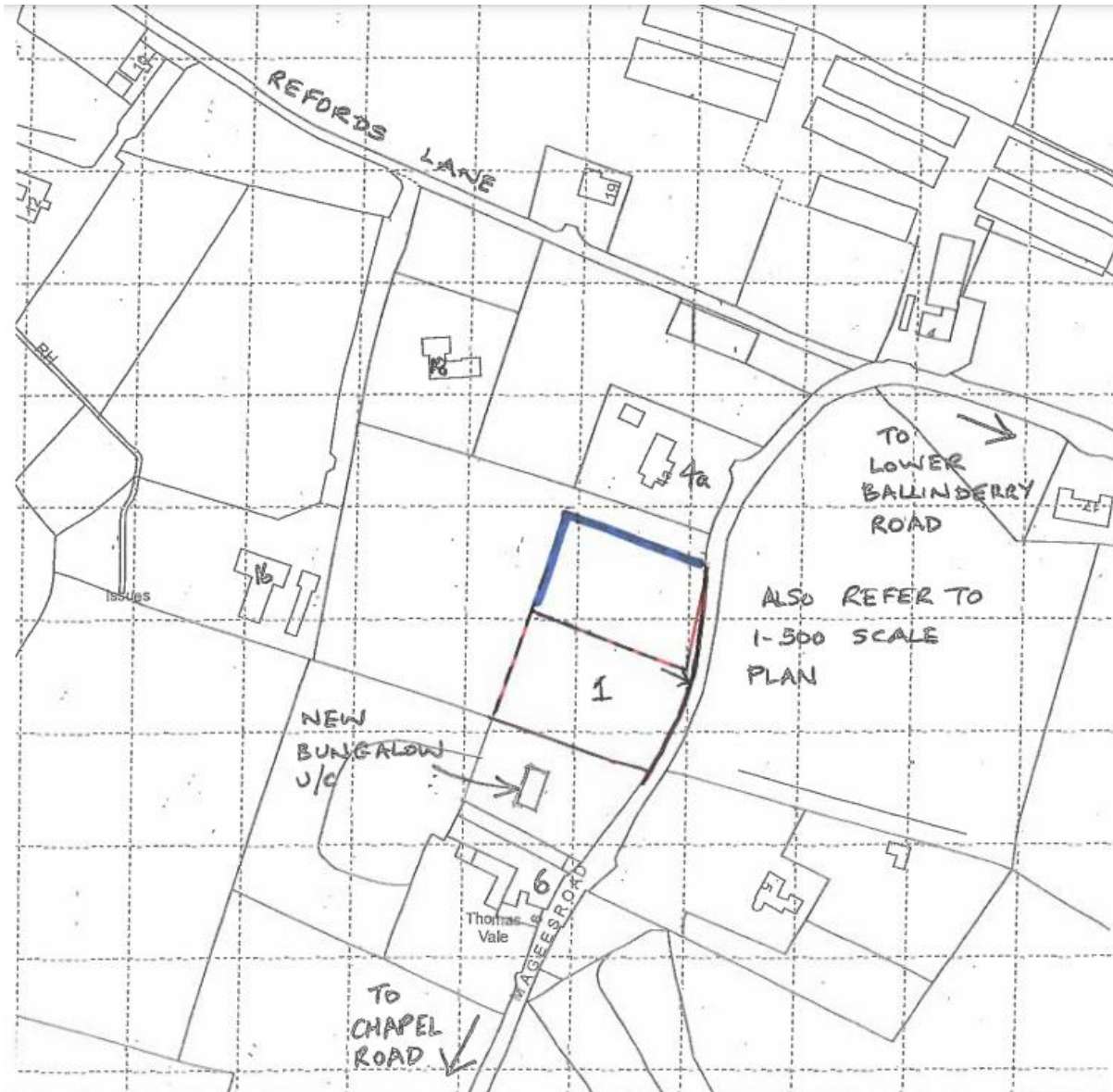
- If within a period of 5 years of planting for any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Planning Authority, seriously damaged or defective, another tree or shrub or hedge of the same species and size as originally planted shall be planted at the same place, unless the Planning Authority gives its written consent to any variation.

To ensure the provision, establishment and maintainance of a high standard of landscape.

- 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



Site Location Plan – LA05/2021/0572/O



## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee	6 February 2023
Committee Interest	Exceptions apply
Application Reference	LA05/2022/0699/O
Date of Application	22 May 2022
District Electoral Area	Downshire East
Proposal Description	Residential Development
Location	Land adjacent to and to the rear of no 74 Glebe Road and to the rear of no's 233-239 Ballynahinch Road Annahilt.
Representations	Twenty-eight (from eighteen separate addresses)
Case Officer	Maire-Claire O'Neill
Recommendation	<b>Refusal</b>

### Summary of Recommendation

1. This is a local application and is presented to the Planning Committee in accordance with the Scheme of Delegation in that it relates to an application in the open countryside and which is comprised of a site area which could accommodate more than five dwellings.
2. The application is presented to the Planning Committee with a recommendation to refuse as it is considered to be contrary to the SPPS and Policy CTY 1 of Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21) in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
3. Furthermore the proposal is contrary to the SPPS and policies CTY 13, CTY 14 and CTY 15 of PPS21 in that the development if permitted would mar the distinction between the defined settlement limit of Annahilt and surrounding countryside and result in urban sprawl.
4. The proposal is contrary to the requirements of criteria (a) of policy QD 1 of PPS 7 as the proposed development does not respect the context and is not

appropriate to the character of this part of Annahilt and the surrounding countryside because of its layout and the scale of development proposed.

5. The scale and nature of the proposal is not consistent with the character of existing development and the proposal will not create a quality residential development. Whilst it may be technical feasible to achieve a safe means of access the proposal does not meet some of the other factors to be weighed in the policy and as a consequence is contrary to the requirements of policy AMP 2 of PPS 3.
6. The proposal is also contrary to the SPPS and policies NH 2 and NH 5 of PPS 2 – Natural Heritage in that insufficient information has been provided to determine the impact of the proposal on features of natural heritage.
7. The proposal is also contrary to the SPPS and policies FLD1, FLD 3 and FLD 4 of PPS 15 – Planning and Flood Risk in that insufficient information has been provided to determine the impact of the proposal on drainage and flood risk.

## Description of Site and Surroundings

### Site

8. The application site area measures just less than 1 hectare and is comprised of part of an agricultural field which is undulating in nature.
9. The proposed access is taken off Glebe Road adjacent to an existing playpark.
10. There are interspersed trees and hedging scattered throughout the site and the boundaries to the rear have mature trees and vegetation interspersed along it. The boundary with Glebe Road has a semi mature hedge along frontage. The south western boundary also has trees and hedging along its length. The north eastern boundary is undefined.

### Surroundings

11. The lands to the north and west (rear of site) are mainly in agricultural use and rural in character. To the south and east the land is primarily residential in character and comprised of in depth suburban developments at Glebe Manor and the Orchard and detached dwellings in large plots extending along the road frontage.

## Proposed Development

12. The application seeks outline planning permission for a residential scheme in the open countryside.

### Relevant Planning History

13. There is no planning history on the application site.

### Consultations

14. The following consultations were carried out:

Consultee	Response
DFI Roads	No objection
NIEA Water Management Unit	No objection
NIEA Natural Heritage	Incomplete – insufficient information provided.
DFI Rivers Agency	Incomplete – insufficient information provided.
Environmental Health	No objection
NI Water	No objection

### Representations

15. Twenty-eight letters of objection (from eighteen separate residential properties) have been received in respect of the proposed development:

Date of Comment	Neighbour Address
05/09/22	75 Glebe Road, Annahilt, BT26 6NG
04/09/22	73 Glebe Road, Annahilt,
30/08/22	237 Ballynahinch Road, Hillsborough
03/09/22	71 Glebe Road, Annahilt
05/09/22	72 Glebe Road, Annahilt
04/09/22	74 Glebe Road, Annahilt
30/08/22	20 Annahilt Gate, Annahilt

<b>Date of Comment</b>	<b>Neighbour Address</b>
03/09/22	79 Riverdale, Annahilt
05/09/22	233 Ballynahinch Road, Hillsborough
07/09/22	235 Ballynahinch Road, Hillsborough
04/09/22	239 Ballynahinch Road, Hillsborough
03/09/22	60 Glebe Road, Annahilt
05/09/22	62 Glebe Road, Annahilt
04/09/22	64 Glebe Road, Annahilt
30/08/22	71 Glebe Road, Annahilt
03/09/22	72 Glebe Road, Annahilt
29/08/22	66 Glebe Road, Annahilt
04/09/22	70 Glebe Road, Annahilt

16. The following issues were raised:

- Land lies outside development limits of Annahilt and is currently agricultural lands.
- The proposed entrance is close to bus stops and junction with Ballynahinch Road and on a very busy stretch of road.
- During times of heavy rain this area of Glebe Road floods and sewage can back up in the system.
- The developer intends to move the existing playpark. The site location plan and site layout are not the same area.
- Protected wildlife including bats, buzzards, newts and red kites are present on the site.
- Not all residents were notified of proposal.
- A water course traverses the site.
- Proposal will result in major road safety issue.

17. The issues raised in these representations are considered as part of the assessment of this application.

## Planning Policy Context

### Relevant Policy and Guidance Documents

18. The relevant planning policy context which relates to the application is as follows:
- Lisburn Area Plan 2001
  - Draft Belfast Metropolitan Area Plan 2015
  - Strategic Planning Policy for Northern Ireland (SPPS): Planning for Sustainable Development
  - Planning Policy Statement 2 (PPS 2) : Natural Heritage
  - Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
  - Planning Policy Statement 7 (PPS 7): Quality Residential Environments
  - Planning Policy Statement 15 (PPS 15): Planning and Flood Risk
  - Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside
19. The relevant guidance is:
- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
  - Development Control Advice Note 15 - Vehicular Access Standards
  - Creating Places

### **Environmental Impact Assessment (EIA)**

20. 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 (b) of Schedule 2, of the Planning Environmental Impact Assessment (NI) Regulations 2015.
21. An EIA determination was carried out and it was concluded that there was not likely to be any unacceptable adverse environmental impacts created by the proposed development and as such, an Environmental Statement was not required to inform the assessment of the application.

### **Local Development Plan Context**

22. 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.
23. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
24. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.

25. In a recent publication the Chief Planner for Northern Ireland advised that for those planning authorities subject to draft BMAP, that the draft plan along with representations received to the draft plan and the PAC inquiry report **remains as material considerations** to be weighed by the decision-maker.
26. In the statutory development plan, draft BMAP and adopted (but unlawful) BMAP, the application site is identified as being in the open countryside albeit adjacent to the settlement limit of Annahilt.

27. Page 49 of the Lisburn Area Plan 2001 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.*

28. In respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

### **Regional Policy Context**

29. The SPPS states that

*until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

*The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan. During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.*

30. 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.*

31. 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.

32. Paragraph 4.12 of the SPPS states

*that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

33. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

34. Paragraph 6.69 of the SPPS states

*The policy approach must be to cluster, consolidate, and group new development with existing established buildings, and promote the re-use of previously used buildings. This sustainable approach facilitates essential new development, which can benefit from the utilisation of existing services such as access and drainage, whilst simultaneously mitigating the potential adverse impacts upon rural amenity and scenic landscapes arising from the cumulative effect of one-off, sporadic development upon rural amenity and landscape character*

35. The types of residential development normally allowed in the open countryside are specified at paragraph 6.73. The form of residential development proposed in this application does not fit into any of those types.

### **Natural Heritage**

36. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
37. Policy NH 1 – European and Ramsar Sites states



*that Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:*

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

38. The policy also states that

*where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the planning authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.*

*In exceptional circumstances, a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where:*

- *there are no alternative solutions; and*
- *the proposed development is required for imperative reasons of overriding public interest; and*
- *compensatory measures are agreed and fully secured.*

39. Policy NH 2 – 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:-*

- *there are no alternative solutions; and*
- *it is required for imperative reasons of overriding public interest; and*
- *there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- *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.*

40. 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:*

- priority habitats;
- priority species;
- active peatland;
- ancient and long-established woodland;
- features of earth science conservation importance;
- features of the landscape which are of major importance for wild flora and fauna;
- rare or threatened native species;
- wetlands (includes river corridors); or
- other natural heritage features worthy of protection.

41. The policy also states that

*a development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features 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, Movement and Parking**

42. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

43. Policy AMP 2 – 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) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

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

44. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 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.*

### **Quality Residential Environments**

45. PPS 7 – Quality Residential Environments sets out the Department's planning policies for achieving quality in new residential development and advises on the treatment of this issue in development plans. It embodies the Government's commitment to sustainable development and the Quality Initiative.

46. Policy QD 1 Quality in New Residential Development states that

*Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.*

*In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.*

47. Within Policy QD 1 all proposals for residential development will be expected to conform to all of the following criteria

- (a) *the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;*
- (b) *features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*
- (c) *adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;*
- (d) *adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;*

- (e) *a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;*
- (f) *adequate and appropriate provision is made for parking;*
- (g) *the design of the development draws upon the best local traditions of form, materials and detailing;*
- (h) *the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and*
- (i) *the development is designed to deter crime and promote personal safety.*

*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.*

### **Creating Places**

48. **Creating Places – Achieving Quality in Residential Developments’ (May 2000)** is the principal guide for developers in the design of all new housing areas. 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.

### **Planning and Flood Risk**

49. **Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains** states that

*Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

50. **Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains** states that

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

- *A residential development comprising of 10 or more dwelling units*
- *A development site in excess of 1 hectare*
- *A change of use involving new buildings and / or hard surfacing exceeding*

1000 square metres in area.

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

- *The proposed development is located in an area where there is evidence of a history of surface water flooding.*
- *Surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage.*

*Such development will be permitted where it is demonstrated through the Drainage Assessment 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.*

*Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.*

*Where the proposed development is also located within a fluvial or coastal plan, then Policy FLD 1 will take precedence.*

### **Sustainable Development in the Countryside**

49. PPS 21 – Sustainable Development in the Countryside, sets out planning policies for development in the countryside.
50. Policy CTY1 – Development in the Countryside sets out the 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.
51. It identifies two instances where a housing development may be permitted in the countryside.
52. Policy CTY2 – Development in Dispersed Rural Communities states that within a Dispersed Rural Community designated in a development plan planning permission will be granted to suitable proposals for a small cluster or clachan style development of up to 6 houses at an identified focal point.
53. Policy CTY 5 – Social and Affordable Housing states that planning permission may be granted for a group of no more than 14 dwellings adjacent to or near a small settlement or within a designated DRC to provide social and affordable housing to meet the needs of the rural community. It states that planning permission will only be granted where the application is made by a registered Housing Association and where a demonstrable need has been identified by the Northern Ireland Housing Executive which cannot readily be met within an existing settlement in the locality.

### Integration and Design of Buildings

54. Policy CTY 13 - Integration and Design of Buildings in the Countryside states

*that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*

55. The policy states that

*a new building will be unacceptable where:*

- (a) it is a prominent feature in the landscape; or*
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) it relies primarily on the use of new landscaping for integration; or*
- (d) ancillary works do not integrate with their surroundings; or*
- (e) the design of the building is inappropriate for the site and its locality; or*
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

### Rural Character

56. Policy CTY 14 - Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

57. This policy context refers to a single dwelling in the countryside and it states that a new building will be unacceptable where:

- (a) it is unduly prominent in the landscape; or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

### The Setting of Settlements

58. Policy CTY 15 – The Setting of Settlements states that landscapes around settlements have a special role to play in maintaining the distinction between town and country, in preventing coalescence between adjacent built-up areas and in providing a rural setting to the built up area.

59. The policy states that

*Planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl.*

60. The justification and amplification to this policy advises as follows

5.83 *A settlement's identity can be as much as a result of its setting within the surrounding countryside, as the quality of its buildings. Landscapes around settlements have a special role to play in maintaining the distinction between town and country, in preventing coalescence between adjacent built up areas and in providing a rural setting to the built up area.*

5.84 *The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built up area and surrounding countryside.*

5.85 *Proposals that would mar the distinction or create urban sprawl will therefore be unacceptable. Where social and affordable housing under Policy CTY 5 may in principle be acceptable, it will be important to consider what siting options are available and to mitigate any adverse impact on the setting of the settlement.*

## Assessment

61. In summary, the main issues to consider in the determination of this planning application are:

- Local Development Plan
- Principle of Development
- Quality Residential Environments
- Sustainable Development in the Countryside
  - Development in the Countryside
  - Integration and Design of Buildings
  - Rural Character
  - The setting of settlements
- Quality Residential Environments
- Access, Movement and Parking
- Natural Heritage
- Planning and Flood Risk

62. Within the context of the planning policy tests outlined above, the following assessment is made relative to proposed development.

### Development in the Countryside

65. The application site is in the open countryside and is for a residential development comprised of more than two dwellings. No site specific policy designation applies and this proposal does not fit any of the exceptions at paragraph 6.73 of the SPPS and is considered to be contrary to policy CTY1 in that it is not considered to be an acceptable form of development in the countryside.
66. No supporting statement has been provided by the agent to justify the proposed development.

#### Integration and Rural Character

67. This is an outline application and no design details or landscaping details have been provided and as such, an assessment of the appropriateness of the design cannot be fully considered at this stage.
68. That said, the proposed development, given its scale and location within the countryside would result in a suburban style build-up of development extending into the countryside and causing a detrimental effect on the rural character of the area.

#### The Setting of Settlements

69. The proposed development in this open field adjacent to settlement limit of Annahilt. The development of the land would mar the distinction between the settlements and create unnecessary urban sprawl that fails to follow a logical or defined boundary that distinguishes this site from the countryside.
70. Furthermore, it does not represent a rounding off opportunity or consolidation of the settlement limit at this location. Most of the built development adjacent to the site is comprised of single dwellings built along the road frontage without accompanying development to the rear. The settlement limit is drawn tightly around these buildings to take account of the character and to avoid in depth development sprawling in the open countryside.

It is distinguishable from the in depths suburban development on the opposite side of the Glebe Road. This proposal if permitted would mar the distinction between the defined settlement limit of Annahilt and the surrounding countryside. The policy tests of CTY 15 are not met.

### **Quality Residential Environments**

#### Impact on the Character of Area



71. It is stated in the preamble of PPS7 (page 4) that this policy applies to all residential development with the exception of single dwellings in the countryside.
72. As explained above, this part of Annahilt is made up of single dwellings in large plots sited along the edge of the Glebe Road and Ballynahinch Road. The settlement limit is drawn specifically to avoid in-depth suburban development.
73. Criteria (a) of policy QD 1 is not met as the proposed development does not respect the context and is not appropriate to the character of this part of Annahilt and the surrounding countryside because of its layout and the scale of development proposed.
74. For these reasons the requirements of policy CTY 14 are not met as, the rural character of the area would be significantly changed by the proposed development.

### **Access, Movement and Parking**

75. Detail submitted with the application indicates that the proposal will involve the creation of a new access to the public road for both vehicular and pedestrian use.
76. A Transport Assessment (TA) form was not provided. The level of parking provision would normally be assessed and commented on at the Reserved Matters stage.
77. DfI Roads were consulted and have confirmed that they no objection in principle to the proposed access on the grounds of roads safety or traffic impact.
78. That said policy AMP 2 does state that consideration will be given to other factors including for example the nature and scale of the development, the character of existing development, the contribution the proposal makes to create a quality environment.
79. It is explained in the preceding section dealing with policy QD 1 that the scale and nature of the proposal is not consistent with the character of existing development and the proposal will not create a quality residential development. Whilst it may be technical feasible to achieve a safe means of access the proposal does not meet some of the other factors to be weighed in the policy and as a consequence is contrary to the requirements of policy AMP 2 of PPS 3.

### Natural Heritage

80. No supporting information has been submitted with the application. To facilitate a housing development, a number of trees and hedges would have been to be removed. Ecology assessments would likely be required.
81. A bio-diversity checklist was requested on 26 October 2022 but not received. In the absence of any ecological information being provided, the applicant has failed to demonstrate that the proposal will not cause an unacceptable impact on natural heritage features and is contrary to policies NH 2 and NH 5 of PPS2.

### Flooding and Drainage

82. In terms of policy FLD 2 Rivers Agency has advised that the site is traversed from the south east to North West by a water course which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and is known to DfI Rivers as Ballylintagh Drain. Advice indicates that the site may be affected by undesignated water courses for which they have no record. A working strip is required to be retained to facilitate future maintenance in such circumstances. The applicant has not demonstrated that these constraints are accounted for and that flooding will occur from the undesignated watercourse.
83. A precautionary approach is followed in accordance with the requirements of PPS15 and due to the lack of information the proposal is contrary to policy FLD 1.
84. Water Management Unit has also considered the impacts of the proposal on the surface water environment and advised that they were content with the proposal as long as NI Water had capacity to take the extra load and subject to conditions and relevant statutory permissions being obtained.
85. In relation to Policy FLD 3 – Development and Surface Water advice provided by DfI Rivers indicates that a drainage assessment is required as the following the following thresholds have been exceeded:
  - It is a site that has the capacity to accommodate more than 10 residential units because of its size; and
  - Likely to be comprised of new buildings and/ or hard surfacing exceeding 1000 square metres in size.
86. A Drainage Assessment was requested on 26 October 2022. To date no assessment has been provided.
87. With regard to Policy FLD 4 – Artificial Modification of Watercourses, Rivers Agency advise that artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reason.

88. The advice from DfI Rivers notes that the applicant intends to culvert a length of 'Ballylintagh Drain' at this location. They have not demonstrated that consent to undertake any culvert works at the site has been approved by DfI Rivers. No information has been provided in this regard.
89. In the absence of this information being provided and adopting a precautionary approach as highlighted above, it has not been possible to fully and properly consider whether the proposal is in accordance with policies FLD 13 and 4 of PPS 15.
90. It is therefore not possible to assess the impact the proposal will have and a refusal reason has been added to this effect.

### Consideration of Representations

91. As indicated above, there was 28 letters of objection received in respect of the proposal.

Land lies outside development limits of Annahilt and is currently agricultural lands.

92. The land proposed for development lies outside the development limits of Annahilt and no justification for the proposal was provided.

The proposed entrance is close to bus stops and junction with Ballynahinch Road and on a very busy stretch of road.

93. The proposed access is located close to a junction and a bus stop. However, DFI Roads have assessed it on Road Safety Grounds and found it to comply with policy and standards. They offer no objections subject to conditions.

During times of heavy rain this area of Glebe Road floods and sewage can back up in the system.

94. A drainage assessment was requested by DFI Rivers. The applicant was contacted and this information was requested but has not been received to date. In the absence of this information being provided, it has not been possible to fully and properly consider the impact that the proposal might have on the existing infrastructure. A refusal reason has been added in relation to this lack of information.

The developer intends to move the existing playpark. The site location plan and site layout are not the same area.

95. The applicant has provided a wider concept plan including lands outside of the proposed site but in the applicant's ownership and outlined in blue. The block plan is a concept and it is provided for illustrative purposes only. This proposal

does not include the lands where the play park is located. Furthermore, it is not detailed on the proposal description. It is therefore not considered as part of this assessment.

Protected wildlife including bats, buzzards, newts and red kites are present on the site.

96. The applicant was asked to complete a biodiversity checklist to ascertain if further ecological surveys were required and to assist in the assessment of the application. This information has never been submitted so this issue has been included as a reason for refusal as it has not been possible to fully and properly consider if the application will have a detrimental impact of protected species or features of natural heritage.

Not all residents were notified of proposal

97. The neighbours were checked and verified by the case officer. Neighbours have been notified in line with statutory requirements. Furthermore, the application was advertised in the Belfast Telegraph.

A water course traverses the site

98. This undesignated water course/sheough was noted during the site inspection. As the flooding/drainage information was not received from the applicant, DFI Rivers could not provide further comment. Again, not enough information has been submitted to allow full and proper consideration to be given as to whether the proposal will have an adverse impact and result in flooding.

Proposal will result in major road safety issue

99. As this is an outline application, detailed block plans and drawings are not required to be submitted. These details are normally provided at the next planning stage – Reserved Matters or indeed with a subsequent Full application. However, DFI Roads have been asked to comment on the principle of an access to a residential site at this location and have offered no objection subject to conditions.

## Conclusion

51. Based on careful consideration of all the relevant material planning considerations, it is contended that the proposal is contrary to paragraph 6.73 of the SPPS and Policy CTY 1 of Planning Policy Statement 21 - Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

52. Furthermore the proposal is contrary to the SPPS and policies CTY13, CTY 14 and CTY 15 in that the development if permitted would mar the distinction between the defined settlement limit of Annahilt and surrounding countryside resulting in urban sprawl that would harm the rural character of the area.
53. The proposal is contrary to the requirements of criteria (a) of policy QD 1 of PPS 7 as the proposed development does not respect the context and is not appropriate to the character of this part of Annahilt and the surrounding countryside because of its layout and the scale of development proposed.
54. The scale and nature of the proposal is not consistent with the character of existing development and the proposal will not create a quality residential development. Whilst it may be technical feasible to achieve a safe means of access the proposal does not meet some of the other factors to be weighed in the policy and as a consequence is contrary to the requirements of policy AMP 2 of PPS 3.
55. The proposal is also contrary to the SPPS and policies NH 2 and NH 5 of PPS 2 – Natural Heritage in that insufficient information has been provided to determine the impact of the proposal on features of natural heritage.
56. The proposal is also contrary to the SPPS and policies FLD1, FLD 3 and FLD 4 of PPS 15 – Planning and Flood Risk in that insufficient information has been provided to determine the impact of the proposal on drainage and flood risk.

### Recommendation

100. The application is presented with a recommendation to refuse for the following reasons:

### Reasons for refusal

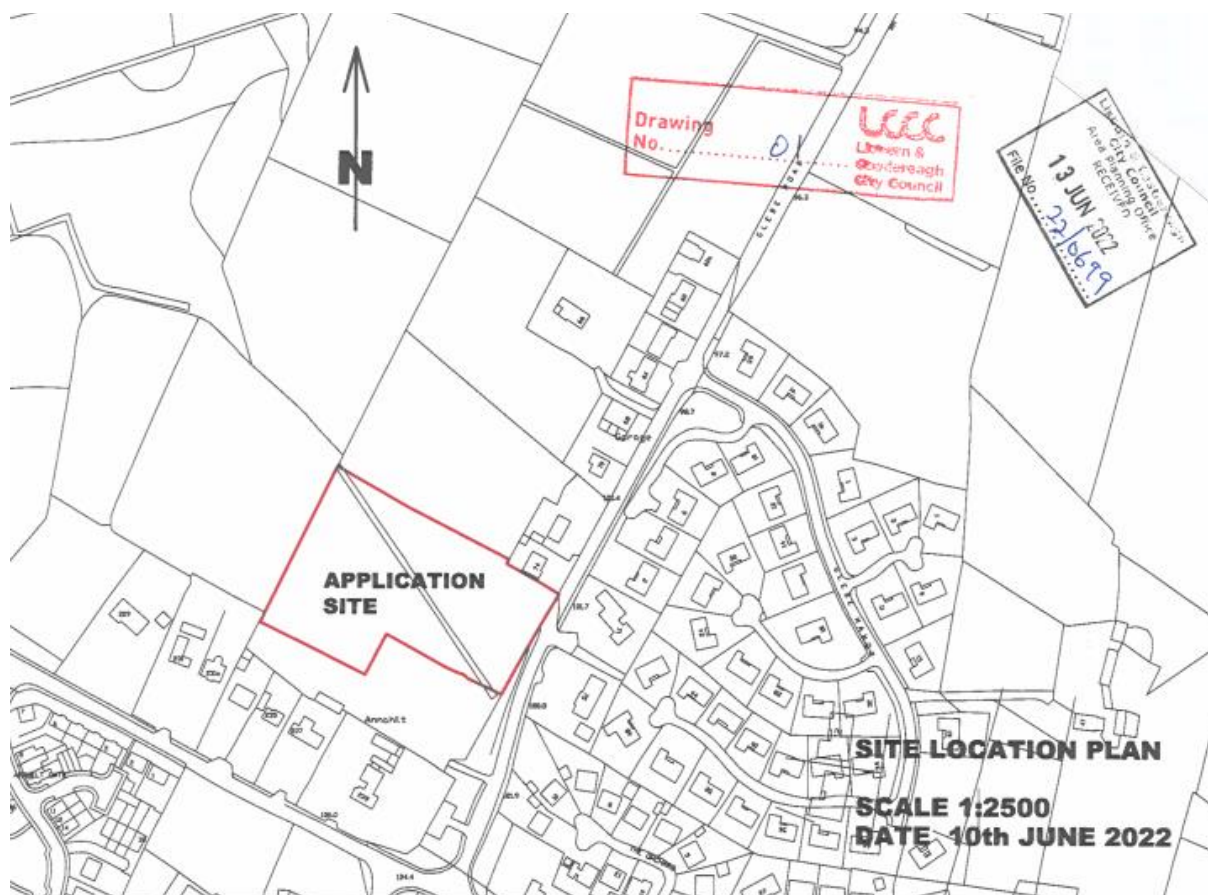
101. The following refusal reasons are recommended:

- The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- The proposal is contrary to the SPPS and Policy CTY15 of Planning Policy Statement 21 - Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the

defined settlement limit of Annahilt and the surrounding countryside and result in urban sprawl.

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21 - Sustainable Development in the Countryside in that the proposal, if permitted, would result in a sub-urban style build-up of development resulting in a detrimental impact on the rural character of the countryside.
- The proposal is contrary to the SPPS and Policy NH 2 and NH 5 of Planning Policy Statement 2 - Natural Heritage and Section 3 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 in that insufficient information has been submitted to the impact on features of natural heritage importance to be assessed.
- The proposal is contrary to the SPPS, Policy FLD 3 of Planning Policy Statement 15 - Planning and Flood Risk and Section 3 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 in that insufficient information has been submitted to enable matters associated with Drainage to be assessed.

**Site Location Plan – LA05/2020/0699/O**





## Planning Committee

06 February 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 2 – Planning Monitoring Framework 2021/22

### Background and Key Issues:

#### Background

1. The DfI Northern Ireland Planning Monitoring Framework 2021/22 was released on Thursday 15 December 2022.
2. This is the fourth annual release of statistical data in the series related to Development Management (Planning) functions. The Planning Act (Northern Ireland) 2011 sets out the legislative framework for development management and provides that, from 1 April 2015, councils now largely have responsibility for this planning function.
3. This statistical release reports on activity in 2021/22 (1 April 2021 – 31 March 2022).

#### Key Issues

1. There are nine indicators within the framework, these include the existing three legislative performance targets relating to the processing of local development decisions within an average of 15 weeks; major development decisions within an average of 30 weeks; and processing of 70% of enforcement cases to target conclusion within 39 weeks.
2. The release provides a summary [infographic document] of the indicators for Northern Ireland, as well as relevant indicator data for each local planning

authority. Comparable data from 2018/19, 2019/20 and 2020/21 is also included where available.

3. The framework provides planning statistics for the following:
  - applications determined under delegated authority [95.6%];
  - applications decided by Planning Committee [42]
  - committee decisions made contrary to officer recommendation [4.8%]
  - appeals against refusals that are dismissed [73.3%]
  - appeal Claim for Costs [2]
4. The bracketed figures are for the Lisburn and Castlereagh Council Area and can be compared against the summary data for Northern Ireland.
5. The Planning Monitoring framework documents can be accessed via the following link:
 

<https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-monitoring-framework-202122>
6. Members' attention is drawn specifically to table 9 of the Northern Ireland Planning Monitoring Framework 2020/21 Statistical Tables spreadsheet in which the performance of Lisburn and Castlereagh City Council can be seen.
7. Members will note in particular an increasing number of applications dealt with under delegated authority and a reduced number of applications coming in front of the committee. This is consistent with general advice offered in a recent report by the Audit Office which indicates the committee's time should be reserved for the most important applications.

#### Recommendation:

It is recommended that the Members note the information on the content of the Planning Monitoring Framework 2021/22. A further report will be provided to committee on receipt of the associated report, providing infographics for the overall position and for each council area.

#### Finance and Resource Implications:

There are no finance and resource implications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

No

#### If no, please provide explanation/rationale

This is a Departmental Planning Monitoring Framework report and EQIA is not required.



If yes, what was the outcome?

<b>Option 1</b> Screen out without mitigation	N/A	<b>Option 2</b> Screen out with mitigation	N/A	<b>Option 3</b> Screen in for a full EQIA	N/A
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**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

**2. Rural Needs Impact Assessment:**

Has consideration been given to Rural Needs?	No	Has a Rural Needs Impact Assessment (RNIA) template been completed?	No
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**If no, please given explanation/rationale for why it was not considered necessary:**

This is a Departmental Planning Monitoring Framework report and a Rural Needs Impact Assessment is not required.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:** No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 2 (a) – Planning Monitoring Framework 2021/22 – Report  
APPENDIX 2 (b) – Planning Monitoring Framework 2021/22 – Table 9  
APPENDIX 2(c) – Planning Monitoring Framework 2021/22 – Infographic document**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?** No

**If Yes, please insert date:**



## **STATISTICAL PRESS RELEASE**

**The Northern Ireland Planning Monitoring Framework 2021/22, has been published today**

**~ Thursday 15 December 2022**

Planning statistics from the Northern Ireland Planning Monitoring Framework for 2021/22 are now available. The data tables released include details of performance across the three statutory targets for major development applications, local development applications and enforcement cases alongside a suite of additional indicators that are intended to provide a more comprehensive assessment of planning activity. The data tables present the indicators for Northern Ireland, as well as relevant indicator data for each local planning authority.

The framework has been developed by the Department for Infrastructure in collaboration with local planning authorities, and has been informed by best practice in other jurisdictions.

The data tables are available on the [Department for Infrastructure website](#).

## **Notes for Editors**

Background to Northern Ireland Planning Monitoring Framework 2021/22.

1. This is the fourth annual release of statistical data in the series related to Development Management (Planning) functions. The Planning Act (Northern Ireland) 2011 sets out the legislative framework for development management and provides that, from 1 April 2015, councils now largely have responsibility for this planning function. This statistical release reports on activity in 2021/22 (1 April 2021 – 31 March 2022).
2. The current classification hierarchy for planning applications came into effect on 1 April 2014 in advance of the transfer of planning functions to local government from 1 April 2015. The development categories are – major and local development applications, processed primarily by councils, and regionally significant development applications, processed within the Department for Infrastructure.
3. There are nine indicators within the framework, these include the existing three legislative performance targets related to the processing of local development decisions within an average of 15 weeks; major development decisions within an average of 30 weeks; and processing 70% of enforcement cases to target conclusion within 39 weeks. More details about the framework and all the indicators reported against can be found in the published [data tables](#).
4. Electronic copies of the data tables are available free of charge from the [Department for Infrastructure website](#).

## **Official Statistics**

This is an Official Statistics release and therefore follows the [Code of Practice for Statistics](#).

## **Additional Information**

For more information relating to this release, including additional analysis, breakdowns of data, or alternative formats please contact:

Analysis, Statistics and Research Branch,

Room 5-25,

Clarence Court,

10-18 Adelaide Street,

Town Parks

BELFAST, BT2 8GB

Telephone: (028) 9054 0390

(Text relay prefix 18001)

E-mail: [asrb@nisra.gov.uk](mailto:asrb@nisra.gov.uk)

Website: [www.infrastructure-ni.gov.uk/topics/dfi-statistics-and-research](http://www.infrastructure-ni.gov.uk/topics/dfi-statistics-and-research)

**ASRB advise customers to make contact through email or by telephone at this time.**

For media enquiries please contact the DfI Press Office 028 9054 0007.

**Table 9: Lisburn and Castlereagh**  
**Source: Northern Ireland Planning Monitoring Framework 2021/22**

This worksheet contains one table.

Some notation is used in this table, [x] = data not available.

User note: Following feedback from customers the tables have been updated to include some additional data, this is presented in 'italics' in the table below.

Indicator	Indicator title	2018/19	2019/20	2020/21	2021/22	Source
Indicator 1	Average processing time taken (weeks) to determine major applications <sup>1,2,3,4,5</sup>	78.0	55.2	79.7	106.8	Northern Ireland Planning Portal
<i>Supplementary data Indicator 1</i>	<i>Number of major applications processed to decision<sup>1,2,5</sup></i>	17	6	10	8	<i>Northern Ireland Planning Portal</i>
Indicator 1.1	Average time taken (weeks) to determine major applications (excluding withdrawn applications) <sup>1,2,4,5,6</sup>	95.4	66.0	79.7	106.8	Northern Ireland Planning Portal
<i>Supplementary data Indicator 1.1</i>	<i>Number of major applications processed to decision (excluding withdrawn applications)<sup>1,2,5,6</sup></i>	14	4	10	8	<i>Northern Ireland Planning Portal</i>
Indicator 2	Average processing time taken (weeks) to determine local applications <sup>1,3,4,5,7</sup>	17.7	16.6	23.8	16.2	Northern Ireland Planning Portal
<i>Supplementary data Indicator 2</i>	<i>Number of local applications processed to decision<sup>2,5,7</sup></i>	940	977	875	885	<i>Northern Ireland Planning Portal</i>
Indicator 2.1	Average time taken (weeks) to determine local applications (excluding withdrawn applications) <sup>2,4,5,6,7</sup>	16.6	15.8	22.8	15.8	Northern Ireland Planning Portal
<i>Supplementary data Indicator 2.1</i>	<i>Number of local applications processed to decision (excluding withdrawn applications)<sup>1,2,5,6,7</sup></i>	900	931	844	838	<i>Northern Ireland Planning Portal</i>
Indicator 3	Proportion of enforcement cases progressed to the target conclusion within 39 weeks <sup>3,8,9</sup>	83.8%	84.5%	83.6%	83.9%	Northern Ireland Planning Portal
<i>Supplementary data Indicator 3</i>	<i>Number of enforcement cases progressed to target conclusion<sup>8,9</sup></i>	284	303	244	316	<i>Northern Ireland Planning Portal</i>
Indicator 4	Percentage of applications determined under delegated powers <sup>2,5,6,10</sup>	92.0%	93.4%	93.8%	95.6%	Northern Ireland Planning Portal and Department for Infrastructure, Planning Applications to Committee database
<i>Supplementary data Indicator 4</i>	<i>Number of applications determined<sup>2,5,6,10</sup></i>	914	935	854	846	<i>Northern Ireland Planning Portal and Department for Infrastructure, Planning Applications to Committee database</i>
<i>Supplementary data Indicator 4</i>	<i>Number of applications determined under delegated powers<sup>2,5,6,10</sup></i>	841	873	801	809	<i>Northern Ireland Planning Portal and Department for Infrastructure, Planning Applications to Committee database</i>
Indicator 5	Number of applications decided by planning committee <sup>2,5,6</sup>	76	67	57	42	Department for Infrastructure Planning Applications to Committee database
<i>Supplementary data Indicator 5</i>	<i>Number of applications decided by planning committee against officer recommendation<sup>2,5,6</sup></i>	12	3	4	2	<i>Department for Infrastructure Planning Applications to Committee database</i>
Indicator 5	Percentage of committee decisions made against officer recommendation <sup>2,5,6</sup>	15.8%	4.5%	7.0%	4.8%	Department for Infrastructure Planning Applications to Committee database
Indicator 6	Percentage of appeals against refusals of planning permission that are dismissed <sup>5,11,12</sup>	[x]	58.3%	83.3%	73.3%	Planning Appeals Commission
<i>Supplementary data Indicator 6</i>	<i>Number of appeals against refusal of planning permission<sup>5,11,12</sup></i>	[x]	12	12	15	<i>Planning Appeals Commission</i>
<i>Supplementary data Indicator 6</i>	<i>Number of appeals against refusal of planning permission that are dismissed<sup>5,11,12</sup></i>	[x]	7	10	11	<i>Planning Appeals Commission</i>
Indicator 7	Number of claims for costs received by the Planning Appeals Commission <sup>11</sup>	[x]	1	1	2	Planning Appeals Commission
Indicator 7	Number of claims decided in the planning authority's favour <sup>11,13</sup>	[x]	1	0	0	Planning Appeals Commission
Indicator 7	Number of claims decided against the planning authority <sup>11,14</sup>	[x]	0	1	2	Planning Appeals Commission

**Notes and definitions**

- Major developments have important economic, social and environmental implications. The majority of major applications are multiple housing, commercial and government and civic types of development.
- Certificates of Lawful Use or Development, Tree Preservation Orders, Non Material Changes, Pre-Application Discussions, Proposal of Application Notices and Discharge of Conditions have been excluded from all application figures.
- Denotes an existing statutory indicator.
- 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 (where applicable). 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".
- Department for Infrastructure is excluded.
- Applications withdrawn by the applicant prior to the decision notice being issued are excluded from these data.
- Local Development planning applications are mostly residential and minor commercial applications received and determined by a council.
- 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.
- An enforcement case is concluded when one of the following occurs: a notice is issued; legal proceedings commence; a planning application is received; or the case is closed.
- As each council has an individual scheme of delegation the types of applications that are delegated to planning officers for decision may differ across councils.
- Data for this indicator are available from 2019/20.
- This indicator excludes appeals against: non-determinations; enforcement notices; conditional grants of planning permission; and those categorised as 'other.'
- The number of claims decided in the planning authority's favour include claims made by the planning authority where there was a partial or full award and claims made against the planning authority where costs were denied.
- The number of claims decided against the planning authority include claims made by the planning authority where costs were denied and claims made against the planning authority where there was a partial or full award.

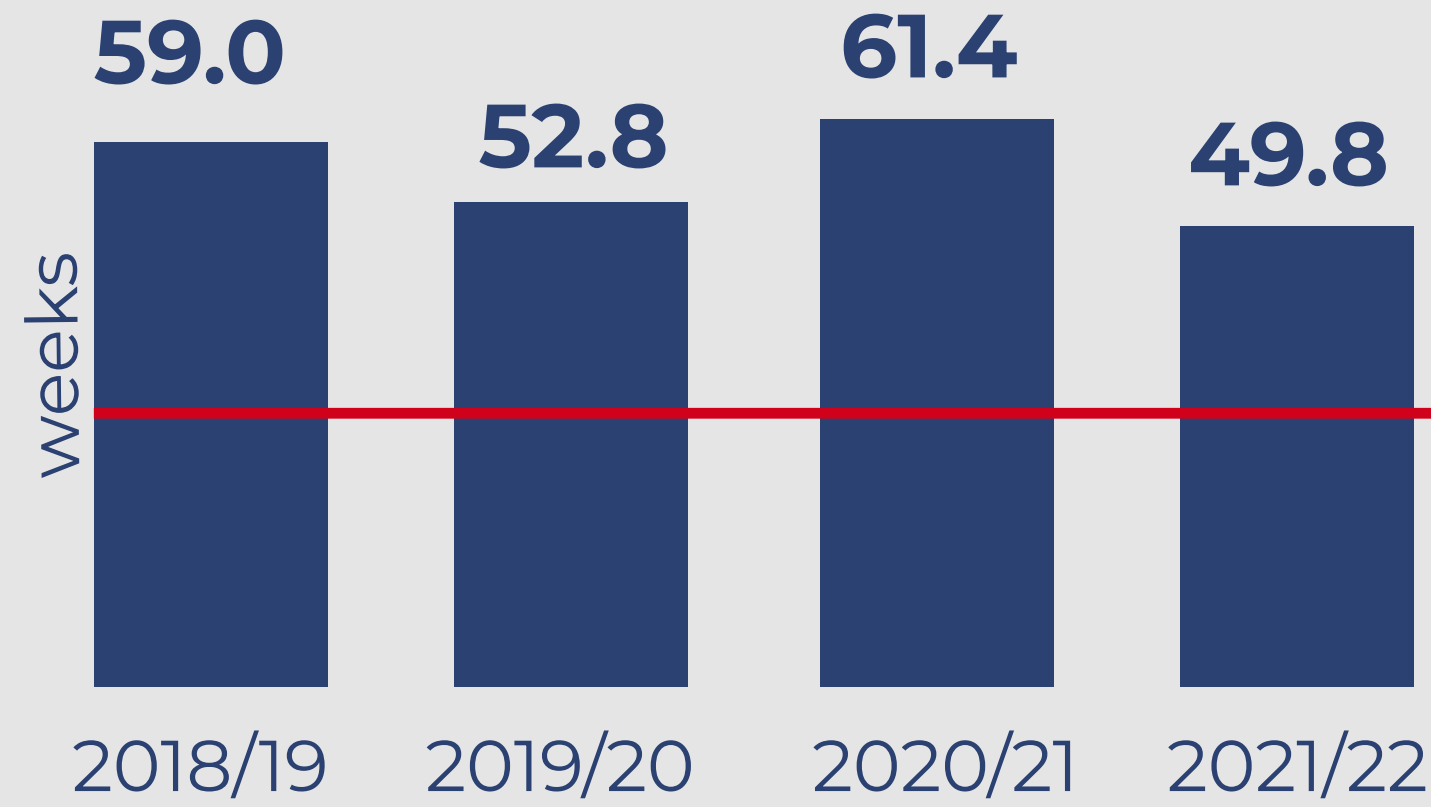
[For further information on each indicator, including the methodology used, please see 'Notes and Definitions'.](#)

## Northern Ireland summary data

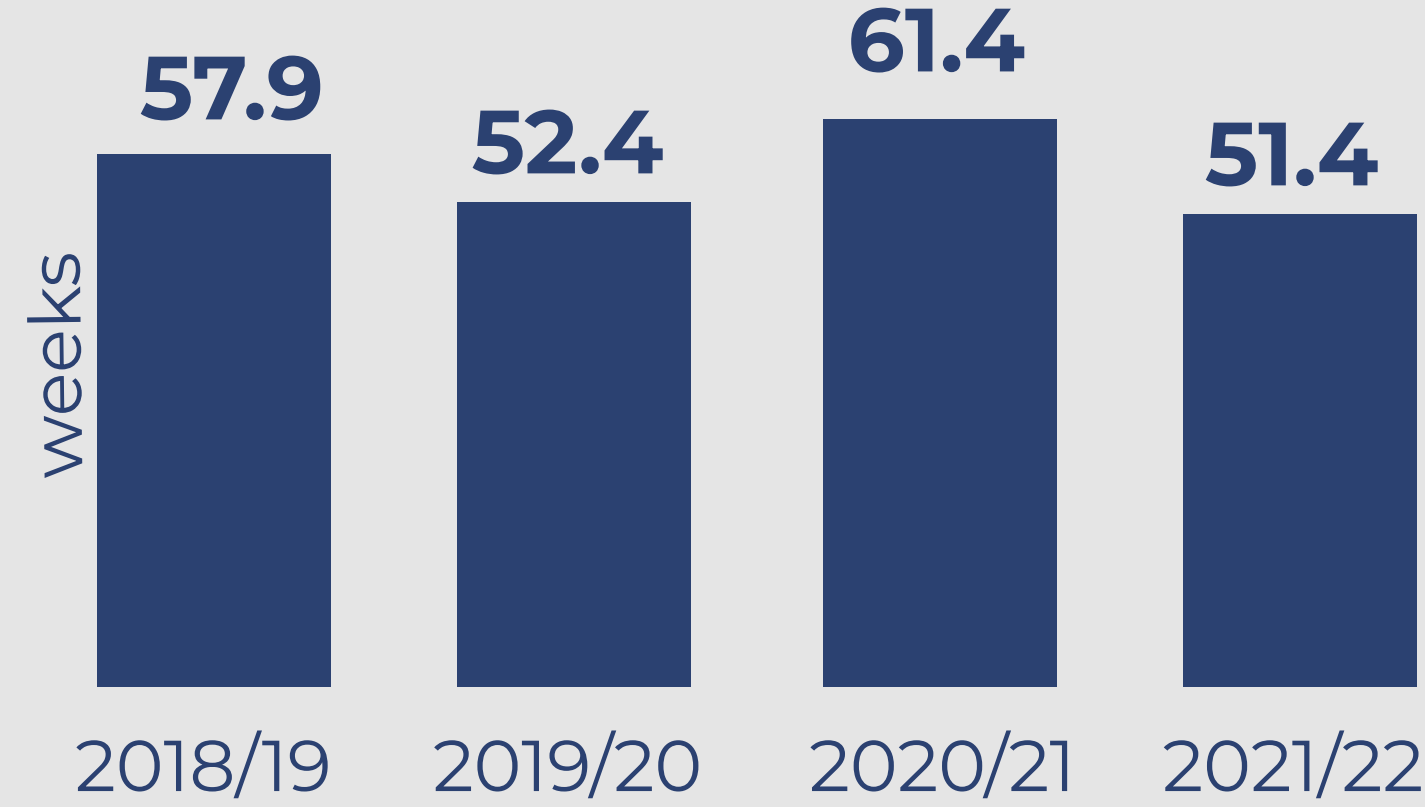
### Major applications

Average processing time taken (weeks) to determine major applications\*

Statutory target = 30 weeks



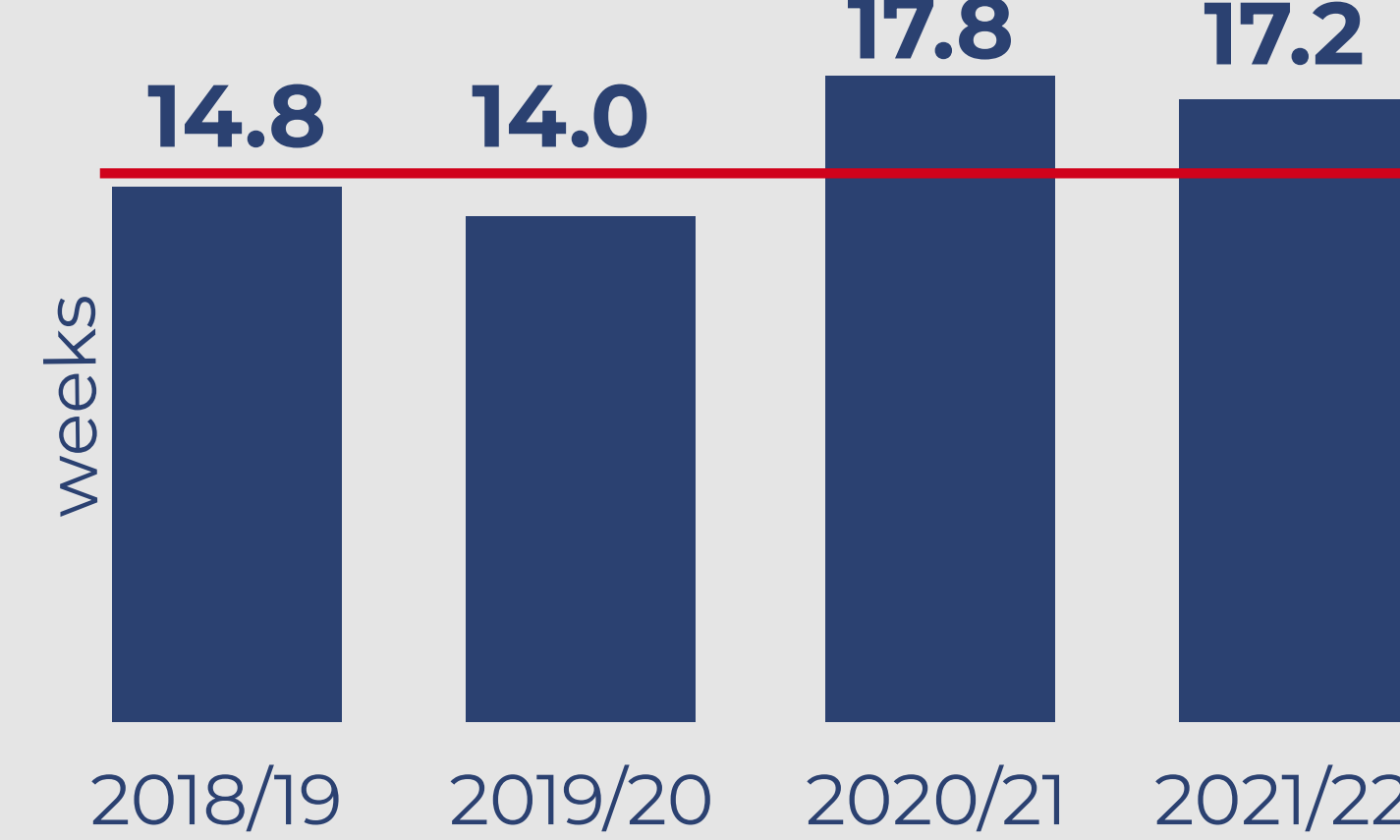
Average time taken (weeks) to determine major applications (excluding withdrawn applications)\*



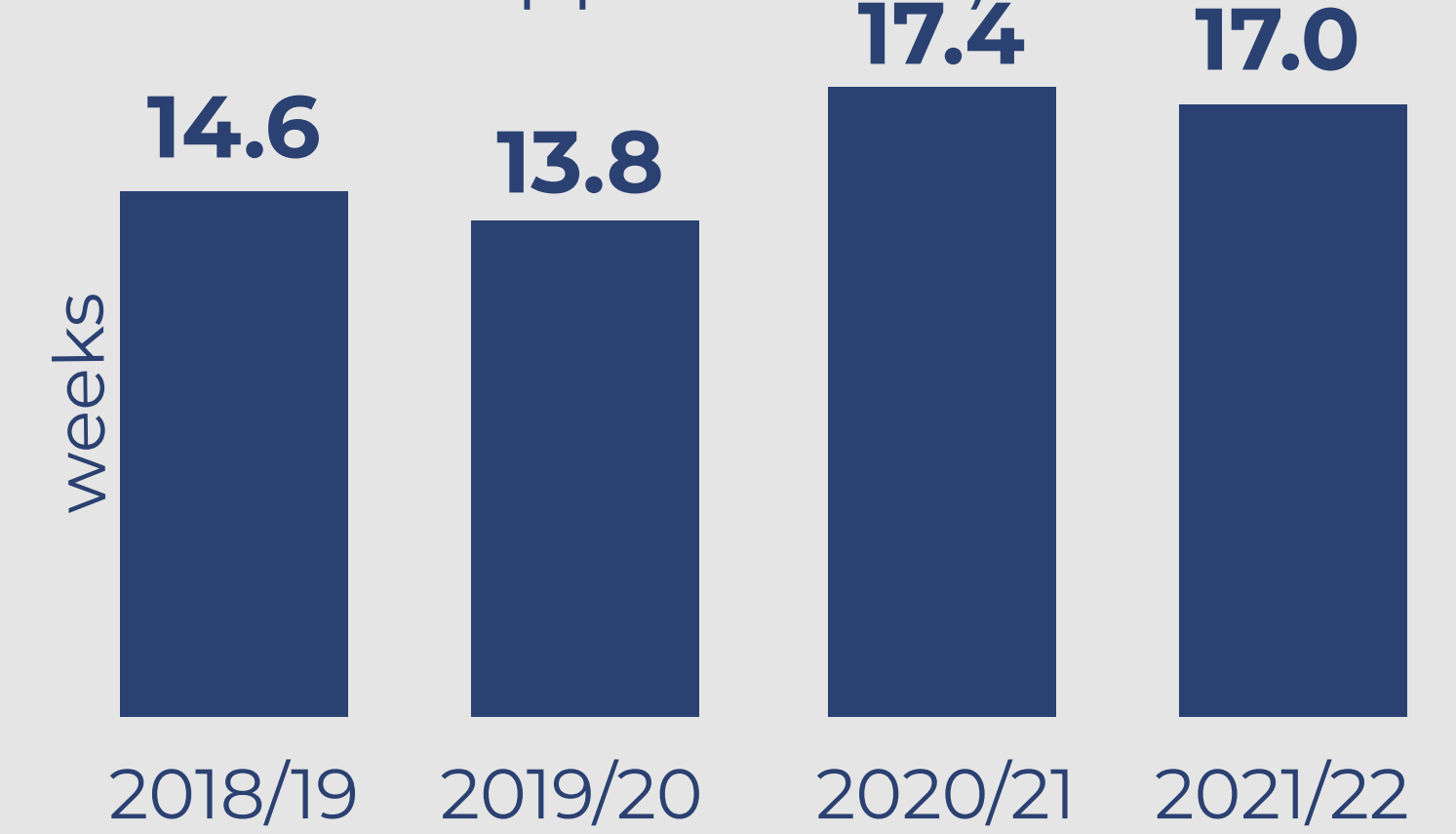
### Local applications

Average processing time taken (weeks) to determine local applications\*

Statutory target = 15 weeks



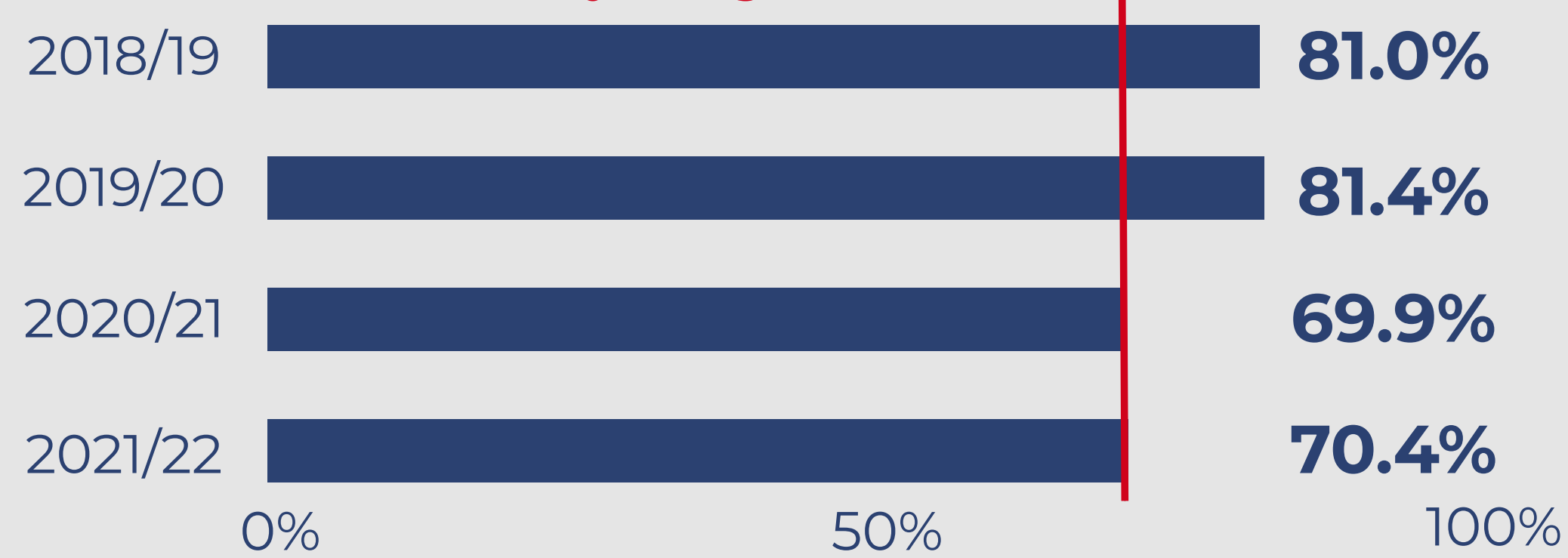
Average time taken (weeks) to determine local applications (excluding withdrawn applications)\*



### Enforcement

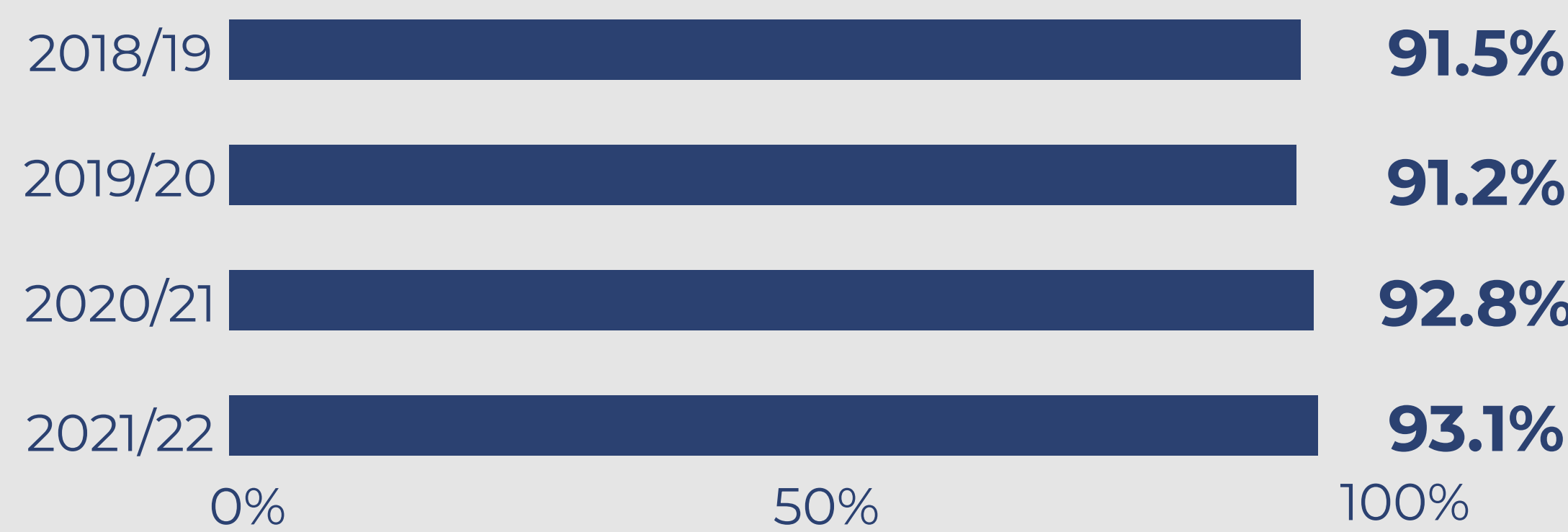
% of enforcement cases progressed to the target conclusion within 39 weeks\*

Statutory target = 70%



### Delegated powers

% of applications determined under delegated powers\*



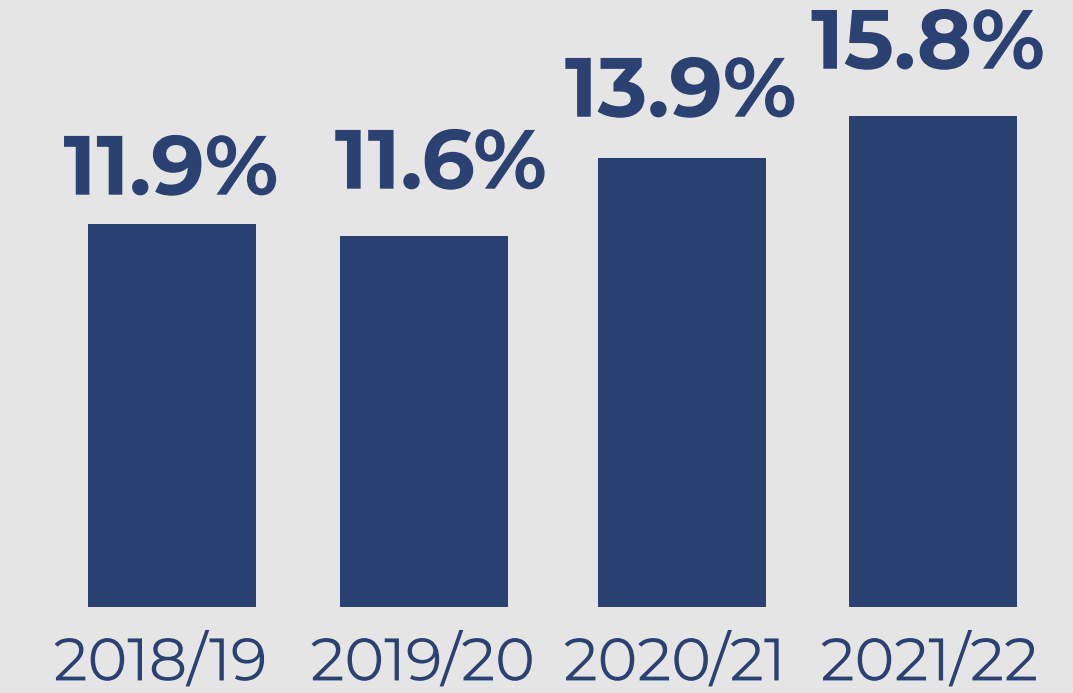
### Planning committee

No. of applications decided by planning committee\*

% of committee decisions made against officer recommendation\*

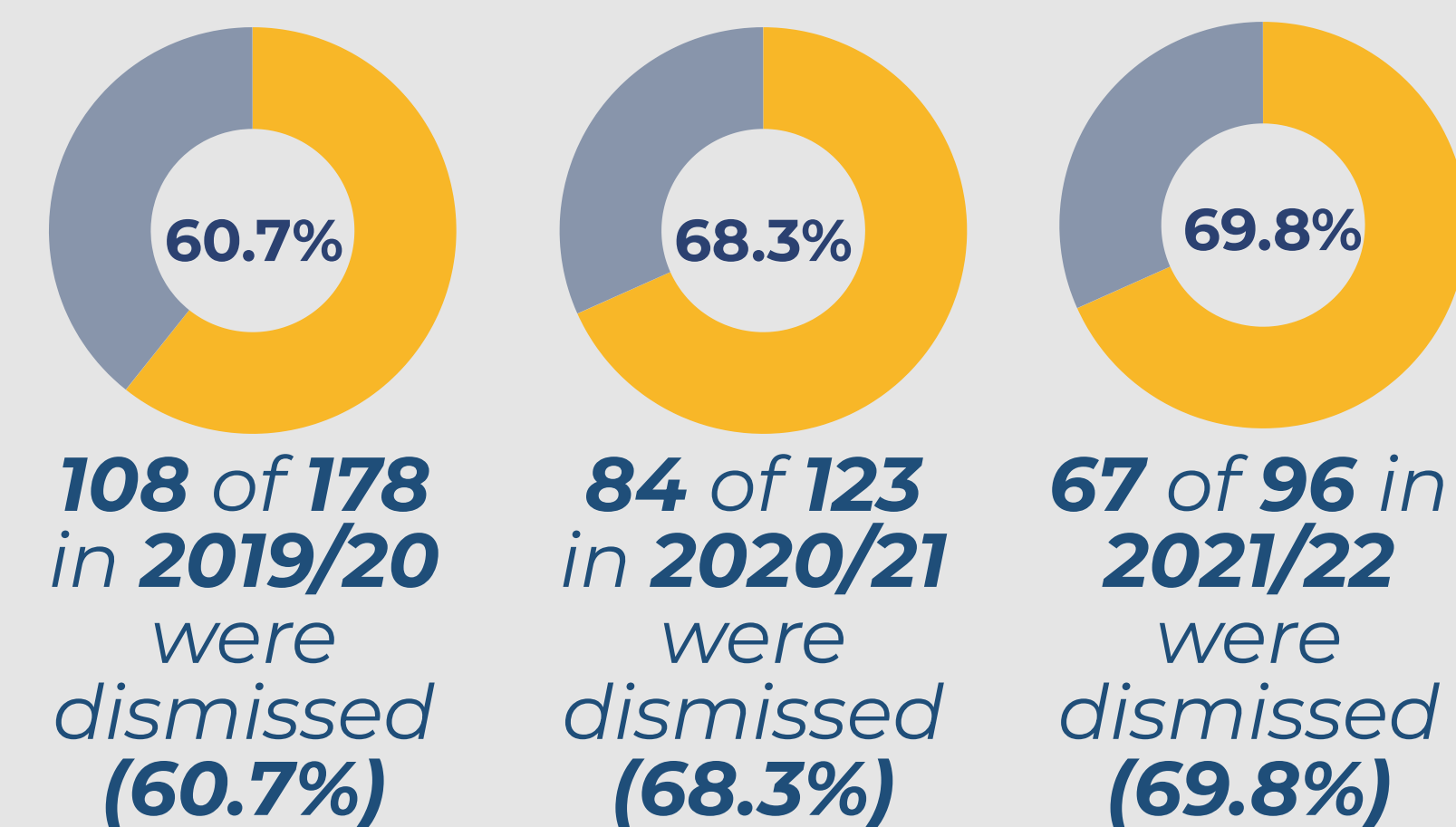


Year	No. of applications decided
2018/19	1,084
2019/20	1,060
2020/21	756
2021/22	960



### Appeals

% of appeals against refusals\* of planning permission that were dismissed\*\*



### Claims for costs

No. of claims for costs received by the Planning Appeals Commission\*\*

Claims decided\*\*

Year	No. of claims received
2019/20	45
2020/21	12
2021/22	10

Year	Decided in authority's favour	Decided against authority
19/20	36	9
20/21	9	3
20/21	6	4

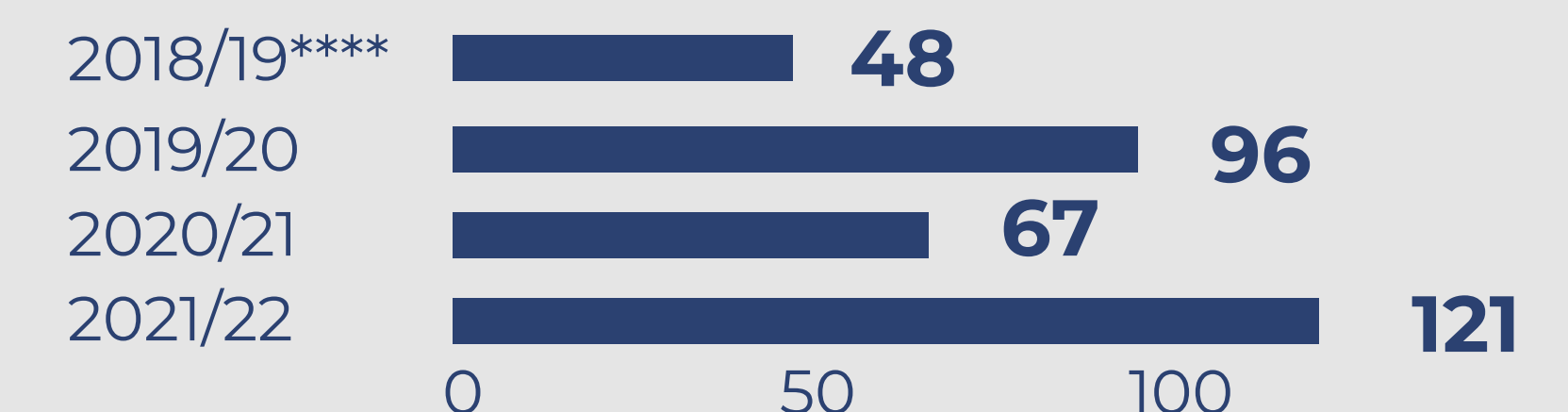
### Department for Infrastructure activity

The Department to progress regionally significant planning applications from date valid to a ministerial recommendation or withdrawal within an average of 30 weeks\*\*\*

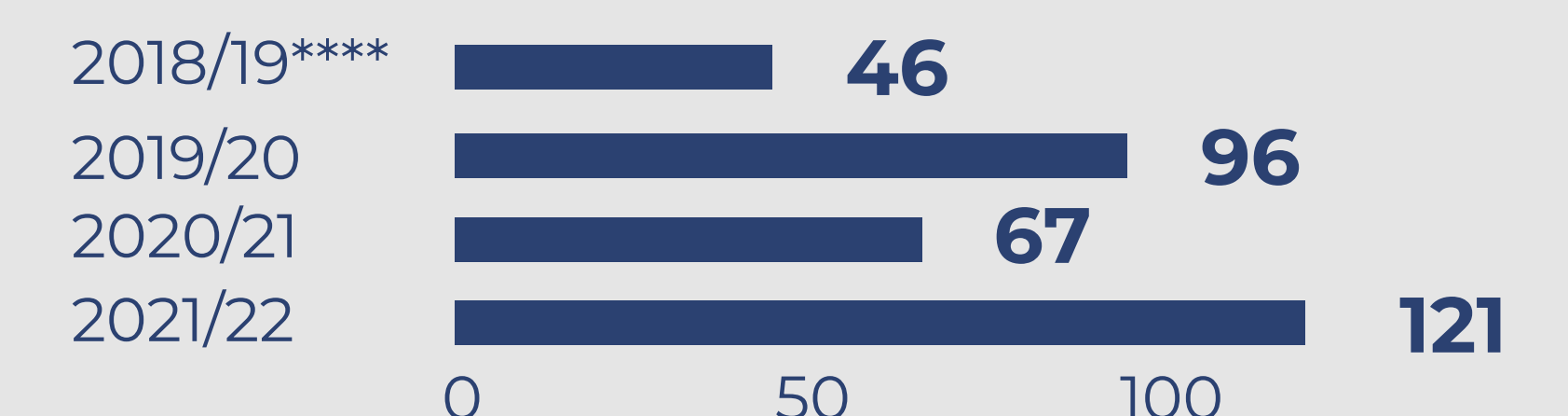


0 RSD applications progressed in 2019/20, 2020/21 & 2021/22

No. of applications notified to the Department



No. of these processed within 28 days



Notes: \*Excludes DfI \*\*Data available from 2019/20 \*\*\*From 2019/20 onwards this replaces the previous indicator \*\*\*\*Time period is Aug 2018 - Mar 2019 (inclusive)



## Planning Committee

06 February 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 3 - Appeal decision in respect of planning application LA05/2020/0506/O

### Background and Key Issues:

#### **Background**

1. A non-determination appeal for a residential development of 45 dwellings, associated access, site works and landscaping on lands at Coopers Mill Dundonald was received on 17 February 2021. The application fell within the major category of development as the size of the site was more than one hectare.
2. Members of the planning committee were not the decision makers in respect of this application in accordance with the published scheme of delegation as jurisdiction for this application passed to the Planning Appeals Commission when a non-determination appeal was lodged.
3. The appeal was dealt with under delegated authority, and the recommendation presented by officers to the Commission in the Statement of Case was that the application be refused on the grounds that the proposal was contrary to the statutory development plan and other material considerations, specifically the local development plan, being the Belfast Urban Area Plan and draft Belfast Metropolitan Area Plan. A number of other refusal reasons were recommended relating to the layout and design of the proposed buildings.
4. A hearing was held on 1 April 2022. The main issues in the appeal were whether the proposed development would:



- be acceptable in principle, including the potential to prejudice future delivery of a proposed road link;
  - prejudice road safety and result in congestion;
  - be of a design and layout that would both respect the established context and avoid presenting as piecemeal in nature;
  - adversely impact on neighbouring residential amenity;
  - be at risk from flooding;
  - have sufficient means of sewage disposal;
  - place strain on existing infrastructure;
  - present an unacceptable risk to human health by way of contamination on site; and
  - adversely impact on wildlife
5. A decision was received on 22 December 2022 dismissing the appeal principally on the grounds that the proposed development would prejudice the delivery of road infrastructure on a protected road line in a Plan.

### **Key Issues**

1. The Commission's report is included for the information and consideration of the Members of the Planning Committee. The report provides detail on a number of preliminary matters considered as part of the appeal process.
2. At paragraph 15 it is noted that since the publication of draft BMAP, there has been significant development undertaken in the locality, and that the Protected Road Line [PRL] as denoted by MCH16 has been in part delivered to the standard of a non-strategic link road.
3. At paragraph 17, the Commission accepted the Council's point that the Ballybeen to Quarry Corner link could still in theory be constructed and that were such a road to be provided along a PRL that it would still provide additional transport capacity and resilience to the existing public road network in the area.
4. At paragraph 19, the Commission acknowledges that the context associated with current site differed from that of a nearby site that was also subject to appeal, and whereby the Commission judged that the adjacent development and PRL could co-exist.
5. At paragraph 20, the Commission states that the LDP process remains the appropriate mechanism for determining the future development and transport needs of the area.
6. The Commission did not consider that the other reasons for refusal presented could be sustained but the decision does provide assistance and direction on the principal issue which deals with the weight to be afforded to protected road lines in existing development plans. It provides useful guidance for future appeals and protects the integrity of the plan making process as the appropriate mechanism for deciding the needs for future infrastructure.

**Recommendation:**

It is recommended that the Committee notes the report and decision of the Commission in respect of this planning appeal.

**Finance and Resource Implications:**

No cost claim was lodged by any party in this instance.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

**If no, please provide explanation/rationale**

This is a report updating the committee on a decision by the PAC and EQIA is not required.

If yes, what was the outcome?

<b>Option 1</b> Screen out without mitigation	<input type="text" value="N/A"/>	<b>Option 2</b> Screen out with mitigation	<input type="text" value="N/A"/>	<b>Option 3</b> Screen in for a full EQIA	<input type="text" value="N/A"/>
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**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	<input type="text" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="text" value="No"/>
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**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report updating the committee on a decision by the PAC and RNIA is not required

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**Appendix 3 – Appeal Decision - LA05/2020/0506/O**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:



# Appeal Decision

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92 Ann Street  
BELFAST  
BT1 3HH  
T: 028 9024 4710  
E: info@pacni.gov.uk

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<b>Appeal Reference:</b>	2020/A0143.
<b>Appeal by:</b>	Fraser Houses (NI) Ltd.
<b>Appeal against:</b>	The non-determination of outline planning permission.
<b>Proposed Development:</b>	Site for residential development of 45 dwellings, associated access, site works and landscaping.
<b>Location:</b>	Lands directly east of Old Mill Grove, Old Mill dale, Old Mill Meadows, north-east of Coopers Mill Mews, west of Millmount Lane and Meadowview Avenue and south of Upper Newtownards Road, Dundonald.
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council.
<b>Application Reference:</b>	LA05/2020/0506/O.
<b>Procedure:</b>	Hearing on 1 April 2022.
<b>Decision by:</b>	Commissioner Mark Watson, dated 22 December 2022.

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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Appellant included three drawings with their Statement of Case. The first was a copy of the Outline Layout which included additional annotations relating to landscaping, the proposed green corridor and separation distances of proposed dwellings from existing adjacent dwellings. The two others were draft Private Streets Determination (PSD) drawings showing how the roadways within the appeal site could be developed, including details of potential road alignments, widths, gradients and sight lines.
3. These drawings do not alter the substance of the proposed development but rather provide additional detail and clarification. The parties present at the hearing accepted that consideration of the drawings would not prejudice any third party unaware of them, nor represent a new matter as understood against Section 59 of the Planning Act (NI) 2011. I do not disagree with this assessment and these drawings will be considered as part of the appeal.
4. There was discussion between the Council and Appellant at the hearing as to the precise quantum of development sought given concerns as to whether the site could adequately accommodate the 45 units. In response, the Appellant's representatives suggested that the reference to 45 units could be removed if deemed problematic, or amended to read 'no more than 45 units'. Notwithstanding any queries about changing the description of development, the substantive issues of the appeal are at least partially predicated on the stated

quantum of units and I shall consider the proposed development as originally submitted and advertised.

5. Whilst some Objectors stated that an Environmental Impact Assessment (EIA) had not submitted for the proposed development, the Council undertook an EIA determination in October 2020 during processing of the application. It determined that an EIA was not required. I have no reason to disagree with this determination.

## Reasons

6. The main issues in this appeal are whether or not the proposed development would:
  - be acceptable in principle, including the potential to prejudice future delivery of a proposed road link;
  - prejudice road safety and result in congestion;
  - be of a design and layout that would both respect the established context and avoid presenting as piecemeal in nature;
  - adversely impact on neighbouring residential amenity;
  - be at risk from flooding;
  - have sufficient means of sewage disposal;
  - place strain on existing infrastructure;
  - present an unacceptable risk to human health by way of contamination on site; and
  - adversely impact on wildlife.

### *Policy Context*

7. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) to be unlawful on 18 May 2017 and consequently BMAP must be disregarded. The Belfast Urban Area Plan 2001 (BUAP), despite its vintage, operates as the local development plan (LDP) for the area the site is in. In BUAP the site lies on the outer edge of the development limit and inner edge of the Green Belt. These lands are referred to in the BUAP as 'whitelands'. The BUAP proposed strategic roadline: *E14 (3) Ballybeen to Quarry Road Link* identified under Policy TR10 Strategic Highway Measures: Eastern Approaches Strategy affects the appeal site. The purpose of the road was to provide additional high capacity road facility in the Newtownards Road corridor and to relieve traffic congestion at junctions along the Upper Newtownards Road. There was debate between the parties as to whether or not the E14(3) proposal had been abandoned or not, though the Council considered that the actual road line itself had not been abandoned. I will return to the materiality of BUAP and whether the appeal development is in accordance with its provisions later in this decision.
8. A further consequence of the aforementioned Court of Appeal judgement is that the draft BMAP, published in 2004, is a material consideration in the determination of this appeal. In draft BMAP (dBMAP) the appeal site lies within the settlement development limit of Metropolitan Castlereagh and is part of proposed housing zoning MCH 03/12 – Lands at Millmount, Quarry Corner and Carrowreagh Road. The aforementioned roadline from BUAP was broadly retained in dBMAP and proposed as draft designation MCH16 – Non-Strategic Road Scheme Quarry Corner – East Link Road. Its line travels in a general north to south-west direction, traversing longitudinally through the centre of the appeal site. The amplification to

the proposal stated that the Quarry Corner – East Link Road will be provided in conjunction with the EWAY rapid transit scheme and will facilitate traffic relief to immediate areas and an alternative to the existing A20 through Dundonald. It also proposed to provide access to the Park and Ride at Millmount. There was no dispute between the parties that this has since been delivered for East Belfast on the Newtownards Road, including a park and ride facility. Again, I will address the materiality of dBMAP in relation to the appeal development later in this decision.

9. The Council and Objectors raised matters that fall to be considered under Planning Policy Statement 3 – Access, Movement and Parking (PPS3), Planning Policy Statement 7 – Quality Residential Environments (PSS7) and Revised Planning Policy Statement 15 – Planning and Flood Risk (PPS15). The Objectors also raised issues under Planning Policy Statement 2 – Natural Heritage (PPS2). There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland ‘Planning for Sustainable Development’ (SPPS) and those aforementioned PPSs in respect of the appeal development. Those PPSs remain applicable to the appeal development. Guidance contained in Creating Places – Achieving Quality in Residential Environments (CP), Development Control Advice Note 15 – Vehicular Access Standards (DCAN 15) are also of relevance.

*The appeal site and proposed development*

10. The appeal site comprises an elongated piece of land situated on the southern side of the A20 Newtownards Road. It measures approximately 3.5 hectares and is covered in a mix of rough grass and scrub. It is undulating in nature and slopes down away from Millmount Lane and Old Mill Grove to the west, whilst also falling to the south towards old Mill Dale. The site is bounded to the western side by several residential estates; Old Mill Meadows, Old Mill Drive, Old Mill Dale and Old Mill Close. An access road serving another limb of Old Mill Grove bisects the site towards its northern end. The site is essentially flanked by existing housing along both its western and eastern sides. The site lies on the periphery of a residential area on the south-eastern edge of Dundonald.
11. The appeal development seeks outline permission for 45 dwellings. The indicative layout shows the site being accessed via several different locations. Approximately 15 houses would be accessed via Old Mill Dale. The remainder would be accessed from several different locations along parts of Old Mill Grove. A cycle way route and several portions of public open space are also proposed, as well as a green corridor along the eastern site boundary between the new dwellings and the existing roadway for part of Old Mill Grove. The dwellings shown are a mix of detached and semi-detached designs. The indicative drawing shows a section of buffer planting next to the rear / sides of Nos. 11, 26, 28, 30, 32 and 34 Old Mill Dale. The aforementioned draft PSD drawings show the potential road alignments, sightlines and gradients.

*The principle of development*

12. The Council and Objectors considered that the protected road line (PRL) should remain free from built development whilst the Appellant considered that the relevant section affected by the appeal development was essentially ‘dead’ and no longer served any purpose. Both the Council and Objectors also considered that the appeal development was contrary to the previously approved Comprehensive Master Plan (CMP) for the area.

13. The Council drew my attention to an Article 40 agreement signed between the former Department of the Environment (DoE) and landowners. The Appellant is one such party to that agreement, whilst the Council is the successor to the former DoE. Reference was made to the CMP for the wider area surrounding the site, with provision under this agreement precluding submission of any full or reserved matters applications contrary to the CMP. However, the application before me is an outline application, not in itself forbidden by the terms of the agreement. The Appellant referred to instances where the Council had chosen not to enforce certain provisions within the agreement with other relevant landowners. Notwithstanding any of the above, the matter of the Article 40 agreement is one between the relevant parties and not to be afforded any significant weight in this appeal.
14. Paragraph 6.301 of the SPPS states that new transport schemes (including major proposals for road, rail and public transport provision, park and ride proposals and cycle / pedestrian networks) or planned improvements to the transport network should be identified in LDPs. It goes on to state that the land required to facilitate such infrastructure provision needs to be afforded adequate protection from development likely to jeopardise its implementation. Policy AMP4 of PPS3 states that planning permission will not be granted for development that would prejudice the implementation of a transport scheme identified in a development plan.
15. Since publication of dBMAP there has been significant development undertaken in the locality, with the Millmount Link Road having been constructed to facilitate various residential developments, now known as Millmount Village, through application Y/2009/0454/F - *access arrangements to land for housing development (Amendments to access arrangements proposed under Y/2007/0527/F & Y/2009/0303/RM to facilitate access to approved housing) to include realignment of Millmount Road including new junction with Comber Road, amended access arrangements for 2-6 Millmount Road & Millmount Chase roundabout, as well as other ancillary works*. To date the PRL as denoted by MCH16 has been delivered to the standard of a non-strategic link road some distance south-west of the appeal site by private development contribution to serve the Millmount development.
16. Both the Council and Appellant referred to Policy TR11 of BUAP, which the Council stated identified the Ballybeen to Quarry Corner link to be abandoned. However, the Appellant is correct that the adopted version of BUAP Policy TR11 relates to 'Other Highway Measures' rather than listing road proposals to be abandoned. Notwithstanding the reference to the draft BUAP version of TR11, the Council nonetheless considered that this link was never in fact abandoned, borne out by inclusion of the general roadline in dBMAP. The Department for Infrastructure (DFI) also pointed to Annex B1 of the Belfast Metropolitan Transport Plan 2015 (BTMP) where a table entitled '*Schemes listed in existing Local and Area Plans which are proposed in BMTP*' included E14(3) as retained. The Appellant however stated that the PRL was not actually reassessed in the BMTP.
17. In respect to the intended purpose of the roadline, the DFI accepted that its original purpose as stated in dBMAP has since been implemented through the Comber Greenway. As it stands the DFI now considers the MCH16 roadline to be a legacy project, but one which should be protected until the new local policy plan

- is put in place. The Council indicated that a draft local policy plan must be prepared, which will undergo an Examination in Public (EIP). The Appellant pointed out that it would be a number of years before the new Lisburn & Castlereagh City Council (LCCC) LDP, including the local policy plan, are in place. The Department accepted that there is no definitive proposal for the MCH16 PRL, nor is there any funding allocated for such a project. I do however take the Council's point that the Ballybeen to Quarry Corner link could still in theory be constructed.
18. The Appellant made the point that four of the five component parts of TR10 have been abandoned, with only E14(3) remaining in isolation. Whilst it is the case that the PRL is a remnant proposal, the DFI considered that if the road was built between the Upper Newtownards Road and Comber Road, it would still provide an alternative route for general traffic to the A20 that passes through Dundonald. Although the Appellant considered that such a road link would simply redistribute traffic from one part of Dundonald and would not provide the stated aim of the Eastern Approaches Strategy in BUAP Policy TR10, I nevertheless accept that were such a road were to be provided along the PRL, it would still provide additional transport capacity and resilience to the existing public road network in the area.
  19. Notwithstanding the legacy nature of the PRL, the change in function of transport schemes in the area, there being no specific project proposed for the PRL and no funding allocated or planned for, approval of the appeal development would nevertheless preclude any potential roadline being constructed along this part of the route, even one for any potential future transport proposal that has not yet been devised. Unlike in the case of appeal decision 2020/A0033 - Lands approximately 75m south-east of 1 Millmount Chase, Dundonald, where it was judged that the development sought and PRL could co-exist, the same is not the case in respect to the appeal development before me. If outline permission was to be granted, no transport proposal along the PRL could be implemented. In this regard the appeal development does not accord with the provisions of BUAP insofar as they relate to the PRL, even if the actual intended purpose of that proposal has since been abandoned. Nor would the appeal development accord with the relevant provision of dBMAP in relation to the PRL, though that plan is not afforded any great weight given its draft status and that it does not function as the LDP.
  20. Whilst the PRL has been associated with various differing transport proposals over the years, for the reasons given above the appeal development would nevertheless prejudice implementation of the PRL, should a definitive proposal be brought forward with the requisite funding. Even if the original proposal for the PRL may have been based on a transport equivalent of predict and provide, as the Appellant suggested, that in itself would not justify development that would block any potential future transport proposal. Nor would the fact that there are no requirements in dBMAP for private funding for roadlines, thus any future development of the PRL would have to be publicly funded.
  21. The LCCC LDP process itself is still a relatively early stage, with any final local policy plan containing specific development proposals for the Dundonald area at least several years away. The LDP process remains the appropriate mechanism for determining the future development and transport needs of the area. It would



be imprudent to permit development that would preclude potential transport options being proposed and considered for the wider area.

22. Whilst I do not agree with the Objectors' suggestion that the appeal development would be premature in respect to the LCCC LDP process, as understood against the provisions of the Joint Ministerial Statement – Development Plans and implementation of the Regional Development Strategy, I nevertheless agree that the appeal development would prejudice the PRL, contrary to Policy AMP4 of PPS3 and the related provisions of the SPPS. The Council's draft reason for refusal and the related concerns of the Objectors are sustained insofar as specified.

*Road safety and congestion*

23. Some Objectors raised the matter of road safety and the surrounding road network already being at capacity. Policy AMP2 of PPS3 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 two criteria are met; firstly that such access will not prejudice road safety or significantly inconvenience the flow of traffic and secondly, that the proposal does not conflict with Policy AMP 3 Access to Protected Routes. The appeal development is not on a protected route, despite being in relatively close proximity to one, thus the second criterion is not engaged.

24. Whilst 45 new dwellings would inevitably generate additional traffic in the locality, the Appellant's witness stated that the impact on the Old Mill junction would be less than 2%. Some Objectors considered that the local road network, including the existing estate roads could not cope with the existing level of traffic, let alone further additional vehicle movements arising from both the construction and subsequent occupation of the appeal development. From my two site inspections, including driving along the various local roadways in the vicinity to the appeal site, whilst I did observe periods of busy use, I am not persuaded that the appeal development would overload the local road network or prejudice road safety, either from construction or new resident traffic, was outline planning permission to be granted. From the totality of the submitted evidence I am not persuaded that the granting of outline permission for the appeal development would prejudice road safety or significantly inconvenience the flow of traffic within the local road network or nearby protected A20 Newtownards Road. The appeal development does not offend Policy AMP2 of PPS3 and the related provisions of the SPPS. The Objectors' concerns on these matters are not sustained.

*Design matters*

25. Policy QD2 of PPS7 states that submission of a Design Concept Statement, or where appropriate a Concept Master Plan (CMP), will be required to accompany all planning applications for residential development. It continues that in the case of proposals for the partial development of a site zoned for housing the CMP will be expected to demonstrate how the comprehensive planning of the entire zoned area is to be undertaken. It goes on to state that any proposal for housing that would result in unsatisfactory piecemeal development will not be permitted, even on land identified for residential use in a development plan.
26. The appeal development was accompanied by a Design Concept Statement, although it is the case that the appeal site was not identified for housing within the

overall CMP for the wider area, being set aside for the PRL and shown as 'marshland'. The Appellant's architect pointed out that in the development of the existing and now built residential developments, several hammerhead turning points were left within them, with a view to facilitating potential future expansion. It is proposed to utilise one of these turning points off Old Mill Dale to serve part of the development. An access through the existing Old Mill Grove roadway is also proposed, as well using as an additional hammerhead point within that particular estate, to serve a portion of the proposed development. Notwithstanding my overall conclusions relating to the PRL, the proposed indicative layout has regard for the surrounding development and relates satisfactorily to it, with linkages between the existing and proposed development presenting as organic in nature rather than blunt insertions. A development broadly in line with that shown on the indicative Outline Layout would not represent unsatisfactory piecemeal development in relation to the surrounding development. I therefore find that the appeal development satisfies the essential thrust of Policy QD2 of PPS7. The Council's draft reason for refusal and related concerns of the Objectors are not sustained.

27. Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It goes on to state that all proposals for residential development must conform to all of a series of criteria. The Council raised concerns under two of these criteria; (a) and (e). Criterion (a) is that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. Criterion (e) is that a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures.
28. The indicative Outline Layout shows a mix of detached and semi-detached dwellings. In my judgement there is sufficient space within the appeal site to accommodate the level of development sought and even if certain areas could not be laid out as per the indicative drawing, there remains capacity within the site to rearrange the layout, or alter house types, to account for such issues were they to arise. The Council pointed to the lack of detail in order to fully assess the proposed indicative layout in terms of road alignments, including levels and gradients. Whilst no detailed or finished levels have been provided, there is sufficient information in the additional draft PSD drawings to demonstrate that adequate standards could be achieved within the overall development, meeting the various requirements sought by DFI. Notwithstanding the overall topography of the site, I am satisfied that outline permission could be granted and the provision of levels, cross-sections and other contextual information submitted as part of the reserved matters application.
29. The use of cul-de-sac arrangements within the layout is not in itself indicative of piecemeal development but rather a response to the particular constraints of the appeal site. Furthermore, I note that the existing surrounding built development includes cul-de-sac arrangements, thus they are not an alien feature to this context. The proposed linkages between the existing residential estates and the appeal development would allow for sufficient permeability and, notwithstanding

my conclusions pertaining to the PRL, there is nothing to suggest that the layout would not provide a movement pattern supportive of walking and cycling, as well as meeting the needs of the mobility impaired.

30. For the reasons given above I consider that criteria (a) and (e) of Policy QD1 of PPS7 are met. The Council's draft reason for refusal and the related concerns of the Objectors are not sustained.

*Residential amenity matters*

31. The Council and Objectors considered that the appeal development would adversely impact on the existing residential amenity of several properties. Matters pertaining to potential residential amenity impacts arising from new residential development fall to be considered under criterion (h) of Policy QD1 of PPS7. Criterion (h) states that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on either or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. This assessment of the potential impact on existing residential amenity is a matter of judgement, including a degree of subjective appraisal.
32. Concerns were raised pertaining to potential site levels and the relationship between the proposed dwellings and existing ones given the undulating nature of parts of the appeal site. From the totality of the evidence, including my own assessment on site, I am satisfied that the general outline layout would allow for development that would be able to meet the separation distances set out in CP and avoid any unacceptable impacts on the residential amenity at existing properties. Whilst there may be instances where a degree of cut and fill or minor retaining structures could be necessary, I consider that the site would have scope to accommodate such features, if required. Such details could be considered as part of any reserved matters submission, which the Council and any interested third parties would have opportunity to examine and comment at that stage.
33. Objectors pointed to the noise and general disturbance that would potentially be caused by the construction process. In the event of permission being granted, considerate practices engaged by the contractor could reduce any such potential issues greatly. I am not persuaded that this matter would warrant the withholding of planning permission.
34. Objectors also raised the matter of devaluing of their properties arising from the appeal development. There is often a link between the amenity of a property and its value. However, as I have found that the amenity of the adjacent properties would not be adversely affected to any unacceptable degree, I am not persuaded that this matter would be determining.
35. From the submitted evidence and my own assessment on site, I consider that criterion (h) of Policy QD1 of PPS7 is met. The Council's draft reason for refusal and the related concerns of the Objectors are not sustained.

*Flooding and drainage matters*

36. The Council had concerns that a portion of the site lay within the 1 in 100 year floodplain. Policy FLD1 of PPS15 states that development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) (hereafter referred to as q100) unless the applicant can demonstrate that the proposal constitutes an

- exception to the policy. In this case the proposed access road through from Old Mill Dale into part of the appeal site would traverse part of the q100 floodplain. The Council also pointed to Policy FLD4 of PPS15 which restricts the artificial modification of watercourses to certain exceptional circumstances.
37. The Council's draft reason for refusal, framed under Policies FLD1 and FLD4 of PPS15, refers to an absence of comprehensive development of the lands, as well as precluding the delivery of the PRL. Notwithstanding my conclusions above in relation to the CMP and PRL, I do not see how those matters fall to be considered under Policy FLD1 or FLD4 of PPS15.
  38. The Appellant's submitted Flood Risk Assessment (FRA) was considered by DFI Rivers. The final DFI Rivers consultation response accepted that the out-of-sewer flood risk could be addressed by attenuation of the q100 event within the proposed drainage network. The response further stated that this would, if achieved, satisfy Policy FLD3 of PPS15, although I note FLD3 did not form part of any of the Council's draft reasons for refusal. I also note that the consultation response advised that such a design might not be acceptable for adoption by NI Water as it exceeds the normal design standards. A draft condition was suggested requiring submission of a revised FRA to confirm that the proposed drainage network could achieve such attenuation. In the event of outline planning permission being granted, such a condition would be necessary for that purpose. The Appellant agreed that such a condition would be acceptable.
  39. In respect to the access through the q100 floodplain, criterion (d) of FLD1 allows an exception for development for agricultural use, transport and utilities infrastructure, which for operational reasons has to be located within the flood plain. The Appellant considered that this exception was met. The Council were not satisfied that the development met this exception, nor the policy as a whole.
  40. The proposed roadway from Old Mill Dale into the appeal site would serve approximately half the intended dwellings shown on the Layout drawing. The Appellant considered this roadway to be transport infrastructure that for operational reasons had to be located within the floodplain, in that it crossed over it into the rest of the site and tied into existing road levels. Whilst I am not persuaded that a roadway into a housing development necessarily meets this exception, I bear in mind that paragraph 6.19 of PPS15 states that it is recognised that in certain cases, development or infrastructure has to be in such locations, as alternative lower flood risk sites would be neither practical nor available. I accept that there is no practical or available alternative access to this portion of the site, as to bring all traffic through Millmount Lane would impact on the permeability of the overall layout, as well as preventing linkages to the proposed green corridor element. It would also result in traffic having to take a protracted loop around Old Mill Grove. Such an access arrangement would have substantial implications relating to the ability to achieve a quality residential environment, in accordance with prevailing regional policy in PPS7.
  41. When taken with the uncontested conclusions of the Appellant's FRA that no change to flood risks elsewhere would result from the appeal development and that the effect of the development can be mitigated, I accept that although not falling readily into exception (d) of FLD1, in the evidential context this should not warrant rejection of the appeal development.

42. In respect to the matter of drainage, I do not disagree that the use of a Sustainable Urban Drainage System or the like could also assist with ensuring the appeal development has satisfactory drainage measures, without adverse impacts on any adjoining properties or land. The Council's suggested negative condition requiring submission of a full drainage plan would be necessary in the event of outline permission being granted. For the reasoning given above the Council's draft reason for refusal based on PPS15 is not sustained.

*Sewage infrastructure*

43. The Council and Objectors pointed to the inability of the sewage infrastructure in the area to cope with the proposed development. Whilst the Council's draft reason for refusal referred to Policy PSU8 of the Planning Strategy for Rural Northern Ireland (PSRNI), it was accepted at the hearing that PSRNI policies explicitly do not apply to sites located within the Belfast Urban Area. Nevertheless, the matter raised remains a material consideration to be assessed.
44. From the information provided, NI Water stated that no further development should take place until upgrades to the local Kinnegar waste water treatment works (WWTW) are implemented and an alternative drainage / treatment solution should be provided. The Council considered that insufficient information had been provided on this ground as a temporary package plant could have implications for the overall layout. Additionally, such a package plant had not been mentioned in the proposal description. I note the NI Water response states that it would consider connections to the public sewer where the Appellant could demonstrate (including calculations) like for like development, extant previously approved development or where the development would offer a reduced loading on the sewer network.
45. From the totality of the evidence it may well be the case that a package plant solution would be required until capacity at the Kinnegar WWTW is available, or some innovative means by which to connect to the existing sewer line is devised with a reduced loading. In the event of the use of a package plant solution, I accept the proposition that there remains sufficient scope within the site to accommodate it even if the outline layout required consequent minor modifications. Given the size and configuration of the site, along with the quantum of development sought, in my judgement there is sufficient scope to accommodate such a package plant without detriment to providing a quality residential environment.
46. The Council's suggested negative condition requiring provision of a functioning means of sewage disposal prior to any development taking place would be necessary in the event of outline permission being granted. I do not consider the lack of reference to a package plant in the proposal description to be critical in this case given the matter has been explored at the hearing with the parties and it remains one potential option for achieving a satisfactory means of sewage disposal. Again, the Council and other interested parties would have opportunity to comment at reserved matters stage on the specifics of the layout in this regard. Accordingly, I am satisfied that the matter of sewage provision can be addressed through imposition of a negative condition in the event of permission being granted. This matter would not warrant the withholding of planning permission.

*Land contamination*

47. The Objectors stated that the land comprising the appeal site represented a contamination risk to human health. The Appellant submitted a Preliminary Risk Assessment, Generic Quantitative Contamination Risk Assessment and Remediation Strategy in support of the proposed development. The Appellant's evidence identified an unacceptable risk to human health from carbon dioxide and methane ground gases on the site given the marshy nature of the land. No unacceptable risks to third party sites were identified. The Remediation Strategy stated that protection measures should comprise of a combination of some or all of the following to be included in the proposed dwellings: the structural barrier of concrete floor slab, passively ventilated under-floor voids and a proprietary gas resistant membrane.
48. I note that no objections to the proposed development on this matter were raised by the Council, which put forward several draft planning conditions pertaining to implementation and validation of the mitigation measures contained in the Appellant's Remedial Strategy. A condition requiring cessation of site works and mitigation measures in the event of any previously undiscovered contaminants being identified was also proposed. These conditions would be necessary in the event of outline permission being granted. From the totality of the evidence, I am satisfied that the mitigation measures as contained in the Appellant's submissions would ensure no risk to human health if outline permission was to be granted for the appeal development.

*Ecology*

49. Objections were raised as to the potential impacts on wildlife from the appeal development, particularly in reference to potential disturbance of bats and badgers. The Appellant provided a Preliminary Ecological Assessment and Badger Survey, the conclusions of which were accepted by the Department of Agriculture, Environment & Rural Affairs - Natural Environment Division. I have no reason to doubt the analysis and conclusions of those reports. Whilst the appeal site is presently overgrown in parts and it is not uncommon for such pieces of land to have some degree of animal activity, I have no evidence to suggest that any protected species local populations would be adversely impacted by the appeal development, subject to implementation of the measures contained in the Appellant's submitted reports. I also note the Council's suggested condition for submission of an external lighting plan to be submitted to and approved by the Council to ensure lighting does not adversely impact on any nearby bats or badgers. Such a condition would be necessary in the event of outline permission being granted. From the submitted evidence I am satisfied that the appeal development complies with the provisions of PPS2. These matters would not warrant the withholding of planning permission.

*Other matters*

50. The Objectors pointed to there already being too many houses approved and constructed in the Dundonald area, resulting in ever-increasing strains on existing infrastructure, including the local schools being over-subscribed. For the reasons given in this decision and notwithstanding my conclusions above on sewerage matters, I am not persuaded that the granting of outline permission for 45 new dwellings, with the associated car trips generated, would add to any existing strain on infrastructure or public services, including local schools, to a degree that would warrant the withholding of planning permission. These general objections, the lack

of a housing need case being presented, nor the fact the appeal development did not feature as part of the Millmount CMP, would not justify rejection of the appeal proposal.

*Conclusions*

51. Whilst a number of the Council's draft reasons for refusal and the Objectors' concerns have not been sustained, the matter of the prejudice to the PRL is determining and the appeal must fail.

This decision relates to the following Location Map drawing submitted with the application and the three drawings submitted with the Appellant's Statement of Case:

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
01	Location Map	1:2500	20/09/2016
1058-10E	Outline Layout	1:1000	09/06/2021
JPC 002	Proposed PSD Plan (01)	1:500	09/06/2021
JPC 003	Proposed PSD Plan (02)	1:500	09/06/2021

**COMMISSIONER MARK WATSON**





**List of Appearances**

Planning Authority:-  
Mr S Beattie QC (instructed by Cleaver Fulton Rankin)  
Mr C Hughes (LCCC Planning)  
Mrs R Heaney (LCCC Planning)  
Ms C Duff (DFI Roads)  
Mr S Cash (DFI Roads)  
Mr S Lancashire (DFI Rivers)  
Ms C Agnew (Cleaver Fulton Rankin)  
Mr S Masterson (Cleaver Fulton Rankin)

Appellant:-  
Mr W Orbinson QC (instructed by Gravis)  
Mr C Bryson (Gravis)  
Ms L Shannon (Gravis)  
Mr P Fraser (Appellant)  
Mr J Rowan (JK Consulting)  
Mr I Stewart (Formative Architects) – present until 11.30am  
Mr K Clarke (Kelvin Clarke Transportation Limited)  
Mr B Speers (CMG Cunningham Dickey) – present until 11.30am

Third Parties:-  
Mrs C Cosgrove (Dundonald Green Belt Assoc.)  
Mr P Carr (Dundonald GBA.)  
Mr Hamilton (observing only)

**List of Documents**

Planning Authority:- 'A' Statement of Case & Appendices Booklet (LCCC)

Appellant:-  
'B' Statement of Case & Appendices (Gravis)  
'C' Rebuttal Statement & Appendices (Gravis)

Third Party:-  
'D' Statement of Case & Appendix (Dundonald GBA)  
'E' Statement Letter (D & E Davison-Ward)  
'F' Statement Letter (A Hamilton)



## Planning Committee

06 February 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 3 - Appeal Decision in respect of planning application LA05/2019/0168/F

### Background and Key Issues:

#### Background

1. An application for a proposed dwelling and detached garage on a site 25m south west of 33 Carnreagh, Hillsborough was refused planning permission on 04 August 2020.
2. An appeal was lodged with the Planning Appeals Commission on 09 November 2020. The procedure to be followed was by way of informal hearing. Officers provided copies of a Statement of Case to the Commission on 05 February 2021.
3. No date was set for a hearing as COVID restrictions were in place and the appellant had requested an in-person meeting. Communication received from the PAC on 15 March 2022 advised that the procedure had been changed to written representation at the request of the appellant. Evidence was exchanged between the two parties and rebuttal statements were provided on 31 March 2022.

#### Key Issues

1. Communication received by email on 30 November 2022 advised that the appeal had been withdrawn and that a hearing scheduled for 08 December 2022 was cancelled. The Commission offered no explanation as to why the appeal was withdrawn by the applicant.

2. The decision to refuse planning permission was made following consultation with the Planning Committee. The appellant participated fully in the planning application process and submitted written evidence at the appeal stage when requested. There was no reason to believe that the appeal process would not run its full course.
3. The notice of withdrawal was submitted in good time and in advance of a meeting on 08 December 2022 which had been scheduled despite the appeal being downgraded to a written representation.
4. In light of these facts it would be difficult to sustain an argument for an unnecessary appeal and a cost claim under delegated authority. The case is closed and the Council decision to refuse planning permission is sustained.

#### Recommendation:

It is recommended that the Committee notes that this appeal had been withdrawn and that the case is now closed.

#### Finance and Resource Implications:

No cost claim for causing an unnecessary appeal has been lodged by either party in this instance.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

#### If no, please provide explanation/rationale

This is a report updating the committee on a decision by the PAC and EQIA is not required.

If yes, what was the outcome?

**Option 1**  
Screen out  
without mitigation

N/A

**Option 2**  
Screen out with  
mitigation

N/A

**Option 3**  
Screen in for  
a full EQIA

N/A

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

**2. Rural Needs Impact Assessment:**

Has consideration been given to Rural Needs?

No

Has a Rural Needs Impact Assessment (RNIA) template been completed?

No

**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report updating the committee on a decision by the PAC and RNIA is not required

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

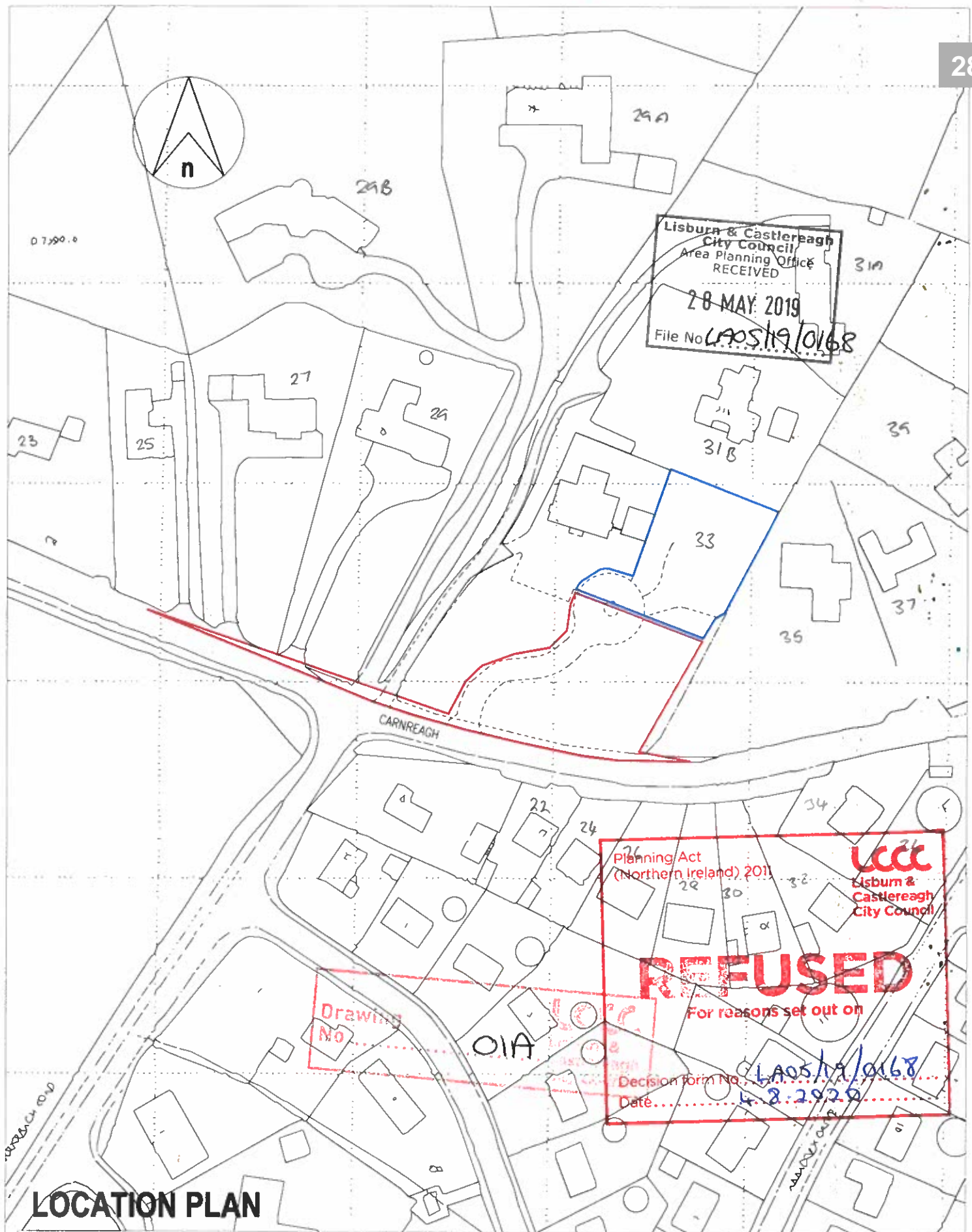
**APPENDICES:**

**APPENDIX 4 – Site Location Plan – LA05/2019/0168/F**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

**If Yes, please insert date:**



### LOCATION PLAN

**jim ireland**  
ARCHITECTS Ltd.

**ji**  
Nicoe Studio,  
18 Moss Road, Ballinascagh,  
Banbridge, Co. Down.  
BT32 5EF  
www.jimirelandarchitectsLtd.com

028 406 51212  
07878 585 423  
jimireland34@aol.com

DRAWING TITLE: <b>PROPOSED DWELLING &amp; DETACHED GARAGE AT VACANT SITE 25 M SOUTH WEST OF 33 CARNREACH, HILLSBOROUGH</b>			
SCALE: 1 1250	DATE: Feb 2019	DRAWN BY: ji	SIGNED OFF BY: ji
PROJECT No: 5312	DRAWING No: 01	REVISION No:	



## Planning Committee

06 February 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 5 - Notification by telecommunication operator(s) of intention to utilise permitted development rights

### Background and Key Issues:

#### Background

1. The Council is notified by Openreach of their intention to utilise permitted development rights at various locations within the Council area to install overhead communications apparatus.
2. The installations consist of Fixed Line Broadband in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (Northern Ireland) 2015.

#### Key Issues

1. The notification advises 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. The content of this recent notification is provided and attached to this report.
2. 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 Council. 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 Openreach.

**Recommendation:**

It is recommended that Members note the detail of the notifications specific to the site identified..

**Finance and Resource Implications:**

There are no finance or resource implications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy? No

**If no, please provide explanation/rationale**

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. EQIA not required.

If yes, what was the outcome:

<b>Option 1</b> Screen out without mitigation	N/A	<b>Option 2</b> Screen out with mitigation	N/A	<b>Option 3</b> Screen in for a full EQIA	N/A
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**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

N/A

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	No	Has a Rural Needs Impact Assessment (RNIA) template been completed?	No	
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**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. RNIA not required.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 5** – Notifications from an Operator in respect of intention to utilise permitted development rights

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:



### List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights February 2023 Planning Committee

	<b>Applicant/Agents</b>	<b>Operator</b>	<b>Location</b>	<b>Summary of details</b>	<b>Date received</b>
1	Openreach	Openreach	8, Ballymacash Road, County Antrim, Lisburn, BT28 3DR	<b>Notice of Intention to Install Fixed Line Broadband Apparatus.</b>	03/01/2023
	Openreach	Openreach	8C, Ballinderry Road, Aghalee, Craigavon, BT67 0DZ	<b>Intention to Install Fixed Line Broadband Apparatus.</b>	04/01/2023
	Openreach	Openreach	122, Lurgan Road, Glenavy, County Antrim, Crumlin, BT29 4NA	<b>Intention to Install Fixed Line Broadband Apparatus.</b>	04/01/2023



## Planning Committee

06 February 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 6 - Organisational and personnel changes in the Department for Infrastructure – Planning Group

### Background and Key Issues:

#### Background

1. A letter received from the Department for Infrastructure dated 16 January 2023 advises the Council of recent organisational and personnel changes that have taken place in its Planning Group.

#### Key Issues

1. The former Chief Planner Angus Kerr has now taken up a new position in the Department for Communities, and is replaced by Kathryn McFerran as the acting Director of Regional Planning, Governance and Legislation.
2. Alistair Beggs, who is the current Director of Regional Planning Policy and Casework, assumes the role of Chief Planner where he will be the NICS Head of Planning Profession and act as the Planning Group primary contact with the Chief Planners and administrations in the English, Irish, Scottish and Welsh governments.
3. Details of the senior officers reporting to each Director and other points of contact are also detailed in the attachment for completeness and aligned to the key areas of operational responsibility of the Group.

**Recommendation:**

Members are asked to note the key changes in personnel in the Department and that the update provides a useful guide to the operational responsibilities of the Planning Group with oversight of the planning system.

**Finance and Resource Implications:**

There are no finance or resource implications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy? No

**If no, please provide explanation/rationale**

This is a report provides an update on changes that have taken place in the Department to its Planning Group. EQIA not required.

If yes, what was the outcome:

<b>Option 1</b> Screen out without mitigation	N/A	<b>Option 2</b> Screen out with mitigation	N/A	<b>Option 3</b> Screen in for a full EQIA	N/A
--	-----	---	-----	--	-----

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

N/A

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	No	Has a Rural Needs Impact Assessment (RNIA) template been completed?	No
--	----	---	----

**If no, please given explanation/rationale for why it was not considered necessary:**

This report provides an update on changes that have taken place in the Department to its Planning Group. RNIA not required.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 6** – Department for Infrastructure – Update on organisation and personnel changes that have taken place in the Department and its Planning Group.

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

Department for  
**Infrastructure**

An Roinn

**Bonneagair**

Deapirtment fur

**Infrastructure**[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

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**Regional Planning Policy & Casework****Regional Planning Governance & Legislation****All Heads of Planning (Northern Ireland)**Clarence Court  
10-18 Adelaide Street  
BELFAST  
BT2 8GB  
Tel: 0300 200 7830Email: [alistair.beggs@infrastructure-ni.gov.uk](mailto:alistair.beggs@infrastructure-ni.gov.uk)  
[fiona.mccartan@infrastructure-ni.gov.uk](mailto:fiona.mccartan@infrastructure-ni.gov.uk)

16 January 2023

Dear Colleague

**CHANGES TO DfI REGIONAL PLANNING GROUP**

This letter is to advise you of recent organisational and personnel changes that have taken place in the Department and its Planning Group.

**Climate, Planning and Public Transport**

To emphasise and enhance our core delivery functions, and to align the delivery of those with our new responsibilities under the Climate Act, the Department's organisational structure has been revised. As part of this the Department's Planning Group is now part of the Climate, Planning and Public Transport business area led by Deputy Secretary, Julie Thompson.

**Planning Group Directorates**

We have also made some changes to the Planning Group management arrangements, and going forward the two Group directorates will be the:-

- Regional Planning Policy and Casework Directorate, and
- Regional Planning Governance and Legislation Directorate

**Chief Planner and Directors**

With Angus Kerr having now taken up his new position in the Department for Communities, Kathryn McFerran is the acting Director of Regional Planning Governance and Legislation.

Alistair Beggs is the Director of Regional Planning Policy and Casework. He has also assumed the role of Chief Planner where he will be NICS Head of Planning Profession and act as the Planning Group's primary contact with the Chief Planners and administrations in the English, Irish, Scottish and Welsh governments.

### **Roles of the Directorates**

Both Directorates will continue to work together closely under the umbrella of the Planning Group, but as they remain 2 separate directorates, any regional planning queries or requests should be directed to the appropriate Directorate rather than being directed to the Chief Planner role.

Given the changes, the attached Annex shows the various broad roles and responsibilities of the Directorates and identifies the main business area contact points.

Thank you for giving your attention to these matters and please ensure that your teams are updated on the new arrangements.

Yours faithfully

---

**Alistair Beggs**

Chief Planner &  
Director Regional Planning Policy & Casework

---

**Kathryn McFerran**

Acting Director Regional Planning  
Governance & Legislation

**Enc**

## Department for Infrastructure

### Planning Group

<b>Regional Planning Policy &amp; Casework</b>		
<b>Director</b>	Alistair Beggs	
<b>Deputy Director</b>	Susan Wilkin	
<b>Personal Secretary</b>	Fiona McCartan	
<b>Business Support</b>	Administrative support to the Planning Group	Jacqui McLaughlin
<b>Casework</b>	Processing regionally significant & called-in planning applications Regional and retained planning enforcement	Nola Jamieson Matt McCrisken Graeme Walker
<b>Regional Planning &amp; Policy</b>	Regional Development Strategy Regional planning policy Cross Border Spatial Planning	Joy Hargie Philip McGowan
<b>Plan Oversight</b>	Oversight of the local development plan process	Suzanne Bagnall Claire Patton
<b>Crumlin Road Gaol &amp; St Lucia</b>	Oversight of the Gaol redevelopment, visitor attraction & conference centre Management of DfI lands at St Lucia, Omagh	Anne Loughran

## Department for Infrastructure

### Planning Group

<b>Regional Planning Governance &amp; Legislation</b>		
<b>Director</b>	Kathryn McFerran (Acting)	
<b>Deputy Director</b>	Scott Symington	
<b>Personal Secretary</b>	Julie Maroadi	
<b>Notifications</b>	Management of notifications from councils in relation to relevant major, LBC, DCA and Councils' own applications  Management of third party 'call in' requests.	Aileen Nelson
<b>Planning Improvement, Environmental Governance and Rathlin Island</b>	Performance management of councils and oversight of statutory consultees	Fiona McGrady
	Implementation of the planning Improvement agenda; and Rathlin Island policy & action plan.	Catherine McEvoy
	Strategic environmental governance issues and implementation/review of the Environmental Governance Work Programme	Brian Gorman
<b>Planning Legislation</b>	Bringing forward new and amended planning legislation	Irene Kennedy  Tbc
<b>Planning Portal</b>	Oversight of management of the NI Planning Portal	Peter Rice