



November 1st, 2023

Chairman : Alderman M Gregg

Vice Chairman : Councillor U Mackin

Aldermen : O Gawith and J Tinsley

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

Notice of Meeting

A meeting of the Planning Committee will be held on **Monday, 6th November 2023 at 10:00 am**, in the **Council Chamber** 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 held on 2 and 9 October, 2023

For Approval

📄 *PC 02.10.2023 - Draft Minutes for Adoption.pdf*

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📄 *PC 09.10.2023 - 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:

For Decision

📄 *Item 1 - Schedule of Applications - FINAL.pdf*

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- (i) **LA05/2022/0922/F - Existing football pitch and sectional buildings/clubhouse of Stanley Park to be redeveloped to provide a facility with a new Community Hub building, associated parking and an improved playing surface that complies with Irish Football Association (IFA) standards. Development will also include floodlighting to playing surface. In addition, small caged training area/play area to be created to west boundary of site at Stanley Park, Lisburn Leisure Park, Lisburn**

📄 *Appendix 1.1 - DM Officer Report - LA0520220922F - Stanley Park - FINAL.....pdf*

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- (ii) **LA05/2021/0738/O - Replacement dwelling on land opposite and 80 metres south west of 149 Hillsborough Road, Dromara**

📄 *Appendix 1.2(a) - DM Officer Report - LA0520210738O - 149 Hillsborough R....pdf*

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📄 *Appendix 1.2(b) - Report of Site Meeting - 23.10.2023 - Hillsborough Ro....pdf*

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📄 *Appendix 1.2(c) - DM Officer Report - LA0520210738O - 149 Hillsborough R....pdf*

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- (iii) **LA05/2022/0247/F - Reconfiguration of public open space on Baronsgrange**

Park and erection of 9 additional dwellings (6 semi-detached and 3 detached dwellings) to enable connection to Carryduff Park to Baronsgrange Development (under construction- planning permission reference Y/2009/0160/F), Comber Road Carryduff

▢ *Appendix 1.3 - DM Officer Report - LA0520220247 - Baronsgrange - FINAL.pdf* **Page 67**

- (iv) **LA05/2022/0249F - Construction of foot-bridge across the Carryduff River between Baronsgrange Park and Carryduff Park and erection of one dwelling at Baronsgrange Development (under construction- planning permission reference Y/2009/0160/F), Comber Road, Carryduff**

▢ *Appendix 1.4 - DM Officer Report - LA0520220249F - Baronsgrange bridge - FINAL.pdf* **Page 102**

- (v) **LA05/2022/0018F - Demolition of existing dwelling and construction of residential development comprising 19 detached dwellings (13 detached and 6 semi-detached), garages, associated access with right hand turning lane, internal road, parking, landscaping and associated works on Lands at 126 Hillsborough Road, Lisburn**

▢ *Appendix 1.5 - DM Officer Report LA0520220018F - Housing - FINAL.pdf* **Page 132**

- (vi) **LA05/2020/0106/O - Proposed dwelling and demolition of existing shed required to provide access to the site on lands to the rear of 54 Crumlin Road, Upper Ballinderry**

▢ *Appendix 1.6 - DM Officer Report 0 LA0520200106O - 54 Crumlin Rd - FINA....pdf* **Page 166**

- (vii) **LA05/2021/0946/O - Site for a dwelling, garage and ancillary site works to replace existing commercial buildings, yard and previously/last use as a Horticulture Nursery/Garden Centre at 40 metres east of 20 Mullaghcarron Road, Ballinderry Upper, Lisburn**

▢ *Appendix 1.7 - DM Officer Report - LA0520210946O - Mullaghcarron Replacem....pdf* **Page 189**

- (viii) **LA05/2020/0420/O - Site for a dwelling, garage and associated site works 65m due north of 68 Gregorlough Road, Dromore**

▢ *Appendix 1.8 - DM Officer Report - LA0520200420 - Gregorlough Road Infil....pdf* **Page 214**

- (ix) **LA05/2020/0421/O - Site for a dwelling, garage and associated site works 35m due north of 68 Gregorlough Road Dromore**

▢ *Appendix 1.9 - DM Officer Report - LA0520210421 - Gregorlough Road Infil....pdf* **Page 242**

4.2 Pre-Application Notice: Proposed erection of industrial unit with ancillary office, car parking, landscaping and associated site and access works and solar array on lands located to the east of Lissue Road, south of Ballinderry Road and west of Ferguson Drive, Lisburn

	<i>For Noting</i>	
	▢ <i>Item 2 - LA0520230767PAN.pdf</i>	<i>Page 269</i>
	▢ <i>Appendix 2(a) - Report in relation to LA0520230767PAN.pdf</i>	<i>Page 271</i>
	▢ <i>Appendix 2(b) - LA05 2023 0767PAN - Application form.pdf</i>	<i>Page 274</i>
	▢ <i>Appendix 2(c) - LA05 2023 0767PAN - Site Location Plan.pdf</i>	<i>Page 280</i>
4.3	Appeal Decision - LA05/2020/0614/O	
	<i>For Noting</i>	
	▢ <i>Item 3 - Appeal Decision - LA0520200614O.pdf</i>	<i>Page 281</i>
	▢ <i>Appendix 3 - Appeal decision LA05 2020 0614 O.PDF</i>	<i>Page 283</i>
4.4	Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights	
	<i>For Noting</i>	
	▢ <i>Item 4 - Notifications from an Operator in respect of intention.pdf</i>	<i>Page 288</i>
	▢ <i>Appendix 4 - List of Notifications from Telecommunication Operators in r....pdf</i>	<i>Page 290</i>
4.5	LDP Quarterly Update	
	<i>For Noting</i>	
	▢ <i>Item 5 - Planning Committee LDP Quarterly Update Nov 2023.pdf</i>	<i>Page 292</i>
4.6	Enforcement Quarterly Update	
	<i>For Noting</i>	
	▢ <i>Item 6 - Planning Committee Enforcement Quarterly Update Nov 2023.pdf</i>	<i>Page 294</i>
	▢ <i>Appendix 6 Enforcement Report to Comm Nov 2023 (002).pdf</i>	<i>Page 296</i>
4.7	Northern Ireland Public Service Ombudsman (NIPSO) - Tree Protection: Strengthening Our Roots	
	<i>For Noting</i>	
	▢ <i>Item 7 - Planning Committee NIPSO Report Trees (002).pdf</i>	<i>Page 297</i>
	▢ <i>Appendix 7a NIPSO Letter to Lisburn & Castlereagh Council 29.09.23 - Tre....pdf</i>	<i>Page 299</i>
	▢ <i>Appendix 7b NIPSO Overview Report - Tree Protection.pdf</i>	<i>Page 301</i>

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, 2 October, 2023 at 10.00 am**PRESENT IN CHAMBER:**

Alderman M Gregg (Chairman)

Councillor U Mackin (Vice-Chairman)

Alderman J Tinsley

Councillors D Bassett, S Burns, P Catney, D J Craig, A Martin, G Thompson and N Trimble

IN ATTENDANCE:

Director of Regeneration and Growth
 Head of Planning & Capital Development
 Principal Planning Officer (RH)
 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 M Gregg, welcomed those present to the Planning Committee. He pointed out that, unless the item on the agenda was considered under confidential business, this meeting would be audio recorded. He went on to outline the evacuation procedures in the case of an emergency.

1. **Apologies** (00:02:08)

It was agreed to accept an apology for non-attendance at the meeting on behalf of Alderman O Gawith.

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

Councillor N Trimble arrived to the meeting (10.04 am).

2. **Declarations of Interest** (00:03:24)

There were no declarations of interest.

3. **Minutes of Meeting of Planning Committee held on 4 September, 2023** (00:03:53)

It proposed by Alderman J Tinsley, seconded by Councillor D Bassett and agreed that the minutes of the meeting of Committee held on 4 September, 2023 be confirmed and signed.

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4. Report from the Head of Planning & Capital Development (00:04:10)

4.1 Schedule of Applications (00:04:26)

The Chairman, Alderman M Gregg, advised that a significant amount of representation had been received in respect of applications on the schedule and a number of legal points required to be addressed.

“In Committee”

It was proposed by Councillor U Mackin, seconded by Councillor D Bassett and agreed to go ‘into committee’ in order that legal advice could be sought. Those members of the public in attendance left the meeting (10.06 am).

Advice was provided by the Legal Advisor in respect of a number of representations received as either late objections or in support of speaking requests for this meeting. It was explained that further legal advice should be sought from Senior Counsel. Members’ comments were noted regarding the importance of reviewing procedures to ensure timely receipt of representations in the future.

Resumption of Normal Business

It was proposed by Councillor D Bassett, seconded by Councillor G Thompson and agreed to come out of committee and normal business was resumed (10.52 am).

The Chairman, Alderman M Gregg, stated that, on the advice of the Legal Advisor, it was necessary to postpone consideration of the schedule of applications at today’s meeting to consider the legal advice of Senior Counsel in respect of the representations received since last Friday and to provide the Committee with updated reports as required. This was proposed by Councillor P Catney, seconded by Councillor D Bassett and agreed.

The Chairman, Alderman M Gregg, advised that the schedule of applications would be considered at a reconvened meeting of the Planning Committee on Monday, 9 October 2023 at 3.00 pm.

Adjournment of Meeting

The Chairman, Alderman M Gregg, declared the meeting adjourned for a comfort break at this point (10.53 am).

Resumption of Meeting

The meeting was resumed at 11.02 am.

4.2 Statutory Performance Indicators – July and August 2023 (00:06:23)

Councillor P Catney left the meeting at 11.05 am.

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4.2 Statutory Performance Indicators – July and August 2023 (Contd)

Members were provided with a copy of statutory performance indicators for July and August 2023. It was proposed by Councillor D Bassett, seconded by Councillor D J Craig and agreed that these be noted.

Arising from discussion, the Head of Planning & Capital Development agreed that notification would be sent to agents advising that the Local Development Plan had been adopted. This would be on a wider scale of circulation than was previously the case when agents were advised about the publication of the Direction for the emerging Plan.

The Head of Planning & Capital Development also took on board comments made about the planning application validation process and explained that, as part of the overall improvement of the planning system, the Department for Infrastructure had given a commitment that validation checklists would be implemented on a statutory basis. Until that was the case, this matter remained an issue in terms of the Council's performance statistics.

4.3 Northern Ireland Annual Statistics – Annual Statistical Bulletin (April 2022 – March 2023) (00:18:26)

Members were provided with a copy of the Northern Ireland Annual Statistical Bulletin, as well as an analysis of the bulletin relative to Lisburn & Castlereagh City Council. It was proposed by Alderman J Tinsley, seconded by Councillor D Bassett and agreed that this information be noted.

Comments were made about the fact that renewable energy statistics included only applications for wind turbines and it would be preferable if statistics included applications for all types of renewable energy. The Head of Planning & Capital Development explained that a group had been formed following the publication of the Public Accounts Committee Report and the Review of Planning by the Northern Ireland Audit Office. That group had been tasked to provide a new set of performance indicators to the Department for consideration.

4.4 Review of Scheme of Delegation (00:25:10)

Members were provided with a copy of a final draft of the Scheme of Delegation. It was proposed by Councillor G Thompson, seconded by Councillor D Bassett and agreed to note that this would be issued to the Department for Infrastructure for approval, subject to agreement at the Corporate Services Committee.

4.5 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights (00:26:20)

It was proposed by Councillor D J Craig, seconded by Councillor D Bassett and agreed to note from the report, information regarding notification by telecommunication operators to utilise Permitted Development Rights at various locations.

Following discussion during which concerns were raised regarding the erection of poles, it was agreed that the Head of Planning & Capital Development write to the

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4.5 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights (Contd)

Department requesting that telecommunications companies be encouraged to share existing infrastructure to avoid unnecessary duplication of equipment. He advised that he would raise this matter at a forthcoming meeting of the Strategic Planning Group and write to the Department thereafter. He also stated that, as this was a regional issue, there required to be a wider discussion as to the need to update the general permitted development regulations in line with, and to take account of, current technology; although he pointed out that any change would be a matter for the Department to review.

The Head of Planning & Capital Development further agreed to (a) advise Councillor Bassett if the new telecommunications apparatus to be installed at Old Dundonald Road, Belfast, was a 5g mast pole; and (b) give consideration to the request that Members be provided with maps indicating the proposed locations of telecommunications apparatus as part of the normal reports to Committee.

5. Any Other Business (00:37:38)

5.1 January Committee Meeting (00:37:46)

The Chairman, Alderman M Gregg, advised that, as the normal date of the January meeting of the Planning Committee fell on a bank holiday, the Committee would meet on Monday, 8 January, 2024.

Conclusion of the Meeting

At the conclusion of the meeting, the Chairman, Alderman M Gregg, thanked those present for their attendance and reminded Members that the next meeting of the Committee would take place on Monday, 9 October at 3.00 pm.

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

Chairman/Mayor

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LISBURN & CASTLEREAGH CITY COUNCIL**Minutes of Planning Committee Meeting held in the Council Chamber and in Remote Locations on Monday, 9 October, 2023 at 3.00 pm****PRESENT IN CHAMBER:**

Alderman M Gregg (Chairman)

Councillor U Mackin (Vice-Chairman)

Aldermen O Gawith and J Tinsley

Councillors S Burns, P Catney, D J Craig, A Martin, G Thompson and N Trimble

IN ATTENDANCE:

Director of Regeneration and Growth
 Head of Planning & Capital Development
 Principal Planning Officer (RH)
 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 M Gregg, welcomed those present to the Planning Committee. He pointed out that, unless the item on the agenda was considered under confidential business, this meeting would be audio recorded. He went on to outline the evacuation procedures in the case of an emergency.

Alderman J Tinsley arrived to the meeting at 3.02 pm.

1. **Apologies** (00:02:14)

It was agreed to accept an apology for non-attendance at the meeting on behalf of Councillor D Bassett. It was also noted that Councillor G Thompson would be arriving late.

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** (00:03:39)

There were no declarations of interest.

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3. Report from the Head of Planning & Capital Development (00:04:16)

3.1 Schedule of Applications (00:04:21)

The Chairman, Alderman M Gregg, advised that there was one major application and three local applications on the schedule for consideration at the meeting. He advised that application LA05/2022/0807/O had been withdrawn in its entirety by the agent.

4.1.1 Applications to be Determined (00:04:44)

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) LA05/2020/0545/F – Demolition of 25 Carrowreagh Road and erection of 62 dwellings and 4 apartments, garages, open space with equipped children’s play, landscaping, access arrangements and other associated site works at lands immediately adjacent to and north of 104-120 Millreagh Avenue and to the rear of 2-18 (evens) Millreagh Grove, Dundonald (00:06:30)

Councillor G Thompson arrived to the meeting during consideration of this application (3.38 pm).

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

The Committee received Mr S McKee, who was accompanied by Mr M Hardy and Mr S Villiers, in order to speak in support of the application. A number of Members’ queries were responded to.

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

Debate

There were no comments made at this point.

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. Not having been present for this entire item, Councillor G Thompson did not participate in the vote.

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- (ii) LA05/2022/0861/F – Erection of 38 dwellings (including a change of house type to sites 89-119 of planning approval LA05/2017/1153/F with associated car parking, detached garages, landscaping and access arrangements and associated site works at lands 300 metres to the south east of 206 Millmount Road and 1-8 Millmount Chase, Dundonald (00:52:40)

Councillor N Trimble arrived to the meeting during consideration of this application (4.18 pm).

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

The Committee received Mr S McKee, who was accompanied by Mr M Hardy and Mr S Villiers, in order to speak in support of the application. A number of Members' queries were responded to.

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

Debate

During debate, the Chairman, Alderman M Gregg, stated that he had difficulty in supporting future housing provision when roadworks required under a previous application by the same applicant had been delayed for one reason or another. He accepted that there was a delay on behalf of DfI Roads but stated that this was a risk to be taken by the developer, not a risk for the Council. However, Alderman Gregg supported the recommendation of the Planning Officers but urged that Officers find a way to enforce conditions on this and other applications.

Vote

Councillor G Thompson requested that a recorded vote be taken.

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to approve the application. Not having been present for this entire item, Councillor N Trimble did not participate in the vote.

Adjournment of Meeting

The Chairman, Alderman M Gregg, declared the meeting adjourned for a comfort break at this point (4.34 pm).

Resumption of Meeting

The meeting was resumed at 4.50 pm.

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- (iii) LA05/2021/0738/O – Replacement dwelling opposite and 80m south west of 149 Hillsborough Road, Dromara (01:32:03)

The Principal Planning Officer (RH) presented the above application as outlined within the circulated report. She clarified that this was an outline application, not a full application as referred to in paragraph 14 of the report.

The Committee received Mr A McCreedy, who was accompanied by Mr A Stephens, in order to speak in support of the application. A number of Members' queries were responded to.

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

It was proposed by Councillor G Thompson, seconded by Councillor A Martin and, on a vote being taken, agreed that this application be deferred for a site visit to take place, the voting being 8 in favour and 2 against.

Adjournment of Meeting

The Chairman, Alderman M Gregg, declared the meeting adjourned for dinner (5.30 pm).

Resumption of Meeting

The Chairman, Alderman M Gregg, declared the meeting resumed (6.00 pm).

- (iv) LA05/2022/0807/O – Proposed dwelling and garage at lands 20m east of 123a Saintfield Road, Lisburn (00:04:35)

As advised earlier in the meeting by the Chairman, Alderman M Gregg, this application had been withdrawn in its entirety by the agent.

- (v) LA05/2021/0913/O – Dwelling and garage between 10 and 14 Drennan Road, Lisburn (02:13:54)

The Principal Planning Officer (RH) presented the above application as outlined within the circulated report.

The Committee received Mr A McCreedy, who was accompanied by Mr A Stephens, in order to speak in support of the application. A number of Members' queries were responded to.

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

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- (v) LA05/2021/0913/O – Dwelling and garage between 10 and 14 Drennan Road, Lisburn (Contd)

Debate

During debate:

- Alderman O Gawith, Alderman J Tinsley and Councillor P Catney commented that, unfortunate as this case was, they were in support of the recommendation of the Planning Officer to refuse planning permission;
- Councillor N Trimble stated that he was not in support of the recommendation of the Planning Officer. He considered the tests of COU6 had been met and, as this was an outline application, he believed there was scope to have a design that could meet with COU15 and16. Whilst he accepted that the application did not meet CTY8, had he considered it prior to the new policies being implemented, he believed it would have met with that policy; and
- the Chairman, Alderman M Gregg, stated that he was in support of the recommendation of the Planning Officer to refuse this application. He considered that, had the application been presented to Committee prior to the new policies being implemented, it would not have been approved due to reasons of prominence and the absence of a continuous built-up frontage.

Vote

At the request of Councillor G Thompson, a recorded vote was carried out. The voting in respect of the Planning Officer's recommendation to refuse this application was as follows:

In favour: Councillor S Burns, Councillor P Catney, Councillor D J Craig, Alderman O Gawith, Councillor U Mackin, Councillor A Martin, Alderman J Tinsley, Councillor G Thompson and the Chairman, Alderman M Gregg **(9)**

Against: Councillor N Trimble **(1)**

The Chairman, Alderman M Gregg, declared that the Planning Officer's recommendation to refuse the application was 'carried'.

4. Any Other Business (03:03:16)

4.1 Recorded Votes – Amendment to Standing Orders Councillor G Thompson

It was proposed by Councillor G Thompson and seconded by Councillor P Catney that the Corporate Services Committee be requested to consider an amendment to Standing Orders that, in the interest of openness and transparency, all votes at Planning Committee meetings be 'recorded'. This proposal was agreed on a vote being taken, the voting being 9 in favour and 1 against.

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Conclusion of the Meeting

At the conclusion of the meeting, the Chairman, Alderman M Gregg, thanked those present for their attendance.

There being no further business, the meeting was terminated at 6.57 pm.

Chairman/Mayor

Committee:	Planning Committee
Date:	06 November 2023
Report from:	Head of Planning and Capital Development

Item for:	Decision
Subject:	Schedule of Planning Applications to be Determined

1.0 **Background**

1. The following applications have been made to the Council as the Local Planning Authority for determination.
2. In arriving at a decision (for each application) the Committee should have regard to the guiding principle in the SPPS (paragraph 3.8) that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
3. Members are also reminded about Part 9 of the Northern Ireland Local Government Code of Conduct and the advice contained therein in respect of the development management process with particular reference to conflicts of interest, lobbying and expressing views for or against proposals in advance of the meeting.

Key Issues

1. The applications are presented in accordance with the current scheme of delegation. There is 1 major application and eight local applications. One of which was previously deferred to allow for a site visit to take place. Three of which are presented by way of exception and the balance have been Called In.
 - (a) LA05/2022/0922/F - The existing football pitch and sectional buildings/ clubhouse of Stanley Park are to be redeveloped to provide a facility with a new Community Hub building, associated parking and an improved playing surface that complies with Irish Football Association (IFA) standards. Development will also include floodlighting to playing surface. In addition, small caged training area/play area to be created to west boundary of site at Stanley Park, Lisburn Leisure Park, Lisburn.
Recommendation – Approval
 - (b) LA05/2021/0738/O - Replacement dwelling on land opposite and 80 metres south west of 149 Hillsborough Road, Dromara.
Recommendation – Refusal
 - (c) LA05/2022/0247/F - Reconfiguration of public open space on Baronsgrange Park and erection of 9 additional dwellings (6 semi-detached and 3 detached dwellings) to enable connection to Carryduff Park to Baronsgrange Development (under construction- planning permission reference Y/2009/0160/F), Comber Road Carryduff.
Recommendation – Approval

- (d) LA05/2022/0249/F- Construction of foot-bridge across the Carryduff River between Baronsgrange Park and Carryduff Park and erection of one dwelling at Baronsgrange Development (under construction- planning permission reference Y/2009/0160/F), Comber Road, Carryduff.
Recommendation – Approval
- (e) LA05/2022/0018/F - Demolition of existing dwelling and construction of residential development comprising 19 detached dwellings (13 detached and 6 semi-detached), garages, associated access with right hand turning lane, internal road, parking, landscaping and associated works on Lands at 126 Hillsborough Road, Lisburn
Recommendation – Approval
- (f) LA05/2020/0106/O - Proposed dwelling and demolition of existing shed required to provide access to the site on lands to the rear of 54 Crumlin Road, Upper Ballinderry.
Recommendation – Refusal
- (g) LA05/2021/0946/O - Site for a dwelling, garage and ancillary site works to replace existing commercial buildings, yard and previously/last use as a Horticulture Nursery/Garden Centre at 40 metres east of 20 Mullaghcarron Road, Ballinderry Upper, Lisburn
Recommendation – Refusal
- (h) LA05/2020/0420/O - Site for a dwelling, garage and associated site works 35m due north of 68 Gregorlough Road, Dromore
Recommendation Approval
- (i) LA05/2020/0421/O - Site for a dwelling, garage and associated site works 65m due north of 68 Gregorlough Road Dromore
Recommendation Approval

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

2.0 **Recommendation**

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

3.0 **Finance and Resource Implications**

Decisions may be subject to:

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

Applicants have the right to appeal against a decision to refuse planning permission. Where the Council has been deemed to have acted unreasonably the applicant may

	<p>apply for an award of costs against the Council. This must be made at the time of the appeal. The Protocol for the Operation of the Planning Committee provides options for how appeals should be resourced.</p> <p>In all decisions there is the right for applicants and third parties to seek leave for Judicial Review. The Council will review on an on-going basis the financial and resource implications of processing applications.</p>	
4.0	<u>Equality/Good Relations and Rural Needs Impact Assessments</u>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out</p> <p>The policies against which each planning application is considered have been subject to a separate screening and/or assessment for each application. There is no requirement to repeat this for the advice that comes forward in each of the appended reports.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out.</p> <p>The policies against which each planning application is considered have been subject to a separate screening and/or assessment for each application. There is no requirement to repeat this for the advice that comes forward in each of the appended reports.</p>	

Appendices:	<p>Appendix 1.1 - LA05/2022/0922/F</p> <p>Appendix 1.2 (a) (b) and (c) - LA05/2021/0738/O</p> <p>Appendix 1.3 - LA05/2022/0247/F</p> <p>Appendix 1.4 - LA05/2022/0249/F</p> <p>Appendix 1.5 - LA05/2022/0018/F</p> <p>Appendix 1.6 - LA05/2020/0106/O</p> <p>Appendix 1.7 - LA05/2021/0946/O</p> <p>Appendix 1.8 - LA05/2020/0420/O</p> <p>Appendix 1.9 - LA05/2020/0421/O</p>
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Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	6 November 2023
Committee Interest	Major application
Application Reference	LA05/2022/0922/F
Date of Application	4 October 2022
District Electoral Area	Lisburn South
Proposal Description	The existing football pitch and sectional buildings/ clubhouse of Stanley Park are to be redeveloped to provide a facility with a new Community Hub building, associated parking and an improved playing surface that complies with Irish Football Association (IFA) standards. Development will also include floodlighting to playing surface.
Location	Stanley Park, Lisburn Leisure Park, Lisburn BT28 1LP
Representations	Two
Case Officer	Maire-Claire O'Neill
Recommendation	Approval

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan
 [3] *Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—*

- (a) *a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*
- (b) *any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

[4] Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

4. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications.
5. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

6. This application is categorised as a major planning application in accordance with the Development Management Regulations 2015 in that the site area exceeds 1 hectare.
7. The application is presented with a recommendation to approve as it is considered that the proposed development satisfies the policy tests associated with paragraph 6.205 of the SPPS and policy OS1 of the Plan Strategy of the Lisburn and Castlereagh Local Development Plan 2032 (the Plan Strategy) in that the proposal will not result in the loss of existing open space or land zoned for the provision of open space.

8. It has also been demonstrated how the proposal complies with paragraphs 6.207 and 6.213 of the SPPS and policies OS2 and OS5 of the Plan Strategy in that the proposal is for an intensive sports facility inside a settlement and there no unacceptable impact on the amenities of people living nearby will arise as a consequence of noise generated from the activities proposed or the flood lighting used to facilitate the operation of the development.
9. It has also been demonstrated that the proposed buildings are designed to a high quality; that there will be no adverse impact on the visual amenity or character of the locality or natural or built heritage features locally, that a safe means of access can be achieved to the site; that access to walking and cycling can be accommodated; and that public safety will not be prejudiced.
10. The proposal complies with policy NH5 of the Plan Strategy in that it has been demonstrated that the new development will not have an unacceptable adverse impact on or damage any priority species or habitats.
11. In addition, the proposal satisfies the policy tests associated policies TRA1, TRA2 and TRA7 of the Plan Strategy in that safe access arrangements are to be provided, the design of the parking is acceptable and adequate provision is made for car parking and cycle provision.
12. Furthermore, the application is considered to satisfy the policy tests in policy FLD 3 of the Plan Strategy in that the proposal will not result in an increased flood risk and that the Drainage Assessment has demonstrated that adequate measures can be put in place to effectively mitigate any flood risk as a result of the proposed development.

Description of Site and Surroundings

Site

13. The application site is comprised of an existing pitch and training grounds at Stanley Park Lisburn. The land is relatively flat and located to the rear a number of commercial leisure, food retail and leisure facilities at the Leisureplex complex.
14. The site is access by vehicular traffic is from a turning circle at Howard Place - a residential area off Longstone Street, Lisburn. Pedestrian access to the site is also available through the Leisureplex lands.
15. The site is enclosed on all sides by metal paladin fencing approximately three metres in height. A number of pre-fabricated type structures are located to the far west of the site. These seem to be used as changing rooms and a club house in association with the operation of a local football club.

Surroundings

16. There wider area comprised of mixed use development with the Leisureplex to the east, high density dwellings to the north and west and additional areas of open space and pitches directly to the south.

Proposed Development

17. The application is for the redevelopment of the existing football pitch and sectional buildings/ clubhouse of Stanley Park to provide a facility with a new Community Hub building, associated parking and an improved playing surface that complies with Irish Football Association (IFA) standards. Development will also include floodlighting to playing field.
18. The application was also supported by a number of documents including:
- Design and Access Statement
 - NI Biodiversity Checklist
 - Baseline Noise Survey
 - Floodlighting Report
 - Public Consultation Document
 - Event Management plan
 - Transport Assessment Form
 - Car Parking Study
 - Drainage Assessment

Relevant Planning History

19. There is no planning history associated with the site.

Consultations

20. The following consultations were carried out:

Consultee	Response
Dfl Roads	No objection
NIEA Water Management Unit	No objection
NIEA Natural Heritage	No objection
Environmental Health	No objection
NI Water	No objection
Rivers Agency	No objection

Representations

21. Two letters of representation in opposition to the proposal have been received. The following issues are raised:
 - Traffic generation.
 - Danger for pedestrians.
 - Lack of parking.
 - Noise and antisocial behaviour from venue.
 - Other areas are more suitable for proposal.
 - Infrastructure cannot handle the additional load.
22. These issues are considered in more detail in the assessment below.

Environmental Impact Assessment (EIA)

23. 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.
24. An EIA determination was carried out on 4 November 2022, and it was concluded that the scale and nature of the proposed development would not likely result in any significant adverse environmental impact. The works are to an existing playing field and temporary structures are replaced with permanent buildings. As such, an Environmental Statement was not required to inform the assessment of the application.

Pre-Application Community Consultation

25. The application exceeds the threshold for major developments as set out in the Planning (Development Management) Regulations (Northern Ireland) 2015 in that the site is more than two-hectares in size.
26. In accordance with section 29 of the Planning Act (Northern Ireland) 2011, a Pre-Application Community Consultation (PACC) report submitted with the application demonstrated that events took place on Thursday 24th June and Sunday 17th June 2022 in the Lagan Suite, Lisburn Leisureplex, Lisburn Leisure Park.
27. A Pre-Application Community Consultation report was submitted in support of the application which provides a record of the consultation that had taken place to inform interested parties of the details of the proposed development.

28. The format of the report is in accordance with the Practice Note published by DfI Planning Group and contains the relevant information required. It advises that no issues were raised by members of the public at this event.

Local Development Plan

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

Plan Strategy 2032

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

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

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

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

31. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.
32. The LAP indicates that the proposed site is located just outside the designated city centre boundary but within the development limits of Lisburn. It is also within an area zoned as exiting open space.
33. Within draft BMAP and the subsequent revision to BMAP post inquiry and pre-adoption the site is also located within the settlement limit and zoned as open space.

34. There are equivalent policies in the Plan Strategy of the Lisburn and Castlereagh City Council Plan 2032 to the regional policies described in LAP and draft BMAP.
35. As explained above, this application is for redevelopment of the existing football pitch and sectional buildings/ clubhouse, to provide a facility with a new Community Hub building, associated parking and an improved playing surface that complies with Irish Football Association (IFA) standards.
36. The following strategic policies in Part 1 of the Plan Strategy apply. Strategic Policy 01 Sustainable Development states that:

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

37. Strategic Policy 02 Improving Health and Well-being states that:

The Plan will support development proposals that contribute positively to the provision of quality open space; age friendly environments; quality decision; enhances connectivity (physical and digital); integration between land use and transport; and green and blue infrastructure. Noise and Air quality should also be taken into account when designing schemes, recognising their impact on health and well-being.

38. Strategic Policy 17 Open Space, Sport and Outdoor Recreation:

The Plan will support development proposals that

- (a) Protect and enhance existing open space and provide new open space provision*
- (b) Support and protect a network of accessible green and blue infrastructure*
- (c) Support and promote the development of strategic and community greenways*

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

Open Space, Sport and Outdoor Recreation

40. As the redevelopment of the existing football pitch and sectional buildings/ clubhouse zoned as existing open space is proposed, policy OS1 states that:

Development that will result in the loss of existing space or land zoned for the provision of open space will not be permitted, irrespective of its physical condition and appearance.

An exception will be permitted where it is demonstrated that the redevelopment will bring substantial community benefits that decisively outweigh the loss of open space.

41. Intensive Sports facilities are defined at page 67 of Part 2 of the Plan Strategy as

as a purpose built indoor or outdoor resource which facilitates one or more activity fundamental to maintaining individual health and fitness. This may include stadia, sports halls, leisure centres, swimming pools and other indoor (and outdoor) sports facilities. They can also serve as a focus for the community.

42. As the proposal involves the redevelopment of a playing field to bring it up to IFA standard for football and the construction of a new community hub it is considered to fall within the definition of 'intensive sport facilities'.

43. Policy OS2 applies and it states that:

Development of intensive sports facilities will only be permitted where these are located within settlements. An exception may be permitted in the case of the development of a sports stadium where it meets all of the following criteria:

- a) no alternative site within the settlement can accommodate the development*
- b) the proposed development site is located close to the edge of the settlement and can be clearly identified as being visually associated with the settlement*
- c) there is no adverse impact on the setting of the settlement*
- d) the scale of the development is in keeping with the size of the settlement.*

In all cases, the development of intensive sports facilities will be required to meet all of the following criteria:

- a) there is no unacceptable impact on amenities of people living nearby by reason of the siting, scale, extent, frequency or timing of the sporting activities proposed, including any noise or light pollution likely to be generated*
- b) there is no adverse impact on features of importance to nature conservation or the historic environment*
- c) buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment*
- d) the proposed facility takes into account needs of people with disabilities and is located so as to be accessible to the catchment population giving priority to walking, cycling and public transport*
- e) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for site access, car parking, drainage and waste disposal.*

44. New floodlighting is proposed to allow for evening fixtures and training. Policy OS5 Floodlighting of Sports and Outdoor Recreational Facilities states:

The Council will only permit the development of floodlighting associated with sports and outdoor recreational facilities where its design and operation meets all the following criteria:

- a) *There is no adverse impact on the amenity of people living nearby*
- b) *There is no adverse impact on the natural environment/nature conservation, visual amenity or character of the locality*
- c) *Public safety is not prejudiced.*

Natural Heritage

45. A bio-diversity checklist is submitted with the application. Policy NH2 – Species Protected by Law states that:

European Protected Species

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

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

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

National Protected Species

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

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

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

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

- a) *priority habitats*

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

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

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

Access and Transport

- 47. The P1 Form indicates that access arrangements for this development involve the construction of a new access to a public road for both pedestrian and vehicular use.
- 48. Policy TRA1 - Creating an Accessible Environment states that:

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

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

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

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

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

- 49. Policy TRA 2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

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

50. A new car park is proposed as part of the development. Policy TRA 7 –Car Parking and Servicing Arrangements states that:

Development proposals will provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to published standards or any reduction provided for in an area of parking restraint designated in the Local Development Plan.

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

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

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

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

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

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

Flooding

51. This is a large site and the drainage must be designed to take account of the potential impact on flooding elsewhere.
52. Policy - FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains:

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

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

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

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

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

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

Regional Policy and Guidance

Regional Policy

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

The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPPS within 5 years.

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

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

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

62. Paragraph 6.132 of the SPPS also 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.

63. 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.

64. Paragraph 6.182 of the SPPS further 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.

65. 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.

66. Paragraph 6.199 of the SPPS acknowledges that the Government recognises that open space, sport and outdoor recreation is important to society now and in the future. It supports many cultural, social, economic, health and environmental benefits.

67. Paragraph 6.205 of the SPPS states that:

There will be a policy presumption against the loss of open space to competing land uses in Local Development Plans (LDPs) irrespective of its physical condition and appearance. Any exception to this general approach should only be appropriate where it is demonstrated that redevelopment would bring substantial community benefit that outweighs the loss of the open space; or where it is demonstrated that the loss of open space will have no significant detrimental impact.

68. Paragraph 6.207 of the SPPS states that:

The precise location of intensive sports facilities⁴⁹ can be contentious, and by their very nature and scale can give rise to particularly complex planning considerations such as impact on amenity, and sustainability issues. Such facilities shall be located within settlements in order to maximise the use of existing infrastructure. As an exception a sports stadium may be allowed outside of a settlement, but only where clear criteria is established, which can justify a departure from this approach.

69. Paragraph 6.213 of the SPPS states that:

planning authorities should carefully consider development proposals for all sport and outdoor recreational activities, including facilities ancillary to water sports.

70. It also advises that:

relevant planning considerations will include: location, design, hours of operation, noise, impact upon visual and residential amenity, access and links to public transport; floodlighting; landscaping, public safety (including road safety); nature conservation, biodiversity, archaeology or built heritage.

Retained Regional Guidance

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

Development Control Advice Note 15 – Vehicular Access Standards

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

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

Assessment

Open Space, Sport and Outdoor Recreation

OS1 – Protection of Open Space

73. Policy OS1 protects against the loss of open space. The land on which this development is proposed is zoned as existing open space as currently comprises an existing grass football pitch and associated changing facilities.
74. The Development Proposal and Design Concept statement submitted in support of the application explains that the project vision is to enhance Stanley Park as a sports facility by upgrading the standard of the pitch and providing a purpose built recreation and community hub which will act important as the home of sporting, recreation, community and volunteering opportunities.
75. The aim of the Charity bringing forward the proposal is to generate wider community benefits through football, sport and non-sport activities, particularly in areas of health and well-being, education skills and employment, social inclusion and volunteering.
76. The document further explains that the current pitch is not sufficiently equipped to deal with demand placed on its current activities and as such, there is an identified need for the development to take place. redevelopment.
77. The Community Hub building comprises 1078 square metres (over 2 floors, lower ground and main floor area) of floor space. The new pitch is 6000 square metres so as to comply with Irish Football Association (IFA) standards.
78. In terms of meeting the requirements of policy OS1, it is considered that the proposal continues to provide a pitch of a similar size to the existing and the existing pre-fabricated clubhouse and changing facilities are replaced with a purpose built building which is relocated closer to the vehicular access on Howard Place. There is no net loss of open space as a consequence of relocating the building.
79. The enhancement of the facility will allow the pitch to be used in the evening and outside the normal football season as the grass pitch is replaced with a 3G surface. Other community benefits also arise from enhanced facilities in the community hub.

OS2 Intensive Sports Facilities

80. As described above it is considered that the existing pitch and associated facilities are already existing intensive sports facilities as they provide space for a range of outdoor activities to be carried out.
81. The distinguishable difference is that the new pitch will be designed to meet IFA requirements with a purpose built clubhouse provided to incorporate accredited IFA facilities whilst providing a HUB for local community and public use.
82. The site is already within the settlement and is clearly identified as being visually associated with other buildings adjacent to and behind the proposed

- buildings. The proposal involves the redevelopment of existing facilities and as such, will have no adverse impact on the setting of the settlement. There is no requirement to consider this proposal as an exception to policy OS2.
83. With regard to the general criteria, a noise impact assessment and a flood lighting report is submitted in support of the application.
 84. The existing changing rooms are located 35 metres from the boundary wall of 31 Howard Place with the exiting perimeter fence 16 metres from this boundary. The new perimeter fence is to be located 13.4 metres from 31 Howard Place.
 85. The closest property to the existing club house is 39 Howard Place and the separation distance between these two buildings is 30 metres.
 86. The redevelopment will actually involve this building being demolished with a concealed toilet block built in this general location. This building is considered to be sufficiently distant from the closest property so as not to result in an unacceptable impact on the amenity of people living nearby.
 87. Baseline noise surveys to quantify and record the pre-existing noise climate in advance of any future development were carried out by the appointed consultant in advance of submission of the application.
 88. Baseline noise measurements were conducted in accordance with ISO 1996-2:2017, at one location for a 7 day period. Measurements were taken between 10 and 16 December 2021, a period which encompassed both day and night time periods during weekday and weekends and during a typical match day.
 89. The daily daytime (07.00-23.00hrs) ambient noise levels were in the range 59 to 65 dB Road traffic movements were noted to be the dominant source of noise at the measurement position.
 90. The night-time (23.00-7.00 hrs) ambient noise levels were in the range of 53 to 54 dB. Traffic movements were noted to be the dominant source of noise at this measurement position.
 91. Environmental Health having considered the noise information note that there is no external plant or equipment specified within the application. A condition is however recommended in relation to noise levels at noise monitoring location 1 to protect the amenity of neighbouring dwellings.
 92. Based on this advice and a review of the data collected it is accepted that the proposed redevelopment would not cause conflict, disturbance or nuisance to people living nearby or other noise sensitive receptors.
 93. It is noted however that a caged training area was removed from the proposal in order for Environmental Health to be able to confirm that the proposal will not have an adverse impact on the amenity of people living nearby.

94. For the reasons outlined above, criteria (a) is considered to be met. The impact of floodlighting is considered later against policy OS5.
95. No features of historic importance are identified as a constraint to the proposed development. A NI Biodiversity Checklist is submitted in support of the application. The ecological statement confirms that no priority habitats or species are present within the site. Issue of nature conservation importance are considered later in the report within the context of Natural Heritage considerations. Criteria (b) is considered to be met.
96. In terms of the design of the proposed development, detail submitted with the application demonstrates that the community hub building is of a split level design utilising the topography of the site. The main wall finishes are smooth sand/cement render with a different colour of render proposed for the entrance feature.
97. The hub building will provide a main function room, committee room, kitchen area, gym, home and away changing rooms, and smaller function room. Changing rooms for the referees and WC's are also included.
98. The main elevation (feature elevation) has a decorative split stone cladding and the roof comprises a mono pitch design finished in zinc and anthracite great standing seam sheeting. The windows are dark grey PPC Aluminium glazed sliding curtain walling system. Laminated glass balustrading is to be installed on all sites of the balcony space serving the viewing gallery above the covered spectator terrace.
99. The height varies from 5.8 metres at the main elevation with entrance to 9.2 metres along the elevation facing the main pitch area. The entirety of the site is to be secured by 3 metre paladin anti-climb fencing.
100. The improved playing pitch will measure 100 metres by 60 metres with additional hybrid playing surface in both goal areas and centre circle. This is an increase in playing area as the existing pitch is 92 metres by 56 metres.
101. The main pitch has proposed floodlights proposed around it and a new path is proposed with street lighting to access Manor Park and Lisburn Leisure Park.
102. The conceptual building modelling drawings submitted illustrate how the proposed development is appropriate in terms of scale, mass and context. The design and layout makes use of the sites topography and ensures that the scheme is sympathetic to its surroundings.
103. For the reasons outlined above, criteria (c) is considered to be met.
104. Detail submitted with the application demonstrates how the facility takes into account the needs of people with disabilities. The building has level access and designed to current building control standards. Compliance DDA legislation is integral securing building control approval.

105. Five disabled parking spaces are shown adjacent to the Community Hub building and the building is designed to provide level floor access and accessible accommodate at other levels.
106. For the reasons outlined criteria (d) is considered to be met.
107. A transport assessment form is submitted in support of the application. The form provides detail on Travel Characteristics, Trip Generation and Transport impacts. The detail demonstrates that the road network can safely handle the vehicular traffic that the proposal will generate and that satisfactory arrangements are provided for site access, car parking, drainage and waste disposal. Issues associated with Access and Transport and Waste Management are considered later in the report.
108. For the reasons outlined, criteria (e) is considered to be met.

OS5 - Floodlighting of Sports and Outdoor Recreational Facilities

109. The proposal involves the redevelopment of an established sports and outdoor recreational facility. It includes six floodlights mounted on 12m columns located at regular intervals on the two long sides of the pitch (corner flag and half way line of either side).
110. A response from Environmental Health in November 2022 stated that:

To enable Environmental Health of answer in full the applicant should be asked to confirm the operating hours of the facility including the proposed use of the floodlights and community hub.

Furthermore, Environmental Health advise that the applicant should be asked to complete a floodlighting assessment. The assessment should demonstrate that the lighting scheme complies with the Institution of Lighting Professionals Guidance Note 01/21- The reduction of obtrusive light 2021. The lighting scheme should be designed to minimise potential pollution caused by glare and spillage”.

111. A Proposed Exterior Lighting report was submitted in support of the application. Advice from Environmental Health dated 17 July 2023 stated that:

Environmental Health acknowledge the recent lighting reports. The reports demonstrates that the illuminance levels at the adjacent dwellings will exceed 10lux and therefore exceeds the maximum value of vertical illuminance on premises as set out in Institution of Lighting Professionals Guidance Note 01/21- The reduction of obtrusive light 2021.

Therefore, Environmental Health advise that the proposal is likely to cause a loss in amenity with respect to intrusive light.

112. Further lighting information in the form of vertical illuminance at adjacent dwellings along with a design detail report was submitted an appointed Lighting Engineer on 14 September 2023.
113. The detail demonstrates the positioning of the lights around the perimeter of the pitch and shows the light to be tilted downward towards the pitch.
114. Environmental Health having reviewed the lighting information and clarification provided by the Agent. Hours of operation are recommended to protect the amenity of neighbouring dwellings with respect to obtrusive light.
115. Furthermore, the ecological statement confirms that the proposal will not have an impact on the natural environment and the assessment above demonstrates that the design, nature and scale of the proposed development will not impact on visual amenity or character of the locality.

No evidence is presented to indicate that the operation of the floodlights will prejudice public safety.

116. For the reasons outlined, criteria (a) – (c) of Policy OS5 are met.

Access and Traffic

Creating an Accessible Environment

117. Detail associated with the PSD drawing demonstrates that the proposed access to the site will be achieved.
118. In addition, a number of Pedestrian Crossing Point are proposed within the internal layout to facilitate and aid accessibility within the site.
119. A number of disabled parking spaces and cycle bays are identified in close proximity to the main building with ease of access provided. The site is also well served by public transport and taxi services.
120. For the reasons outlined, the policy tests associated with TRA1 are considered to be met.

TRA2 Access to Public Roads

121. Detail submitted with the application indicates that the proposed development involves the construction of a new access for both vehicles and pedestrians.
122. A revised Private Streets Determination [PSD] drawing is submitted in support of the application. This drawing includes annotations which indicate the works associated with the creation of the new access which is designed to tie in to the existing footway.

123. A Transport Assessment Form [TAF] and an Event Management Plan is submitted in support of the application. The form provides detail on Travel Characteristics, Trip Generation and Transport impacts.
124. In terms of Travel Characteristics and Trip Generations, it indicates that the TRICs database has been used to identify potential daily two way trips associated with both the existing development and proposed development.
125. The data suggests that the proposed facility has the potential to generate 361 two way movements daily. This is 306 more trips than existing.
126. Peak travel times are identified to be between 10:00 – 11:00 and 19:00 – 20:00hrs. Detail suggests that the development will generate 20 two way vehicle trips in the AM peak and 310 in the PM peak. Given that the majority of the trips are off peak, the assessment concludes that the existing road infrastructure in the vicinity can accommodate the traffic movements and that the development will not cause any notable impact on the surrounding area.
127. Road Safety is considered in the Assessment Form with evidence indicating that accidents from the site are remote whilst a few accidents have occurred in the vicinity of the site within the last three years, there have been no fatalities. The assessment concludes that the proposal is unlikely to result in an increased risk of accidents on the surrounding road network.
128. Advice from DfI Roads indicates that they are content in principle with the proposal development. Based on this advice and on review of the detail presented, it is accepted that the access arrangements associated with the proposed development will not prejudice road safety nor will it significantly inconvenience the flow of vehicles. The proposal complies with Policy TRA2 of the Plan Strategy.

TRA7 Car Parking and Servicing Arrangements in New Developments

129. The Transport Assessment Form provides detail on measures to mitigate impacts and to influence travel patterns to and from the site.
130. The detail demonstrates that there is excellent pedestrian infrastructure in the surrounding area which includes dropped kerbs, tactile paving and street lighting. The development site being located on the edge of Lisburn town centre, is in close proximity to a variety of facilities and services within 1 km walking distance.
131. There are direct pedestrian links to all the main transport hubs including Lisburn Bus Station and stops on the adjacent road network.
132. With regard to cycling, footways are maintained to facilitate cycle movement with the site located just over 800 metres west of the National Cycle Network Route 9.

133. The site benefits from 9 bus stops located within 400 metres walking distance of the site. These bus stops are serviced by Translink Ulsterbus services which reach wide range of destinations including Lisburn, Belfast, Craigavon, Lurgan, Portadown and Banbridge.
134. This detail demonstrates that the site is suitably located within Lisburn so as to benefit from and promote alternative transport modes.
135. The existing facility is required to provide 42 parking spaces in accordance with current published parking standards. A Car Parking Study is submitted in support of the application. It indicates that parking for the existing facility takes place off site in the surrounding streets and in the adjacent Lisburn LeisurePlex car park.
136. The detail provided indicates that the redevelopment of the grounds at Stanley Park will provide 1078 square metres of floorspace in the community hub building on the lower ground and main floor area. The pitch is 6000 metres squared.
137. Parking Standards would indicate that the proposal requires 85 parking spaces. This is an increased demand when compared to the current use which provides no onsite parking.
138. The proposal includes 28 on site car parking spaces. This is 15 less than that required for the current facility and 57 less than that required for proposed development.
139. That said, the parking survey submitted in support of the application indicates that the proposed site layout includes 28 parking spaces and that users will be able to make use of an abundance of nearby on street parking. This additional parking is evidenced through a parking survey carried out on two days in line with the proposed peak periods [Thursday 01 December from 17:00 – 22:00 and Saturday 26 November from 09:00 – 17:00].
140. The surveys identified some 206 car parking spaces within the surrounding area. An additional 591 spaces were also identified in 3 public carparks within 200 metres of the site. It is understood from the Event Management Plan submitted in support of the application that operators of the site have agreements to accommodate excess car parking at the Leisure Park, Longstone Street Carpark, Governor Road Carpark and in neighbouring estates all of which provide for electric vehicle charging.
141. Provision is made within the site for emergency vehicles with auto tracking information demonstrating that provision is made within the sites for such vehicles to manoeuvre safely. Five disabled spaces are also provided within the site.
142. Having reviewed the detail of the parking survey and having regard to the pedestrian footways and connections to other areas of public parking within

close proximity to the site and the fact that the site is well serviced by public transport, it is accepted that adequate parking is available to service the development. The policy tests associated with TRA7 is considered to be met.

Natural Heritage

143. As explained above, the existing site provides for outdoor sport and recreational facilities. A NI Biodiversity Check List was submitted with the application. The assessment was carried out by ecologist Maeve McKenna who visited the site on 24 August 2021. The site was assessed for ecological features with a buffer area of 25 metres applied.
144. The ecological statement associated with the check list confirms that the site is not located within any statutory or non- statutory designated area, and that there are no designated sites within 100 metres of the application site. No priority habitats were found within the site or buffer zone.
145. There are no trees or buildings on site deemed suitable for roosting bats and the trees and scrub bordering the site also have low potential for bats due to lack of Potential Roosting Features (PRFs) and the presence of light pollution from street lights.
146. Additionally, no evidence of bats was recorded during the site walkover. It was also concluded that there was limited habitat on site suitable for foraging and commuting bats.
147. Overall, it was found that the site is of low ecological interest and no further surveys were deemed necessary.
148. Four common bird species were recorded on site or in the surrounding area, wood pigeon, hooded crow, herring gull and black headed gull. No evidence of smooth newts was recorded and no other protected species are considered likely to occur on the site.
149. Furthermore, no invasive plant species were recorded or observed during the site visit.
150. Advice received from Natural Environment Division [NED] confirmed that they had no objections to the proposal.
151. Based on the advice provided and having reviewed the ecology information submitted, it is considered that the proposed development will not give rise to significant adverse effects on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby. Policy NH5 of the Plan strategy is capable of being met.

Flooding

152. The P1 Forms indicates that both surface water and foul sewage will be disposed of via mains connection. There is a public storm sewer within 20 metres of the proposed development boundary.
153. A Drainage Assessment submitted in support of the application provides details of the existing runoff and post development run off.
154. Section 161 of the associated statement indicates that the surface water run-off for the site was calculated and is 0.94 l/s. These are the maximum possible flows that could be removed from the NIW combined system. The total volume will be restricted by the size of the connecting pipe.
155. Furthermore, the maximum discharge rate to the existing NIW storm sewer network will be limited to the green field runoff rate. This is likely to greatly reduce the maximum possible flows. Further investigation would be required to determine how much flow can be offset; this would need to be agreed with NIW.
156. The equivalent of two times the amount of surface water must be removed from the combined system compared with the Peak Foul flow added from the proposed development for storm offsetting to be viable. The Peak Foul flow generated by the proposed development is 0.28 l/s.as outlined in Section 1.1.1.1.
157. The minimum surface water to be removed is therefore $0.28 \times 2 = 0.56$ l/s If viable, the removal of 0.94 l/s surface water from the existing site from the NIW combined sewer system is likely to be able to offset the peak foul flow to be produced by the proposed development. The removal of this volume would need to be confirmed on site.
158. In addition to the provisions for storm drainage, foul sewage will be discharged to the existing sewer network. External works to create capacity in the existing public sewer network have been agreed with NI Water and are to be delivered in advance of occupation.
159. Water Management Unit has also considered the impacts of the proposal on the surface water environment and in a response received advised that they have no objection subject to NIW providing confirmation that the sewer network is able to accept the additional load consistent with their regulations.
160. Advice from NIW has determined that the receiving Waste Water Treatment facility at Lisburn WwTW has sufficient capacity to serve this proposal.
161. There is no reason to disagree with the advice of the consultees. Based on a review of the information and advice received from DfI Rivers, Water Management Unit and NI Water, it is accepted that the site does not lie within the 1 in 100 year fluvial flood plain, and the mitigation measures proposed to

ensure that all surface water discharge is attenuated and limited to greenfield run-off rates is agreed.

Waste Management

162. Provision is made within the Community Hub building for waste storage and there is adequate provision within the site for the servicing of the facility and for waste collection to be carried out.

Consideration of Representations

Traffic generation/Lack of parking

163. The proposed surveys that have been submitted demonstrate the surrounding road network has the capacity to deal with the proposed development. The car parking arrangements are also acceptable for the reasons described above.

Danger for pedestrians

164. It is not envisaged that the proposal will cause danger for pedestrians. The lands area already used as a football pitch and club rooms. The proposal is to upgrade the existing pitch and build a new hub. The proposed access/egress and parking arrangements meet with the policy requirements. Furthermore DfI Roads have offered no objection to the proposed development.

Noise and antisocial behaviour from venue.

165. Environmental Health have assessed the noise survey submitted and the proposed levels have been found to be within the appropriate standards. The opening hours of the proposed venue will be subject to a condition. It is therefore concluded that the proposal will not result in an unacceptable level of noise nor antisocial behaviour.

More suitable locations for such a use.

166. The site is already home to an existing football club and this proposal is for redevelopment of the existing pitch and club facilities on site. The proposal involves the redevelopment of an existing facility and the applicant is not required to demonstrate consideration of other locations.

Infrastructure cannot handle the additional load.

167. Both NIW and WMU have considered the detail of the proposal and have offered no objection. Advice confirms that they are content that the water and sewage infrastructure can cope with the additional load during the consultation process. Determining weight can therefore not be given to this objection.

Conclusions

168. For the reasons outline above, the proposal satisfies the tests associated with OS1, OS2 and OS5, TRA1, TRA2 and TRA7, NH5 and FLD3 of the Plan Strategy.

Recommendation

169. The application is recommended for approval subject to the following conditions:

Conditions

170. The following conditions are recommended:

1. As required by section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: Time limit
2. No development shall take place until drawings necessary to enable a determination to be made in accordance with Article 3 of the Private Streets (Northern Ireland) Order have been submitted to, and approved by, the Council.
Reason: To ensure there is a safe and convenient road system to comply with the provisions of the Private Streets (Northern Ireland) Order.
3. All hard and soft landscape works shall be carried out in accordance with Drawing [insert number] published to the Portal on [insert date] 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.
4. 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.
5. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent

ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding/nesting birds.

6. Noise resulting from the operation of the development hereby approved shall not exceed LAeq 65dB(1hr) measured at noise monitoring location 1 as shown in Figure 2 of the noise survey referenced (Insert reference) and dated (Insert date).

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

7. During the operational phase of the development, deliveries and waste sorting/collection, should be restricted to between 08:00 and 22:00.

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

8. The hours of operation at the main playing surface/pitch and stands shall not exceed 09:00 – 22:00 Monday to Friday and 09:00 – 18:00 on Saturday and Sunday.

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

9. The floodlighting shall be erected and operated in strict accordance with the *Lighting Report (Revision R2) dated (Insert date)*

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

Site Location Plan – LA05/2022/0922/F



Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee	06 November 2023
Committee Interest	Local Application [Called In] - Addendum
Application Reference	LA05/2021/0738/O
Date of Application	29 June 2021
District Electoral Area	Downshire East
Proposal Description	Replacement Dwelling
Location	Opposite and 80 metres south west of 149 Hillsborough Road, Dromara
Representations	None
Case Officer	Richard McMullan
Recommendation	Refusal

Background

1. This application was presented to a rescheduled meeting of the Planning Committee on 09 October 2023 with a recommendation to refuse as it was considered to be contrary to paragraph 6.73 of the SPPS, and policy COU1 of the Lisburn and Castlereagh City Council draft Plan Strategy (as modified by the Direction of the Department) in that the proposed development is not acceptable in the countryside.
2. The proposal was also considered to be contrary to policy COU3 of the Lisburn and Castlereagh City Council draft Plan Strategy in that the building identified to be replaced is not the original structure nor does it exhibit the essential characteristics of a dwelling.
3. Following a presentation and consideration of representations, it was agreed to defer consideration of the application to allow for a site visit to take place to enable the Members to observe the condition of the structure associated with the application.
4. A site visit took place on Monday 23 October 2023. A separate note of the meeting is available and appended to this report.

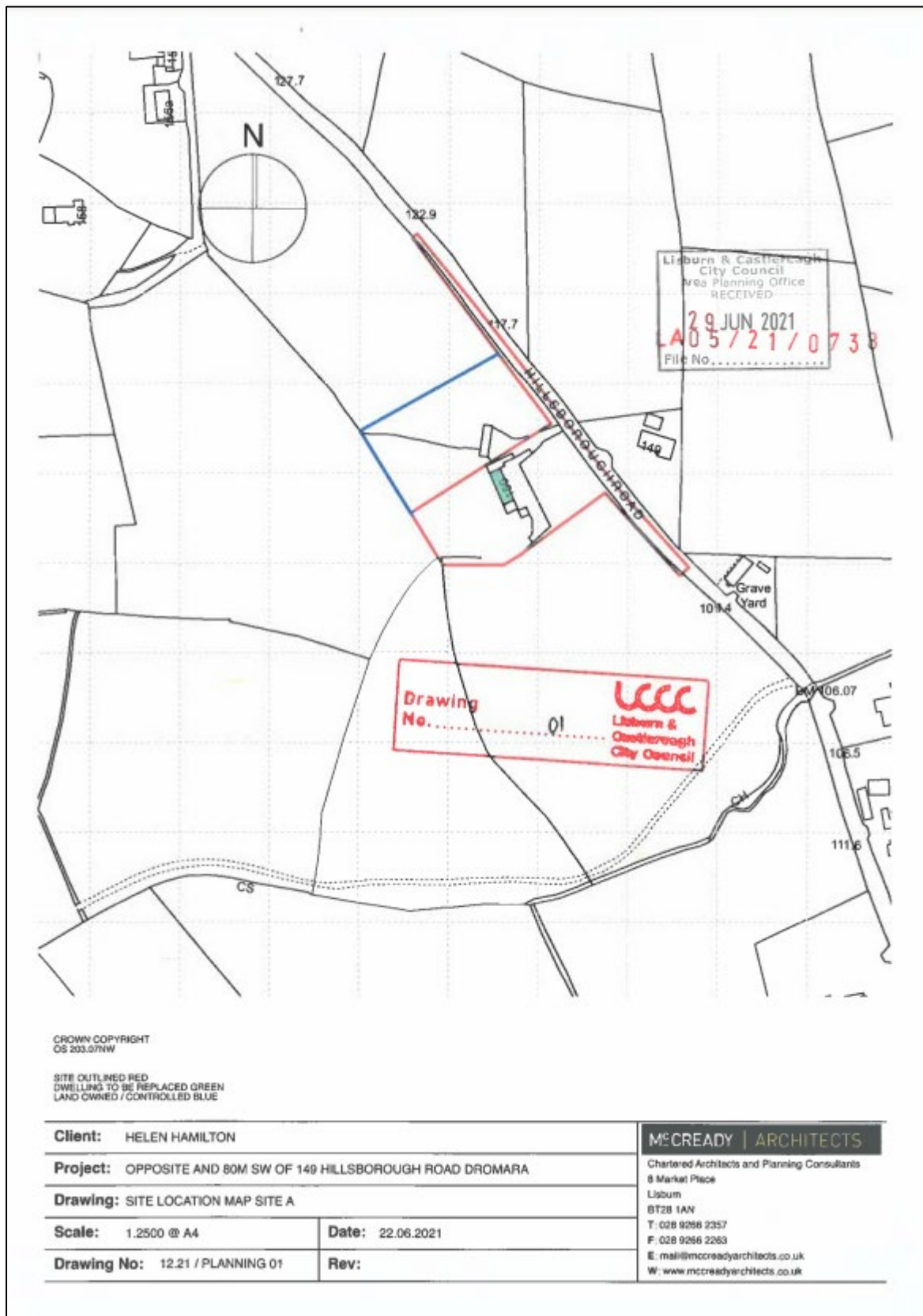
Further Consideration

5. Members were reminded that the site visit was arranged to provide members with an opportunity to observe and examine the building in light of two opposing views being expressed at Committee in relation to the extent to which the building had four original substantially intact walls.
6. The view of the planning officer was explained whereby officers considered that works more than small repairs. Members observed the gable walls, front and rear elevations, what remained of the internal wall with a fireplace and the features the agent confirmed to be typical of a dwelling including the depths of window reveals and internal finishes.
7. Members were reminded of the policy context associated with policy COU3 which required the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.
8. It was also explained that works had been undertaken to the original building prior to the planning application being submitted and it was not clear to officers when this work had been carried out. There was also no evidence of the extent of the building works carried by the applicant to dispute the observations of the officer.

Conclusions

9. The planning advice provided previously that planning permission should be refused is not changed.
10. The information contained in this addendum should be read in conjunction with the main officer's report previously presented to Committee on 09 October 2023 and the minute of the site visit all of which are provided as part of the papers for this meeting.

Site Location Plan – LA05/2021/0738/O



LISBURN & CASTLEREAGH CITY COUNCIL**Report of a Planning Committee Site Meeting held at 4.10 pm on Monday, 23 October, 2023 at Hillsborough Road, Dromara****PRESENT:**

Alderman M Gregg (Chairman)

Councillor U Mackin (Vice-Chairman)

Aldermen O Gawith and J Tinsley

Councillors S Burns, P Catney, D J Craig, A Martin,
G Thompson and N Trimble

IN ATTENDANCE:

Head of Planning & Capital Development (CH)
Principal Planning Officer (RH)
Member Services Officer (CR)

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

LA05/2021/0738/O – Replacement dwelling on land opposite and 80m south west of 149 Hillsborough Road, Dromara

This application had been presented for determination at the rescheduled meeting of the Planning Committee held on 09 October, 2023. The Committee had agreed to defer consideration to allow for a site visit to take place.

The Head of Planning & Capital Development reminded Members that there had been two opposing views expressed at the Planning Committee meeting in respect of this application – that of the agent and that of the Planning Officer. The different views related to how much of the original building remained intact and whether it possessed the necessary characteristics of a dwelling to meet the policy test. It was important that Members be afforded the opportunity to view the building and reach their own conclusion.

The view of the Planning Officer had been that the original building did not have four substantially intact walls and that more than minor repair works had been undertaken. Discussion took place regarding how much of the gable wall was original, the depth of the window reveal, the unusual mix of rubble stone and brick in the walls. The test was to consider if there was enough of the original building left to say it was of replacement category and the policy test could be met.

In response to queries raised, the Head of Planning & Capital Development advised that:

- Policy COU3 Placement Dwellings stated that ‘planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact’;

- Works undertaken to the original building had been carried out prior to the planning application having been submitted but there was no documentary evidence as to exactly when they had occurred. It was also not documented what the scope and nature of the works were. They appeared to be more than minor works on at least two elevations.

Members took time to walk around and observe the building.

There being no further business, the site visit was terminated at 4.40 pm.

Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee	09 October 2023
Committee Interest	Local Application [Called In]
Application Reference	LA05/2021/0738/O
Date of Application	29 June 2021
District Electoral Area	Downshire East
Proposal Description	Replacement Dwelling
Location	Opposite and 80 metres south west of 149 Hillsborough Road, Dromara
Representations	None
Case Officer	Richard McMullan
Recommendation	Refusal

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—

- (a) a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*

- (b) *any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

- [4] *Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.*

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

- [1.11] *Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.*

4. Therefore under both the regulations and policy, the Plan Strategy applies to all applications and the existing policies retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

4. This application is categorised as a local application. It is referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
5. The proposal is contrary to paragraph 6.73 of the SPPS, and policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032 (subsequently referred to as the Plan Strategy) in that the proposed development is not acceptable in the countryside.
6. The proposal is contrary to policy COU3 of the Lisburn and Castlereagh City Council Plan Strategy in that the building identified to be replaced is not the original structure nor does it exhibit the essential characteristics of a dwelling.

Description of Site and Surroundings

Site

7. This site is located to the southern side of the Hillsborough Road Dromara opposite and approximately 80 metres south west of 149 Hillsborough Road.
8. Access is taken from an existing agricultural access via an overgrown laneway which leads to two buildings. This proposal relates to the building located on the southern side of the lane.
9. The building to the northern side of the lane is subject to a separate planning application [LA05/2021/0737/O].
10. The site is rectangular in shape and its topography falls slightly in a westerly direction from the road to the rear of the site.
11. The eastern boundary is defined by roadside hedgerow and the existing access, the northern by partial mature trees and hedgerow with the balance of the boundaries undefined.
12. The building within the application site is rectangular in footprint, and the majority of its roof has been removed. The walls are originally of masonry construction using random stone but there appears to be have been significant alteration to the structure in more recent times that are more than minor repairs. Within the structure the remains of a fire place were noted.

Surroundings

13. The site is located within the open countryside and the surrounding lands are predominantly in agricultural in use. There is a single storey dwelling to the east of the site and a graveyard to the south east.

Proposed Development

14. This is a full application for a Replacement dwelling. The following documents are submitted in support of the application.
 - Supporting Planning Statement
 - Bat Emergence Survey
 - Supporting Ecological Reports (Protected Species)

Relevant Planning History

15. The planning history associated with the adjacent site is set out in the table below:

Reference Number	Location	Description	Decision
LA05/2021/0737/O	Opposite and 90 metres west of 149 Hillsborough Road, Dromara	Replacement Dwelling	Approved 19 June 2023

Consultations

16. The following consultations were carried out:

Consultee	Response
NI Water	No objection
Water Management Unit	No objection
Environmental Health	No objection
DfI Roads	No objection
Historic Environment Division - Monuments	No objection
Natural Environment Division	No objection
Shared Environmental Services	No objection

Representations

17. No representations have been received in relation to this application.

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 must be in accordance with the plan unless material considerations indicate otherwise.

Plan Strategy 2032

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

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

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

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

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

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

22. In draft BMAP (2004) this site is also identified was being located in the open countryside. It is also part of a monument ref: DOW 021/027. The Plan Strategy document states that:

The Department has begun progressively to replace the Rural Strategy. The Planning Strategy section of the Rural Strategy has been superseded by the RDS, whilst the topic policy sections are progressively being replaced by

PPS's. The Rural Strategy remain material considerations until superseded by PPS's.

23. In the subsequent revision to draft BMAP (2014) this site is located in the open countryside. It is stated at policy SETT 4 at page 32 of Part 3 Volume 1 that: *The policies contained in 'A Planning Strategy for Rural Northern Ireland', except where superseded by prevailing regional planning policies, will apply to the entire Plan Area.*

24. It is then stated in the supplementary text under the policy at pages 32 and 33 that:

PPS 7: Quality Residential Environments and PPS 7 Addendum: Safeguarding the Character of Established Residential Areas set out the prevailing regional planning policies for achieving quality in the design and layout of new residential developments. They embody the Government's commitment sustainable development and the Quality Initiative. They contain criteria-based policies against which all proposals for new residential development, including those on land zoned will be assessed, with the exception of single dwellings in the countryside. These will continue to be assessed under policies contained in PPS 21: Sustainable Development in the Countryside.

25. There are equivalent policy in the Plan Strategy to the regional policies described in LAP and draft BMAP.
26. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside [Strategic Policy 09] states:

The Plan will support development proposals that:

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

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

28. The proposal is for a replacement dwelling. Policy COU 1 – Development in the Countryside states:

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

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

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

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

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

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

Replacement Dwellings

30. Policy COU3 – Replacement Dwellings states:

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

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

Non-Listed Vernacular Buildings

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

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

Replacement of Non-Residential Buildings

Favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. Non-residential buildings such as domestic ancillary

buildings, steel framed buildings designed for agricultural purposes, buildings of a temporary construction and a building formerly used for industry or business will not be eligible for replacement under this policy.

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

Integration and Design of Buildings in the Countryside

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

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

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

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

Rural Character and other Criteria

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

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

A new development proposal will be unacceptable where:

- a) *it is unduly prominent in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it does not respect the traditional pattern of settlement exhibited in that area*
- d) *it mars the distinction between a settlement and the surrounding*

- countryside, or otherwise results in urban sprawl*
- e) *it has an adverse impact on the rural character of the area*
- f) *it would adversely impact on residential amenity*
- g) *all necessary services, including the provision of non mains sewerage, are not available or cannot be provided without significant adverse impact on the environment or character of the locality*
- h) *the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character*
- i) *access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.*

Habitats, Species or Features of Natural Heritage Importance

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

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

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

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

Waste Management

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

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

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

Access and Transport

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

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

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

37. The justification and amplification states:

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

Historic Environment and Archaeology

38. The application site contains part of the monument DOW: 021/027. Policy HE4 – Archaeological Mitigation states that:

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

39. Policy HE13 - The Conversion and Reuse of Non-Listed Buildings states that:

Planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a non-listed vernacular building or a suitable locally important building³⁰ (such as former school houses, churches and older traditional barns and outbuildings) for a variety of alternative uses, where this would secure its upkeep and retention. Such proposals will be required to be of a high design quality and to meet all of the following criteria:

- a) *the building is of permanent construction*
- b) *the reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality*
- c) *any new extension is sympathetic to the scale, massing and architectural style and finishes of the existing building*
- d) *the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued use of adjoining land or buildings*
- e) *the nature and scale of the use is demonstrated to be appropriate to its location.*

Regional Policy and Guidance

Regional Policy

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

The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPPS within 5 years.

41. Paragraph 3.8 of the SPPS states:

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

42. This proposal is for replacement dwelling. Bullet point two of paragraph 6.73 of the SPPS states that:

provision should be made for the replacement of existing dwellings where the building to be replaced exhibits the essential characteristics of a dwelling and, as a minimum all external structural walls are substantially intact. Replacement dwellings must be located within the curtilage of the original dwelling where practicable, or at an alternative position nearby where there are demonstrable benefits in doing so. Replacement dwellings must not have a visual impact significantly greater than the existing building. In cases where the original building is retained, it will not be eligible for replacement again. Planning permission will not be granted for the replacement of a listed dwelling unless there are exceptional circumstances.

43. It is further stated at paragraph 6.78 of the SPPS that:

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

Retained Regional Guidance

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

Building on Tradition

45. Paragraph 5.1.3 of Building on Tradition states that:

Replacement projects can help to reinvigorate our rural landscape through the sensitive redevelopment of the historic footprints of long established buildings. Sites for replacement projects can prove an attractive option for building in the countryside as they will generally have key services in place in terms of access, water and power etc. but will also have well established mature boundaries that will already have achieved a strong visual linkage with the landscape. Renewing development on these sites reinforces the historic rural settlement pattern.

46. At paragraph 5.2, it provides basic rules for replacement dwellings as follows:

The replacement dwelling should generally be placed as close as possible to the footprint of the original house, unless significant benefits are apparent in terms of visual and functional integration.

The replacement dwelling should be of a form and scale that integrates well with the characteristics of the site. Replacement dwellings should not be of an excessive size in comparison to the original building or be located a significant distance away from the original footprint unless there are clear and evident benefits.

The proposal takes full advantage of the retention of established and mature landscape and boundary features and retains the discreet character of existing access points.

Use is made of recycled building materials in the new proposal.

47. It also notes with regards to visual integration that the following points be considered:

- Work with the contours (not against them)
- Look for sheltered locations beside woodland
- Make use of natural hollows
- void full frontal locations where bad weather can damage buildings
- Avoid north facing sloping sites (difficult to achieve good passive solar gains)
- Look for sites with at least two boundaries in situ and preferably three

- Look for sites that face south (easy to achieve good passive solar gains).
48. It also includes design principles that have been considered as part of the assessment:
- Get the size and scale right relative to what is existing.
 - Understand and reflect the character and layout of the group in terms of the relationship between buildings and landscape.
 - Avoid the use of typical suburban features such as dormer and bay windows, porticos and pediments on the building and concrete kerbs, tarmac, blockwork walls, pre-cast concrete fencing and ornate gates and lampposts around the site.
 - Retain existing hedgerows, boundaries and mature vegetation.
 - Acknowledge building lines and informal setbacks.
 - Maximise rural landscape treatments such as gravelled lanes and driveways, grass verges and local native species for new planting.
49. With regards to waste water treatment, 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.

Assessment

Replacement Dwellings

50. The first step of the policy test is to demonstrate that the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact as set out in the SPPS.

51. Within a supporting statement provided in support of the application, the following points are made relative to this current application:
- The buildings to the south (site A) consists of several buildings in various state of repair and missing their roof coverings.
 - The long linear building is of stone construction and has the form and layout of a traditional small farm holding.
 - The central part has the layout of a small dwelling with external and internal door opening and window openings of the shape and form of a dwelling with timber heads over the openings and the reveals splayed. This type of details not engaged in agricultural buildings and loft access door and the remains of a fireplace reinforces the case that this building was a dwelling.
 - The group of buildings associated with site A appear to sit within their own curtilage with the private access lane and clear front and rear areas.
52. At section 4 of the planning statement, reference is made to Griffiths Valuation information around 1860 and that this information shows the buildings and associated land were two farm holdings and held in separate ownership and each contained a house, office and land. It is noted that the valuation entry refers to lands 76 and 77 and the map indicates 76 and 77A.
53. Reference is made to the areas given in the Griffiths Valuation being checked against it accompanying boundary map and that this check allows the conclusion to be reached that the areas of lands 76 and 77A equate with the current fields areas as outlined on OSNI Ace Map and recorded in the Griffiths Maps.
54. The supporting statement also makes reference to the two properties being developed over time as evidenced in Historical Ordnance Maps. The view is expressed that whilst these maps do not demonstrate ownership they demonstrate to a point that they were separate properties at the time of the Griffiths valuation.
55. Reference is also made to the oldest maps uncovered dating from 1829-1835 and that these maps shows two distinct buildings within separate curtilages.
56. The next maps dates evidenced are from 1838-1862 and reference is made to these showing two distinct buildings within separate curtilages but with the additional of small additional buildings and what could be front and rear yards.
57. Maps dated from 1900-1932 shows two distinct buildings within separate curtilages additional and front and rear yards.
58. Maps dated from 1916-1957 show the two distinct buildings within separate curtilages additional and front and rear yards and perhaps more buildings.
59. The supporting statement concludes by stating:

The evidence and in particular the Griffiths valuation and the retained existing features and domestic characteristics including the physical layout, relationship, built form, massing and materials used all in direct that there were 2 dwellings set on separate small farm holdings. In both cases the structural walls are substantially intact and there are clear characteristics of dwellings at each and the proposals can comply with all other planning policies. Therefore both application satisfy planning policy and should be approved.

60. In consideration of the evidence presented and from inspection of the subject building the external walls are substantially intact and a fireplace is noted internally within the building. That said, following a more detailed inspection of the subject building it is considered that extensive alterations to the external walls which is relatively recent, without the benefit of planning approval and more than minor repairs.
61. This is evident from differences in colour/hue between the original stonework and the recently introduced stonework with the recent stone and cement pointing differentiated from original stonework due to its lack of weathering.
62. It is considered that the majority of the northern gable end of the building has been built from new stone. This includes a door opening with a wooden lintel on top which also appears to be relatively new, given its character.
63. The majority of the western (long) wall is considered to have also been re-built utilising new stone with a wooden lintel placed above the remains of a window opening which again is not weathered to the same extent as other elevations.
64. The eastern wall of the building is the only elevation that is substantially intact comprising original stone. Some works have taken place to fix up the window opening with a new stone lintel and 'new' cement although this work has not held.
65. There is a barn type structure attached to the subject building to the south. Its walls consist of original stone work with doors propped up within the eastern elevation. This section of the building is seen to be overgrown with the gable wall covered with ivy.
66. Planning Appeal Decision 2020/A0025 provides some guidance in respect of cases where buildings appear to have been rebuilt. At paragraph 12 it states that

Policy CTY3 is entitled 'replacement dwellings' and it explicitly states, 'the building to be replaced' (emphasis added). The policy wording relates to one and the same building. It does not envisage a rebuild from a ruin or a new building.

67. Having regard to this decision and given the degree of intervention to the structure in terms of the construction of new walls, lintels and cement pointing it is considered that the building which this application relates to does not comply with the policy and as such no replacement opportunity exists.

68. The Griffiths Valuation evidence presented in support of the application is not disputed. That said, the use of the subject building for residential purposes has long been abandoned and the building has as a result, fallen into a state of severe disrepair. There are no other features other than the remnants of a fireplace that could be considered essential characteristics. This is not sufficient on its own to demonstrate the requirement of the policy is met.
69. For the reasons outlined above, the proposal is considered to be contrary to Policy COU1 and COU3 of the Plan Strategy as there is no substantially intact structure that exhibits the essential characteristics of a dwelling within the site.
70. With regard to the balance of the policy tests (a) – (c), the detail demonstrates that the proposed replacement dwelling will be sited within the established curtilage of the property with its footprint shown to largely cover that of the existing building.
71. Whilst no detail is provided it is considered that a dwelling of appropriate rural design, scale and massing could be positioned within the site so as not to ensure that the development would not have a visual impact significantly greater than the existing building. A dwelling could also be designed to be of high quality and appropriate to its rural setting.
72. For the reasons outlined above, criteria (a), (b) and (c) are capable of being met.

Integration and Design of Buildings in the Countryside

73. Taking into account the topography and the existing vegetation, it is considered that a dwelling could be sited and designed so as not to be a prominent feature within the local landscape. Criteria (a) is capable of being met.
74. Detail indicates that the proposed dwelling will be positioned on the footprint of the existing structure. For this reason, it is considered to be sited within the established building. Criteria (b) is met.
75. With regard to criteria (c), the development is capable of being sited so as to blend into the landscape using the existing band of mature landscaping to the east of the proposed dwelling. Slightly rising topography to the north of the site would also provide a backdrop.
76. Whilst the site lacks long established natural boundaries, the presence of sporadic tree hedge planting to existing boundaries would if supplemented provide a suitable degree of enclosure for an appropriately designed dwelling. For this reason, criteria (d) and (e) are capable of being met.
77. The application is an outline application and as such, no design details are submitted. That said, a dwelling could be sited and designed so as not to have any significantly greater visual impact than the building that once occupied the site. Criteria (f) is capable of being met.

78. The ancillary works are mainly comprised of a new access which is required to achieve a better standard of visibility. Given the nature of the site in respect of its topography it is considered that required ancillary works required to reinstate and access would be minimal. All the other ancillary works associated with the installation of a septic tank underground and connecting to existing overhead utilities which are an existing feature of the landscape would be minimal. Criteria (g) is capable of being met.

COU16 - Rural Character

79. The proposed dwelling could be sited so as not to be prominent in the landscape and it can be sited to cluster with an established group of former farm buildings. These matters are dealt with in the preceding section and for the same reasons criteria (a) and (b) are met.
80. The proposed dwelling is shown indicatively on drawing 02B to be orientated to the road to be largely on the same footprint of the previous dwelling with the same distance of setback from the road. This proposal is consistent with the established pattern of settlement for these reasons and the requirement of criteria (c) is met.
81. This site is not adjacent to the settlement of Dromara to mar the distinction between a settlement and the surrounding countryside and as an existing dwelling is replaced largely in situ it does not result in urban sprawl. Furthermore, a dwelling could be sited, designed and oriented to ensure that no adverse impact on residential amenity or rural character occurs. Criteria (d), (e) and (f) are considered to be met.
82. Whist the red line now extends to the public road, a condition restricting the curtilage in keeping with the existing would be necessary to ensure that the development has access only to the road and does not then add to a ribbon of development along the road frontage.

Policy WM2 - Waste Management

83. Environmental Health and Water Management Unit were consulted and offer no objections in principle.
84. Advice from Water Management Unit refers to standing advice and explains that the onus is on the applicant to ensure that all other regulatory consents are in place.
85. Consideration of flood risk is included as a criteria for assessment in policy WM 2. This proposal is not of sufficient scale to require the submission of a flood risk assessment and consent to discharge is required as a parallel consent process. Foul and storm discharge is normally through a soakaway designed to an appropriate standard. No flood risk is identified.

Access and Transport

86. The proposal seeks permission for a replacement dwelling with alterations required to an existing access for both vehicular and pedestrian use.
87. DfI Roads have been consulted and offer no objection subject to standard conditions.
88. Taking the above into account it is considered that the development as proposed satisfies the policy requirements of Policy TRA2 in that the alterations will not prejudice road safety or significantly inconvenience the flow of vehicles.

Natural Heritage

89. Ecology information submitted in support of the application provides details on bat and badger activity. Whilst the survey information relates to both sites, it does seem to focus on the building adjacent referred to as an outbuilding in the survey report.
90. The bat emergence survey dated August 2021 confirms that no bats were seen to emerge from the derelict outbuilding and that a moderate level of commuting and foraging activity by a small number of bats was detected through the survey session along the mature vegetation located west of the outbuilding.
91. A badger mitigation plan submitted in December 2021 shows the indicative replacement house and garage well clear of the badger protection zone and retaining the two trees that have been referred to as having moderate bat roost potential and these trees are identified to be retained.
92. The badger activity assessment report identified an outlier sett along a site boundary to the south. A 30 metre buffer zoned is indicated on drawings.
93. Natural Environment Division and Water Management Unit have been consulted and offer no objection subject to condition.
94. Based on a review of the information submitted in support of the application and the advice from consultees, it is considered that the proposal complies with Policy NH5 of the Plan Strategy and that the development will not result in an unacceptable adverse impact on or damage to habitats, species or features of Natural Heritage Importance.

Built Heritage

95. The site contains part of the monument DOW 021/027, noted from curving field boundaries in the 1930's OS map, and according to the HERoNI record it may not be an archaeological site. The application site also contains a building marked on the 1st Edition Ordnance Survey Map.

96. Advice received from Historic Environment Division [Monuments] confirms that the impacts of the proposal have been considered and no objection is raised subject to conditions for the agreement and implementation of a developer funded programme of archaeological works.
97. The purpose of this programme of works is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ consistent with Policy HE4 of the Plan Strategy.
98. The advice of the consultee is accepted and it is not considered that the proposed development will result in the loss of a feature of built heritage.

Conclusions

99. For the reasons outlined above, the proposal fails to meet the requirements of policies COU1 and COU3 of the Plan Strategy.

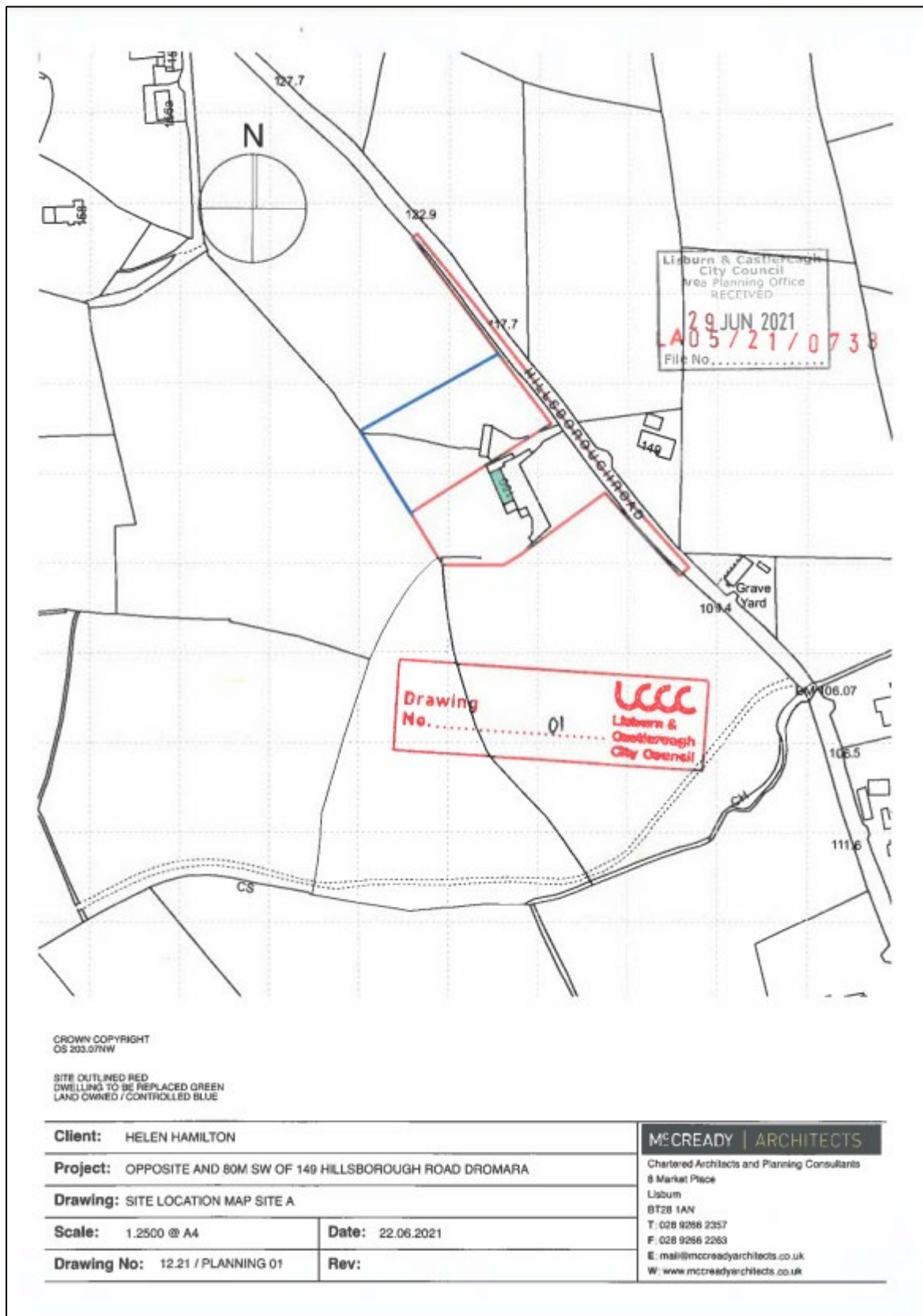
Recommendations

100. It is recommended that planning permission is refused

Conditions

101. The following refusal reasons as recommended:
 - The proposal is contrary to paragraph 6.73 of the SPPS, and policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy in that the proposed development is not acceptable in the countryside.
 - The proposal is contrary to policy COU3 of the Lisburn and Castlereagh City Council Plan Strategy in that the building identified to be replaced is not the original structure nor does it exhibit the essential characteristics of a dwelling.

Site Location Plan – LA05/2021/0738/O



Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	06 November 2023
Committee Interest	Local Application (Exceptions Apply)
Application Reference	LA05/2022/0247/F
Date of Application	08 March 22
District Electoral Area	Castlereagh South
Proposal Description	Reconfiguration of public open space at Baronsgrange Park and erection of 9 additional dwellings (6 semi-detached and 3 detached) to support connectivity works
Location	Baronsgrange, Comber Road, Carryduff, BT8 8AN
Representations	Thirty six
Case Officer	Brenda Ferguson
Recommendation	APPROVAL

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—

- (a) *a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*
- (b) *any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

[4] Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

4. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications.
5. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

6. This is a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that the application requires a section 76 agreement to secure the delivery of affordable housing at this location; the delivery of a pedestrian bridge over the Carryduff River which will connect the Baronsgrange development with Carryduff Park and to secure a financial contribution for the improvement of footpaths in the park in lieu of providing open space and play facilities in the Baronsgrange development.

7. The proposal complies with policy OS1 of the Plan Strategy in that the loss of an area open space is accepted as an exception as it is considered that the benefits of the pedestrian linkage and connectivity to Carryduff Park outweigh the loss of open space and play facilities within the Baronsgrange residential scheme.
8. It is also considered that the detailed layout and design of the residential units creates a quality residential environment in accordance with the requirements of policies HOU1, HOU3, HOU4 and HOU5 of the Plan Strategy and when the buildings are constructed, they will not adversely impact on the character of the area nor will they have a detrimental impact on the amenity of existing residents in properties adjoining the site.
9. Furthermore, the density is not significantly higher than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area.
10. It is considered that the proposal is also in accordance with the requirements of policy HOU10 of the Plan Strategy in that it has been demonstrated that alternative provision is to be made in the same general location of the site for affordable housing.
11. The proposal complies with policy and NH 5 of the Plan Strategy in that the detail demonstrates that the development is not likely to result in the unacceptable adverse impact on, or damage to known habitats, species or features of Natural Heritage Importance.
12. The proposed complies with policy TRA1 the Plan Strategy in that the detail demonstrates that an accessible environment will be created through the provision of footways and pedestrian crossing points.
13. It is also considered that the development complies with policy TRA2 of the Plan Strategy in that the detail submitted demonstrates that the creation of new access will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.
14. The proposal is considered to comply with policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided so as not to prejudice road safety or inconvenience the flow of traffic.
15. The proposal also complies with policy TRA8 in that the funding of a pedestrian bridge linking the wider development to the Carryduff Park. This makes for a more permeable neighbourhood and promotes cycling and walking as an alternative to the use of the car.

16. The proposed development complies with policy tests set out in policies FLD 1 and FLD 3 of the Plan Strategy in that the site lies outside the 1 in 100 year fluvial flood plain and the detail submitted demonstrates that adequate drainage can be provided within the site to service the proposal.

Description of Site and Surroundings

Site

17. The proposed site is located within a maintained area of existing open space in Baronsgrange. The land slopes down towards the south west where the land abuts the Carryduff River.

Surroundings

18. The Carryduff Park is located beyond the site to the south west. To the north east the site is bounded by existing housing in Baronscourt Park. A further maintained area of open space lies to the south-west.
19. Lands to the south east of Baronsgrange development are in industrial/commercial use and the Carryduff Park, an area of public open space, lies to the west and north-west.

Proposed Development

20. The application is for full planning permission for the reconfiguration of public open space on Baronsgrange Park and the erection of nine dwellings (6 semi-detached and 3 detached).
21. This proposal is considered in conjunction with planning application LA05/2022/0249/F which provides for the bridge and pedestrian link between Baronsgrange, Baronscourt Park and the Carryduff Park.

Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2022/0249/F	Amendments to planning permission reference Y/2009/0160/F: construction of foot bridge across the Carryduff River between Baronsgrange Park and Carryduff Park and erection of 1 additional dwelling	Baronsgrange Development (under construction-planning permission reference Y/2009/0160/F) Comber Road, Carryduff, BT8 8AN	Pending
Y/2009/0160/F	Residential development comprising apartments, semi-detached and detached dwellings (total yield of 380 dwelling units), mixed use centre, public and private open and ancillary infrastructure (amended plans)	Lands to the East and the South of the Baronscourt Development and to the North of Edgar Road and the Comber Road, Carryduff, Castlereagh.	Permission granted 10/03/17
Y/2006/0598/RM	Site for residential development (386 Dwellings) (additional information - landscaping and off site road works details)	Lands to the East and South of the Baronscourt development and to the north of Edgar Road and the Comber Road, Carryduff.	Application withdrawn
Y/1999/0339/O	Site for residential development including mixed use centre	Lands to the east and south of the Baronscourt development and to the north of Edgar Road and Comber Road, Carryduff, Castlereagh.	Permission granted May 2004

23. The housing scheme currently under development is being carried out in accordance with application Y/2009/0160/F. The developer seeks to vary that

permission by providing access to Carryduff Park via a pedestrian bridge. This is to offset their obligation in relation to the provision of play in the development and will result in the loss of an area of existing open space. The housing offsets the cost of the bridge but the developer recognises the impact of increased footfall in the park and proposes to upgrade the footpaths via a financial contribution to the Council for these works.

Consultations

24. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
DFI Rivers	No Objection
LCCC Environmental Health	No Objection
NI Water	No Objection
Natural Heritage	No Objection
DAERA Water Management Unit	No Objection

Representations

25. Thirty six representations in opposition to the proposal have been submitted. The following issues are raised:

- Construction of additional dwellings not in keeping with surrounding area and not what was originally proposed
- Designated open space that was not supposed to be built upon
- Assurances given to residents that outside areas for leisure and open green space would be preserved
- Surface water drainage issues ongoing and this will add to these issues
- Overdevelopment
- Parking, congestion and safety issues for residents
- Disturbance and noise from development
- Impact on local wildlife
- No added value or community benefits
- Detached dwelling on site 401 will cause overlooking, over-dominance and loss of views/privacy for dwelling opposite.
- Density significantly higher than before

- Policy QD1 states that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Replacement of open space with dwelling is in direct conflict with policy and at odds with green space approved under application Y/2009/0160/F
- Proposal, if approved, could set a precedent for other similar developments on open space areas
- Cycle path that is planned to run through the area will now double up as a footpath
- Baronsgrange boundary line is being re-configured and site 401 is pushed back with boundary extended
- View when travelling along Baronsgrange Park will be the rear of a property and a boundary fence/brick wall.
- Objection to playpark within development
- Concerns over the existing boundary hedging that runs along Baronscourt Park
- Further devastation on local wildlife due to development of more open space lands
- Construction of bridge is a further obstacle in way of enjoyment of maintained open spaces
- Safety concerns in respect of the bridge leading to the sprawl of anti-social behaviour from Carryduff Park

26. These issues are considered as part of the assessment below.

Local Development Plan

Local Development Plan Context

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

Plan Strategy 2032

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

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

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

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

29. In accordance with the transitional arrangements the existing BUAP and draft BMAP remain material considerations.
30. In both the statutory development plan and the draft BMAP, the application site is identified as being within the defined Settlement Development Limit of Carryduff.
31. Within draft BMAP the land is located within an area zoned for housing.
32. The policies in the BUAP were superseded by the incremental introduction of regional policy over time. There are equivalent policies in the Plan Strategy to the regional policies described in draft BMAP.
33. This site is an existing area of open space. Strategic Policy 17 – Open Space, Sport and Outdoor Recreation states that:

The Plan will support development proposals that:

- (a) Protect and enhance existing open space and provide new open space provision*
- (b) Support and protect a network of accessible green and blue infrastructure*
- (c) Support and promote the development of strategic and community greenways.*

34. Housing is proposed on existing open space. Strategic Policy 01 – Sustainable Development states that:

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

35. Strategic Policy 03 – Creating and Enhancing Shared Space and Quality Places states that:

The Plan will support development proposals that contribute to the creation of an environment which is accessible to all and enhances opportunities for shared communities; has a high standard of connectivity and supports shared use of public realm. Good quality housing that supports more balanced

communities must offer a variety of house types, sizes and tenures to meet different needs.

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

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

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

37. Strategic Policy 05 – Protecting and Enhancing the Environment states that:

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

38. More than five dwellings are proposed and Strategic Policy 07 – Section 76 Agreements states that:

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

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

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

39. Strategic Policy 08 Housing in Settlements states that

The Plan will support development proposals that:

- a) *are in accordance with the Strategic Housing Allocation provided in Table 3*
- b) *facilitate new residential development which respects the surrounding context and promotes high quality design within settlements*
- c) *promote balanced local communities with a mixture of house types of different size and tenure including affordable and specialised housing*
- d) *encourage compact urban forms and appropriate densities while protecting the quality of the urban environment.*

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

Open Space, Sport and Outdoor Recreation

41. The proposal involves the loss of an area of existing open space. Policy OS1 Protection of Open Space states that:

Development that will result in the loss of existing open space or land zoned for the provision of open space will not be permitted, irrespective of its physical condition and appearance.

An exception will be permitted where it is demonstrated that redevelopment will bring substantial community benefits²⁴ that decisively outweigh the loss of the open space.

An exception may also be permitted where it is demonstrated that the loss of open space will have no significant detrimental impact on amenity, character or biodiversity of an area in either of the following circumstances:

- a) *an area of open space of 2 hectares or less, where alternative provision is made by the developer and is as accessible to current users and equivalent in terms of size, usefulness, attractiveness, safety and quality;*
- b) *playing fields and pitches within settlement limits, where it is demonstrated by the developer that the retention and enhancement of that facility can only be achieved by the development of a small part of the existing open space, limited to a maximum of 10% of overall area, which will have no adverse impact on the sporting potential of the facility*

Housing in Settlements

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

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

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

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

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

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

- a) *the development respects the surrounding context, by creating or enhancing a local identity and distinctiveness that reinforces a sense of place, and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.*
- b) *archaeological, historic environment and landscape characteristics/features are identified and, where appropriate, protected and suitably integrated into the overall design and layout of the development.*

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

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

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

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

- a) *the design of the development must draw upon the best local architectural form, materials and detailing*
- b) *landscaped areas using appropriate locally characteristic or indigenous species and private open space must form an integral part of a proposal's open space and where appropriate will be required along site boundaries to*

- soften the visual impact of the development and assist in its integration with the surrounding area*
- c) *where identified as a Key Site Requirement adequate provision is made for necessary local community facilities, to be provided by the developer*
- d) *residential development should be brought forward in line with the following density bands:*
- *City Centre Boundary 120-160 dwellings per hectare*
 - *Settlement Development Limits of City, Towns and Greater Urban Areas: 25-35 dwellings per hectare*
 - *Settlement Development Limits of Villages and small settlements 20-25 dwellings per hectare.*
 - *Within the above designated areas, increased housing density above the indicated bands will be considered in town centres and those locations that benefit from high accessibility to public transport facilities*
- e) *a range of dwellings should be proposed that are accessible in their design to provide an appropriate standard of access for all. The design of dwellings should ensure they are capable of providing accommodation that is wheelchair accessible for those in society who are mobility impaired. A range of dwelling types and designs should be provided to prevent members of society from becoming socially excluded*
- f) *dwellings should be designed to be energy and resource efficient and, where practical should include integrated renewable energy technologies to minimise their impact on the environment*
- g) *a proposed site layout must indicate safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks; meet the needs of mobility impaired persons; and respect existing public rights of way*
- h) *adequate and appropriate provision is made for car and bicycle parking including where possible electric vehicle charging points*
- i) *the design and layout must not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance*
- j) *the design and layout should where possible include use of permeable paving and sustainable drainage*
- k) *the design and layout design must demonstrate appropriate provision is made for householder waste storage and its collection can be facilitated without impairment to the access and maneuverability of waste service vehicles*
- l) *the development is designed to deter crime and promote personal safety.*
- m) *Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.*

45. The Justification and Amplification states that:

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

46. It also states that:

Accessible Accommodation

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

47. As this is a modification to a much larger scheme and given the scale of residential development previously approved on the wider lands the need for public open space and play is still considered as part of the proposed development. Policy HOU5 - Public Open Space in New Residential Development states that:

Adequate provision must be made for green and blue infrastructure in public open space and for open space that links with green and blue infrastructure where possible and provides pedestrian and cycle linkages to nearby public amenity spaces. Proposals for new residential development of 25 or more units, or on sites of one hectare or more, must provide public open space as an integral part of the development, subject to the following:

- a) *the open space must be at least 10% of the total site area*
- b) *for development proposals of 300 or more units, or on sites of 15 hectares or more, the open space must be at least 15% of the total site area.*

The following exceptions to the above open space provision will apply where:

- a) *the residential development is designed to integrate with and make use of adjoining public open space*
- b) *the provision of open space below 10% of the total site area if the proposal is located within a city or town centre or it is demonstrated that it is close to and would benefit from ease of access to existing public open space*
- c) *in the case of apartment developments or specialist housing (see Policy HOU11) where a commensurate level of private communal open space is being provided.*

Development proposals of 100 units or more, or on sites of 5 hectares or more, must be provided with an equipped children's play area unless one already exists within a reasonable and safe walking distance (generally around 400 metres) of the majority of the units within the proposal.

Public open space required by this policy will be expected to conform to all of the following criteria:

- *it is designed as an integral part of the development with easy and safe access from the dwellings*
- *it is of demonstrable recreational or amenity value*
- *it is designed, wherever possible, to be multi-functional*
- *its design, location and appearance takes into account the needs of disabled*

- persons and it respects the amenity of nearby residents
 - landscape and heritage features are retained and incorporated in its design and layout.

In all cases developers will be responsible for the laying out and landscaping of public open space required under this policy.

Developers must demonstrate 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.

48. As more than five dwellings are proposed there is a need to make provision for affordable housing. Policy HOU10 - Affordable Housing in Settlements states that:

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

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

In exceptional circumstances where it is demonstrated that the affordable housing requirement cannot be met, alternative provision must be made by the applicant, or an appropriate financial contribution in lieu must be agreed through a Section 76 Planning Agreement. Such agreements must contribute to the objective of creating mixed and balanced communities.

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

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

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

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

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

49. The Justification and Amplification states that:

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

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

Affordable Housing – affordable housing is:

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

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

Affordable housing which is funded by Government must remain affordable or alternatively there must be provision for the public subsidy to be repaid or recycled in the provision of new affordable housing.

Natural Heritage

51. Given this is an existing area of open space, the potential impact on the natural environment is considered. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states that:

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

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

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

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

Access and Transport

52. The proposal involves the use of an unaltered access connecting Baronsgrange Park to Baronsgrange Gardens. Policy TRA1 - Creating an Accessible Environment states that:

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

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

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

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

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

53. Policy TRA 2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

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

54. The justification and amplification states that:

For development proposals involving a replacement dwelling in the countryside, there an existing access is available but does not meet the current standards,

the Council would encourage the incorporation of improvements to the access in the interests of road safety.

55. Policy TRA7 Carparking and Servicing Arrangements in New Development states that:

Development proposals will provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to published standards³³ or any reduction provided for in an area of parking restraint designated in the Local Development Plan.

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

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

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

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

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

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

56. Pedestrian access and cycling is taken account of in the design of the proposed development and a pedestrian bridge is proposed linking the wider neighbourhood to the Carryduff Park. Policy TRA 8 – Active Travel Networks and Infrastructure Provision states that:

Planning permission will only be granted for proposals where public transport, walking and cycling provision forms part of the development proposal. A Transport Assessment/Travel Plan or, if not required, a supporting statement should indicate the following provisions:

- a) *safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks*

- b) the needs of mobility impaired persons; and respect existing public rights of way*
- c) safe, convenient and secure cycle parking.*

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

Flooding

- 57. The drainage for the scale of development proposed must be designed to take account of the impact on flooding elsewhere.
- 58. Policy - FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states:

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

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

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

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

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

Regional Policy and Guidance

Regional Policy

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

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

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

61. It states that:

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

62. Paragraph 3.6 of the SPPS states:

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

63. 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.

64. 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.

65. The proposal involves the erection of an additional dwelling in an existing housing development. It is stated at paragraph 6.136 that:

The policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. This approach to housing will support the need to maximise the use of existing infrastructure and services, and the creation of more balanced sustainable communities.

66. Paragraph 6.205 of the SPPS states that:

There will be a policy presumption against the loss of open space to competing land uses in Local Development Plans (LDPs) irrespective of its physical condition and appearance. Any exception to this general approach should only be appropriate where it is demonstrated that redevelopment would bring substantial community benefit that outweighs the loss of the open space; or where it is demonstrated that the loss of open space will have no significant detrimental impact.

67. Paragraph 6.206 of the SPPS 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

Retained Regional Guidance

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

Creating Places

69. The policy requires the guidance in the 'Creating Places – Achieving Quality in Residential Developments' (May 2000) to also be considered.

70. 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.

71. Paragraph 7.16 provides guidance on separation distances stating:

Where the development abuts the private garden areas of existing properties, a separation distance greater than 20 metres will generally be appropriate to minimise overlooking, with a minimum of around 10 metres between the rear of new houses and the common boundary.

72. Paragraphs 5.19 – 5.20 provides guidance on the level of private open space provision as follows:

Provision should be calculated as an average space standard for the development as a whole and should be around 70 square metres per house or greater. Garden sizes larger than the average will generally suit dwellings for use by families. An area less than around 40 square metres will generally be unacceptable.

Development Control Advice Note 8 - Housing in Existing Urban Areas

73. Paragraph 4.10 states that:

Planning Service will expect applicants and designers to carry out an appraisal of the local context, which takes into account the character of the surrounding area; and new development should respect the architectural, streetscape and landscape character of the area.

Assessment

Policy OS1 Protection of Open Space

74. There is a presumption against development that will result in the loss of existing open space irrespective of its physical condition and appearance.
75. The development associated with this application is considered to be necessary to enable development associated with planning application LA05/2022/0249/F in so far as it relates to the provision of a bridge to facilitate a link between Baronsgrange and the Carryduff Park.
76. A financial contribution derived from this development to resurface pathways within the Carryduff Park due to increased footfall along with the offer by the developer to construct and maintain the pedestrian bridge.
77. The history provides important context in this regard in that the original outline application for residential development on the wider housing zoning showed pedestrian linkage to the Carryduff Park.
78. The provision of infrastructure associated with the bridge was removed from the a subsequent full application [Y/2009/0160/F] when it was amended to provide for 380 dwellings as opposed to 400 dwellings as envisaged as part of the overall concept master plan for the wider development at Baronsgrange. It was always the intention to revisit the connection at a later stage.
79. Whilst Policy OS 1 states that there is a presumption against the loss of existing open space irrespective of its physical condition and appearance, it does however allow for an exception to be permitted where it is demonstrated that the redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.
80. In this case, a statement is submitted in support of the application. It demonstrates the benefits of that the proposed footbridge connecting

Baronsgrange to Carryduff Park offers wider community benefits to the neighbourhood by increasing overall permeability. Once constructed, it will enable the residents of Baronsgrange, Baronscourt, Manse and Carleton Hill areas to directly access Carryduff Park by foot and cycle without needing to use the main roads.

81. A number of letters of support received in relation to the proposed development advance the argument that the provision of the bridge will provide necessary links to the Carryduff Park and local shopping facilities without the need to travel to the Comber Road where there is heavier traffic and footpaths which are often obstructed by large vehicles.
82. It is further acknowledged that the bridge connection was always envisaged in the original design concept for Baronsgrange. It is also acknowledged that this link will form part of a community greenway for Carryduff as part of an overall Master Plan for connectivity. The applicant is revisiting what was considered to be a developer commitment before.
83. The substantial community benefits that will be gained through the loss of this area of open space for 9 dwellings and another dwelling proposed under LA05/2022/0249/F is considered to carry significant weight in this assessment.
84. Furthermore, it is considered that the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity as no mature trees are required to be felled to facilitate the housing and a small landscaped area of public open space is still to be retained north of the bridge. The loss of amenity space is minimal.
85. The provision and maintenance of the bridge is required to be secured through a Section 76 agreement with permission provided by the Council to land the bridge on Council Owned land.
86. For the reasons outlined above, the policy tests of OS1 are met.

Policy HOU1 New Residential Development

87. This application is for nine additional residential units along with the reconfiguration of an area of public open space within the settlement limit of Carryduff.
88. The site associated with the application is on land zoned for housing in draft BMAP. Housing within the Baronsgrange development is largely complete and occupied and as such, the policy tests associated with policy HOU1 are considered to be met.

Policy HOU3 Site Context and Characteristics of New Residential Development

89. Baronsgrange is characterised by a mixture of house types including two storey detached, semi-detached and terraced properties the majority of which are orientated to face the public road. Finishes are mainly red/brown brick with pitched slate roofs.

90. Car parking is mainly in curtilage with private driveways evident to the front and side of the majority of properties.
91. A Design and Access Statement (Planning Report) submitted in support of the application indicates that the layout has been amended to remove the apartment units 401-404 and replace this block with a single dwelling. The play park area has also been removed to the south and replaced in part with a landscaped open space area with paths providing connectivity to developments at Baronscourt Drive and Carryduff Park.
92. The proposed dwellings are two-storey in height with a maximum ridge height of 9.1 metres in keeping with the remainder of the development. Car parking is shown to be in curtilage.
93. For the reasons outlined above, the proposed development will respect the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of the 9 dwellings, landscaped and hard surfaced areas. Criteria (a) is considered to be met.
94. No archaeological, historic environment or landscape characteristics/features have been identified that require to be integrated into the overall design/layout. Criteria (b) is considered to be met.

Policy HOU4 Design in New Residential Development

95. The layout as shown on the proposed drawing [14C] published to the Planning Portal on 15 August 2023 demonstrates that there are a number of different house types proposed. A sample description of some of these house types is outlined below.
96. Site 401 is a two-storey detached triple fronted dwelling with a ridge height of 9.1 metres above finished floor level. It is finished in clay facing brick and render with plain concrete roof tiles and comprises a kitchen/family area, lounge and hall with WC at ground floor level and the first floor comprises four bedrooms, one with en-suite, and separate family bathroom.
97. Sites 402-405 are semi-detached with a slightly smaller footprint. The external finishes are the same as above with a similar but smaller layout at ground floor level and three bedrooms at first floor level.
98. Site 406 is occupied by a two storey detached dwelling. Finishes are same as other sites and the proposed ridge height is 8.8 metres.
99. Sites 407-408 are semi-detached dwellings with single storey garden rooms to the rear. Finishes are same as other house types and ridge height is 9 metres.
100. Finally, site 409 is two storey detached with a single storey sunroom to the rear. Finishes again are as per the other sites. Ridge height is 8.8 metres.

101. In terms of layout, the detail associated with the proposed layout ensures that the building line along Baronsgrange Park is respected and in line with the dwellings north and north east of the site with House type 401 having three sided frontage to this road, to the pedestrian/cycle path connecting the site with Baronscourt Drive and towards the Baronscourt Park.
102. The dwellings are orientated to face the access road within curtilage parking provided along with front and rear gardens proposed for each unit.
103. The detail of the proposed layout demonstrates that there are appropriate separation distances between the proposed dwellings and existing dwellings opposite the site so as not to have an adverse impact on residential amenity. The distances from the rear elevation of the proposed dwellings to the common boundary at the rear of Baronscourt Park varies from a minimum of 8 metres at sites 401 and 403 to a maximum of 24 metres at site 409.
104. Externally, site 401 is a minimum of 21 metres to the closest dwelling in Baronscourt Park and site 403 is a minimum of 18 metres to the closest dwelling in Baronscourt Park. These separation distances are considered to be acceptable in line with guidance stipulated in the Department's Creating Places document.
105. The layout of the rooms in each of the units, the position of the windows along with the separation distance also ensures that there is no overlooking into the private amenity space of neighbouring properties. The buildings are not dominant or overbearing and no loss of light would be caused.
106. The proposed house types are considered to have a modern design which complements the surrounding built form, the variation of material finishes of brick and smooth render adds to streetscape. The proposed design and finishes are considered to draw upon the materials and detailing exhibited within the surrounding area and will ensure that the units are as energy efficient as possible.
107. For the reasons outlined above, criteria (a), (e), (f) and (i) are considered to be met.
108. Detail submitted with the application demonstrates that the provision of private amenity space varies from 79 square metres to a maximum of 219 square metres. As an average, 132 square metres is provided across the site which is in excess of the standards contained with Creating Places for a medium density housing development made up of three and four bedroom dwellings.
109. The amended landscape plan and schedule submitted in support of the application illustrates that the existing hedging that currently runs from the end of Baronscourt Park up until 7 Baronscourt Gardens will be retained and replenished with similar native species where required. Where the small portions of hedging are to be removed to facilitate sites 401 and 402, this will be replaced with soft landscaping at the boundary with Baronscourt Park.

110. The landscape plan also demonstrates the proposed pedestrian path that runs from Baronscourt Park through to Baronsgrange Park which then intends to connect with the footbridge into the Carryduff Park (proposed as part of a separate application LA05/2022/0249/F).
111. The proposed site layout drawing includes details of other internally boundary treatments including timber fencing and a brick wall that wraps around the private amenity space of site 401.
112. Section 6.0 of the Landscape Management Plan provides details on general maintenance activities with maintenance responsibility transferring to an appointed resident's management company.
113. For the reasons outlined above, criteria (b) is considered to be met.
114. There is no requirement for the provision of a local community or neighbourhood facility for this scale of development. That said, it is noted that the connectivity through to the Carryduff Park will open up pedestrian access for residents to the local shops within Carryduff.
115. With regard to criteria (d) the proposed density is not significantly higher than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area. The average unit size exceeds space standards set out in supplementary planning guidance.
116. The internal road layout provides for safe and convenient access through the site and the provision of dropped kerbs and tactile paving will also serve to meet the needs of mobility impaired persons. Proposed speed cushions are also to be provided along the Baronsgrange Park which will allow for speed control measures to ensure road safety standards are met. Adequate and appropriate provision is also made for in curtilage parking which meets the required parking standards. Criteria (g) and (h) are considered to be met.
117. The careful delineation of plots with appropriate fencing will serve to deter crime and promote personal safety. Criteria (l) is considered to be met.
118. Provision can be made for householder waste storage within the driveways for each unit and its safe collection can be facilitated without impairment to the access manoeuvrability of waste service vehicles. Criteria (k) is met.

Policy HOU 5 - Public Open Space in New Residential Development

119. Detail submitted with the application indicates that the site exceeds one hectare [1.45] and as such, open space must be provided as an integral part of this development.
120. As explained, that the application site is within lands which were subject to a wider approval for a residential development comprising apartments, semi-

detached and detached dwellings (total yield of 380 dwelling units), mixed use centre, public and private open and ancillary infrastructure (Y/2009/0160/F). This previous proposal included areas of open space as integral parts of the development along with an equipped children's play park.

121. Within the context of policy HOU5 the thresholds and requirements for the provision of open space and play remain the same.
122. For the reasons outlined above, this application provides for a connecting bridge to be provided to an existing area of public open space. A small landscaped area will also remain.
123. Based on a review of the information it is accepted that the tests associated with Policy HOU5 are met and that arrangements will be put in place for the future management and maintenance in perpetuity consistent with policy.

Policy HOU10 – Affordable Housing in Settlement

124. A letter has been provided by the agent to explain that alternative provision will be made for the affordable housing component within the Baronsgrange development.
125. This letter identifies an application that has recently been submitted within Baronsgrange for a twelve unit CAT 1 scheme [LA05/2023/0662/F] and that this application is supported by Alpha Housing Association.
126. The agent has explained that the exception test to policy HOU10 should apply as grouping the apartments in one block creates a number of benefits for the residents in terms of mutual support and a settled community in an older age group that would be lost were the proposal to be approached in a more piecemeal fashion.
127. This is also in addition to the general needs housing already provided within the Baronsgrange development (as conditioned within approval Y/2009/0160/F).
- 128.** It is considered that the agent has demonstrated that alternative provision will be made for affordable housing units elsewhere within the development and as such, the exception test associated with HOU10 can be met subject to section 76 agreement.

Access and Transport

129. The P1 Form indicates that the development involves the use of an existing access to a public road for both vehicular and pedestrian use.

TRA1 – Creating an Accessible Environment

130. Detail associated with the application shows that the vehicular access and internal road layout has been designed to an adoptable standard in accordance with the Private Streets Determination drawing.

131. The drawings submit with the application indicates that none of the dwellings will have garages but that all have in curtilage car parking in line with current standards.
132. DfI Roads have not identified any concerns in relation to the detailed layout, access and arrangement of the parking and requested that final PSD drawings be prepared. The road layout will not change and will not affect the layout of the proposed buildings.
133. For the reasons outlined above, the tests associated with TRA1 are capable of being met.

TRA2 Access to Public Roads

134. The detail submitted demonstrates that the use of the existing access for nine additional dwellings will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.

TRA7 Car Parking and Servicing Arrangements

135. For the reasons outlined earlier in the report, the detail demonstrates that adequate provision for in-curtilage car parking and appropriate servicing arrangements have been provided so as not to prejudice road safety or inconvenience the flow of traffic. The tests associated with Policy TRA7 are capable of being met.

TRA8 Active Travel Networks and Infrastructure Provision

136. The proposal also complies with policy TRA8 in that the funding of a pedestrian bridge linking the wider development to the Carryduff Park. This makes for a more permeable neighbourhood and promotes cycling and walking as an alternative to the use of the car.

Natural Heritage

137. A biodiversity checklist has been submitted in support of the application. The ecological statement associated with this checklist confirms that there will be no impact from the development on natural heritage features. The existing hedgerow that abuts Baronscourt Park is to remain with the exception of a small portion to be removed to facilitate site 401 however it will be replaced with soft landscaping around this boundary.
138. Furthermore, the retention of natural boundaries and provision fences and walls will not detract from the character of the area, the quality of the landscape, heritage and wildlife.

139. For the reasons outlined above, it is considered that the proposal complies with the SPPS and Policy NH 5 of the Plan Strategy in that the detail demonstrates that the development is not likely to result in the unacceptable adverse impact on, or damage to known habitats, species or features of Natural Heritage Importance.

Flooding

140. The site is bound at the south-west by an undesignated watercourse known as Carryduff River. Advice was also provided that the site may be affected by undesignated watercourses for which DfI Rivers has no record. A Drainage Assessment has been submitted for consideration.
141. In consideration of Policy FLD1 DfI Rivers has advised that the Flood Maps (NI) indicates a very small area at the western corner of the development lies within the 1 in 100 year fluvial floodplain. As there is a significant bank elevation at the area of the southern boundary and the built development is outside the flood plain a Flood Risk Assessment is not required on this occasion.
142. Taking the precautionary approach, DfI Rivers recommends that the applicant's agent establishes a Q100 level of the undesignated watercourse which bounds the south of the site and sets the finished floor levels a minimum 600mm above this established level
143. A Drainage and Flood Risk Assessment dated September 2022 by RPS Consultants was submitted in support of the application.
144. With regard to Policy FLD 3, DfI Rivers accepts while not being responsible for the preparation of the Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.
145. Water Management Unit has also considered the impacts of the proposal on the surface water environment and in a response received on 10 March 2022 advised that they had considered the impacts of the proposal on the surface water environment and on the basis of the information provided, they had concerns that that the sewage loading associated with the proposal has the potential to cause an environmental impact if transferred to Newtownbreda Waste Water Treatment Works (WWTW).
146. Water Management Unit recommend that consultation should take place with Northern Ireland Water (NIW) to determine if both the WWTW and associated sewer network would be able to cope with the additional load or whether they would need to be upgraded.
147. WMU also stated that If NIW indicated that the WWTW and associated sewer network is able to accept the additional load, with no adverse effect on the WWTW or sewer network's ability to comply with their Water Order Consents, then Water Management Unit would have no objection to this aspect of the proposal.

148. WMU went on to say that if NIW advise that it is not possible to connect the proposed development to mains sewer then alternative arrangements would be required and an NIEA discharge consent issued under the terms of the Water (Northern Ireland) Order 1999 will be required for the discharge of sewage effluent from the proposed development.
149. NI Water in a response received on 4 October 2022 stated that:
- While there is capacity available at Newtownbreda WWTW, the surrounding foul network could not serve the additional units due to combined storm overflows risk of flooding. A wastewater impact assessment application is required to find a potential solution.*
150. In response to this the agent has confirmed that A wastewater impact assessment has been prepared and submitted to NI Water, which has identified storm off-setting as a solution. He further stated that they are currently in the process of identifying a site for the off-setting in conjunction with NI Water.
151. The agent also confirmed that they would be willing to accept a condition, that has been attached other recent residential proposals, which states that no dwellings should be constructed above sub floor level before a design engineering solution is agreed with NIW which address their concerns.

Consideration of Representations

152. Consideration of the issues raised by way of third party representations are set out in the paragraphs below:

Construction of additional dwellings not in keeping with surrounding area and not what was originally proposed

153. It is concluded that the additional 9 dwellings on this portion of land within the existing Baronsgrange development is in keeping with the surrounding developments in terms of design, scale, massing, height, layout and appearance.

Apartment block will overshadow and overlook property causing loss of privacy

154. The apartment block has been removed from the scheme altogether and replaced with a detached dwelling. Consideration is based on the revised scheme

Designated open space that was not supposed to be built upon

155. The construction of 9 dwellings along with the additional dwelling and construction of the footbridge on lands to the south has been assessed against policy OS1 and it is accepted that the proposal falls under an exception and the

benefits of the linkage to Carryduff Park decisively outweigh the loss of a portion of open space within Baronsgrange.

Assurances given to residents that outside areas for leisure and open green space would be preserved

156. An area of landscaped open space is to remain within the southern portion of the site and it is agreed that there will be significant benefits for residents of Baronsgrange and Baronscourt in terms of connectivity and access to an area of existing open space along with Carryduff Play Park.

Surface water drainage issues ongoing and this will add to these issues

157. A drainage assessment has been submitted for consideration and DfI Rivers have accepted its logic with advice provided. It is concluded that subject to the consideration of advice provided by DfI Rivers within their response no concerns will arise in respect of flooding and drainage within the site.

Overdevelopment

158. The layout, density, footprint and scale of the dwellings proposed are said to be in keeping with the pattern of development in the immediate and surrounding areas. Nine dwellings are considered to be acceptable on the site and in line with Policy HOU4 of the draft Plan Strategy.

Parking, congestion and safety issues for residents

159. DfI Road have commented on the proposal and are content with the existing road layout, access arrangements and parking.

Disturbance and noise from development

160. The onus is on the developer to keep construction noise to a minimum during this phase of the development. Environmental Health have raised no concerns in this respect.

Impact on local wildlife

161. This has been assessed in terms of the potential impact of the development on natural heritage features and it has been concluded that the development is not likely to harm a European protected species nor is it likely to result in the unacceptable adverse impact on, or damage to known habitats, species or features of Natural Heritage Importance.

No added value or community benefits

162. It is agreed that there will be significant benefits for residents of Baronsgrange and Baronscourt in terms of connectivity and access to an area of existing open space along with Carryduff Play Park.

Detached dwelling on site 401 will cause overlooking, over-dominance and loss of views/privacy for dwelling opposite

163. The dwelling has been assessed in terms of separation distances to boundaries and overlooking and it is concluded that the distances between the proposed dwelling and any neighbouring properties is acceptable and in line with Departmental guidance.

Density significantly higher than before

164. The density is considered to be in keeping with the remainder of the dwellings within Baronsgrange and Baronscourt and a quality residential layout will be achieved.

Policy QD1 states that adequate provision is made for public and private open space and landscaped areas as an integral part of the development.

Replacement of open space with dwelling is in direct conflict with policy and at odds with green space approved under application Y/2009/0160/F.

165. As mentioned above an area of landscaped open space is to remain within the southern portion of the site and it is agreed that there will be significant benefits for residents of Baronsgrange and Baronscourt in terms of connectivity and access to an area of existing open space along with Carryduff Play Park that will outweigh the loss of a portion of open space.

Proposal, if approved, could set a precedent for other similar developments on open space areas

166. The application site is assessed on its own merits and is considered to be an exception to the Policy OS1 in terms of the significant community benefits.

Cycle path that is planned to run through the area will now double up as a footpath

167. The path is proposed to allow connectivity between the developments and Carryduff Park and is to facilitate both pedestrian and cyclists.

Baronsgrange boundary line is being re-configured and site 401 is pushed back with boundary extended

168. The boundary has been extended slightly to allow for the landscaped area at the side of site 401. The site layout along with landscaping details and provision of amenity areas have all been considered and are acceptable.

View when travelling along Baronsgrange Park will be the rear of a property and a boundary fence/brick wall

169. Site 401 has been designed to be triple fronted which will give this dwelling the appearance of a front elevation from Baronscourt Park whilst also facing onto the public road with a similar elevation. The brick wall has been designed to

allow privacy to the dwelling in the form of a rear walled garden. Landscaping will be placed around the perimeter which will soften any development at this portion of the site.

Objection to playpark within development

170. This has been removed from the scheme and replaced with landscaped open space.

Concerns over the existing boundary hedging that runs along Baronscourt Park

171. This is to remain and will be replenished with similar native species where required.

Construction of bridge is a further obstacle in way of enjoyment of maintained open spaces

172. It is considered that the bridge will be a benefit to the community in terms of provided direct pedestrian access to an area of existing open space.

Safety concerns in respect of the bridge leading to the sprawl of anti-social behaviour from Carryduff Park

173. The footbridge will allow access to Carryduff Park which is an area of existing open space maintained by the Council, responsibility lies with the Parks and Amenities Department in term of supervision and security within the park.

Conclusions

174. For the reasons outlined above and subject to section 76 Agreement, the proposal is considered to comply with the SPPS and policies HOU1, HOU3, HOU4, HOU5 and HOU10 of the Plan Strategy.
175. It is also considered to comply with policies OS1, NH 5, TRA1, TRA2, TRA7, TRA8, and FLD3 of the Plan Strategy.

Recommendations

176. It is recommended that planning permission is approved subject to a section 76 agreement to secure the delivery of affordable housing at this location; the delivery of a pedestrian bridge over the Carryduff River which will connect the Baronsgrange development with Carryduff Park and to secure a financial contribution for the improvement of footpaths in the park in lieu of providing open space and play facilities in the Baronsgrange development.
177. No more than 8 dwellings shall be constructed prior to the confirmation the planning permission is secure for the development at the alternative location

and development is commenced on the site. Otherwise the developer will be required to provide 20% affordable housing at this site which is 1 unit.

Conditions

178. The following conditions are recommended:

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

Reason: Time limit

2. No development shall take place until drawings necessary to enable a determination to be made in accordance with Article 3 of the Private Streets (Northern Ireland) Order 1980 have been submitted to, and approved by, the Council.

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

3. No more than 9 dwellings shall be constructed beyond sub floor level until details of the foul sewer connection is submitted to and agreed in writing with the Council. No dwelling shall be occupied thereafter until the works required to make the connection have been completed and are operational and occupied until a suitable surface water engineering solution and method of sewage disposal has been agreed in writing with the Council and implemented on site.

Reason: To ensure a practical solution to sewage disposal from this site

4. All hard and soft landscape works shall be carried out in accordance with Drawing 014C – Phase 9A Landscape Proposals, bearing the Council date stamped 15th August 2023 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.

5. 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.

6. No retained tree shall be cut down, uprooted or destroyed or have its roots damaged. Any retained tree that is removed, uprooted or destroyed shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

Site location Plan – LA05/2022/0247/F



Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee	06 November 2023
Committee Interest	Local Applications [Exceptions Apply]
Application Reference	LA05/2022/0249/F
Date of Application	08/03/2022
District Electoral Area	Carryduff South
Proposal Description	Amendments to planning permission reference Y/2009/0160/F: construction of foot bridge across the Carryduff River between Baronsgrange Park and Carryduff Park and erection of 1 additional dwelling
Location	Baronsgrange Development (under construction-planning permission reference Y/2009/0160/F) Comber Road, Carryduff, BT8 8AN
Representations	Sixteen [4 objections and 12 support]
Case Officer	Brenda Ferguson
Recommendation	Approval

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—

- (a) *a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*
- (b) *any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

[4] Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

3. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications.
4. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

5. This is a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that the application requires a section 76 agreement to secure the delivery of affordable housing; the delivery of a pedestrian bridge over the Carryduff River which will connect the Baronsgrange development with Carryduff Park and to secure a financial contribution for the improvement of footpaths in the park in lieu of providing open space and play facilities in the Baronsgrange development.
6. The proposal complies with the SPPS and policy OS1 of the Plan Strategy in that the loss of an area open space is accepted as an exception as it is considered that the benefits of the pedestrian linkage and connectivity to

Carryduff Park outweigh the loss of open space and play facilities within the Baronsgrange residential scheme.

7. It is also considered that the detailed layout and design of the residential unit creates a quality residential environment in accordance with the requirements of policies HOU1, HOU3, HOU4 and HOU5 of the Plan Strategy and when the dwelling is constructed, it will not adversely impact on the character of the area nor will they have a detrimental impact on the amenity of existing residents in properties adjoining the site.
8. Furthermore, given that the proposal is for one additional dwelling the density is not higher than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area.
9. The proposal complies with the policies NH 5 of the Plan Strategy in that the detail demonstrates that the development is not likely to result in the unacceptable adverse impact on, or damage to known habitats, species or features of Natural Heritage Importance.
10. The proposed complies with the SPPS and Policy of TRA1 the Plan Strategy that the detail demonstrates that an accessible environment will be created through the provision of footways and pedestrian crossing points.
11. It is also considered that the development complies with policy TRA2 of the Plan Strategy in that the detail submitted demonstrates that the use of an existing access will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.
12. The proposal is considered to comply with policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided so as not to prejudice road safety or inconvenience the flow of traffic.
13. The proposal also complies with policy TRA8 in that the funding of a pedestrian bridge linking the wider development to the Carryduff Park. This makes for a more permeable neighbourhood and promotes cycling and walking as an alternative to the use of the car.
14. The proposed development complies with policy tests set out in the SPPS and policies FLD 1 and FLD 3 of the Plan Strategy as modified in that the site lies outside the 1 in 100 year fluvial flood plain and the detail submitted demonstrates that adequate drainage can be provided within the site to service the proposal.

Description of Site and Surroundings

Site

15. The proposed site is located within a maintained area of existing open space in Baronsgrange. The land slopes down towards the south west where the site abuts the Carryduff River.

Surroundings

16. The Carryduff Park is located beyond the site to the south west. To the north east the site is bounded by existing housing in Baronscourt Park. A further maintained area of open space lies to the south-west.
17. Lands to the south east of Baronsgrange development are in industrial/commercial use and the Carryduff Park, an area of public open space, lies to the west and north-west.

Proposed Development

18. This is a full application for construction of foot bridge across the Carryduff River between Baronsgrange Park and Carryduff Park and erection of one additional dwelling.
19. This proposal is considered in conjunction with planning application LA05/2022/0247/F which provides for nine dwellings, the sale of which will be off set to provide for the pedestrian linkage between Baronsgrange, Baronscourt and the Carryduff Park and the future maintenance.

Relevant Planning History

20. The most relevant planning history associated with the application site and the immediate area is set out in the table below:

Reference Number	Description	Location	Decision
LA05/2022/0247/F	Amendments to planning permission reference Y/2009/0160/F: reconfiguration of public open space on Baronsgrange Park and erection of 9 additional dwellings (6 semi-detached and 3 detached) to support connectivity works	Baronsgrange Development (under construction-planning permission reference Y/2009/0160/F) Comber Road Carryduff BT8 8AN	Pending
Y/2009/0160/F	Residential development comprising apartments, semi-detached and detached dwellings (total yield of 380 dwelling units), mixed use centre, public and private open and ancillary infrastructure (amended plans)	Lands to the East and the South of the Baronscourt Development and to the North of Edgar Road and the Comber Road, Carryduff, Castlereagh.	Permission granted 10/03/17
Y/2006/0598/RM	Site for residential development (386 Dwellings) (additional information - landscaping and off site road works details)	Lands to the East and South of the Baronscourt development and to the north of Edgar Road and the Comber Road, Carryduff.	Application withdrawn
Y/1999/0339/O	Site for residential development including mixed use centre	Lands to the east and south of the Baronscourt development and to the north of Edgar Road and Comber Road, Carryduff, Castlereagh.	Permission granted May 2004

21. The housing scheme currently under development is being carried out in accordance with application Y/2009/0160/F. The developer seeks to vary that permission by providing access to Carryduff Park via a pedestrian bridge. This is to offset their obligation in relation to the provision of play in the development and will result in the loss of an area of existing open space.
22. The housing offsets the cost of the bridge but the developer recognises the impact of increased footfall in the park and proposes to upgrade the footpaths via a financial contribution to the Council for these works.

Consultations

23. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
NIEA Water Management Unit	No Objection
NI Water	No Objection
Environmental Health	No Objection
Rivers Agency	No Objection
DAERA Inland Fisheries	No Objection

Representations

24. Four letters of objection have been received in relation to the proposal. The following issues were raised:
 - Policy QD1 states that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Replacement of open space with dwelling is in direct conflict with policy and at odds with green space approved under application Y/2009/0160/F
 - Proposal, if approved, could set a precedent for other similar developments on open space areas
 - Further devastation on local wildlife due to development of more open space lands
 - Construction of bridge is a further obstacle in way of enjoyment of maintained open spaces
 - Safety concerns in respect of the bridge leading to the sprawl of anti-social behaviour from Carryduff Park

- Bridge will be unsightly
25. The letters of support mention the benefits of the bridge in relation to it providing a safe family friendly access to the Carryduff Park, outdoor exercise equipment, playground area and village shops instead of residents having to access it via the Comber/Saintifeld Road where it is dangerous. One letter states that the new bridge shows commitment to the community greenway proposals made by the Council and agreed in 2018 by Frazer Homes.
 26. The issues are considered as part of the assessment below.

Local Development Plan

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

Plan Strategy 2032

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

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

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

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

29. In accordance with the transitional arrangements the existing BUAP and draft BMAP remain material considerations.
30. In both the statutory development plan and the draft BMAP, the application site is identified as being within the defined Settlement Development Limit of

Carryduff.

31. Within draft BMAP the land is located within an area zoned for housing.
32. There are equivalent policy in the Plan strategy to the regional policies described in LAP and draft BMAP.
33. The policies in the BUAP were superseded by the incremental introduction of regional policy over time. There are equivalent policies in the Plan Strategy to the regional policies described in draft BMAP.
34. This site is an existing area of open space. Strategic Policy 17 – Open Space, Sport and Outdoor Recreation states that

The Plan will support development proposals that:

- (a) Protect and enhance existing open space and provide new open space provision*
- (b) Support and protect a network of accessible green and blue infrastructure*
- (c) Support and promote the development of strategic and community greenways.*

35. Housing is proposed on existing open space. Strategic Policy 01 – Sustainable Development states that:

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

36. Strategic Policy 03 – Creating and Enhancing Shared Space and Quality Places states that:

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

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

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

The Plan will support development proposals that incorporate good design and positive place-making to further sustainable development, encourage healthier living, promote accessibility and inclusivity and contribute to safety. Good

design should respect the character of the area, respect environmental and heritage assets and promote local distinctiveness. Positive place-making should acknowledge the need for quality, place-specific contextual design which promotes accessibility and inclusivity, creating safe, vibrant and adaptable places.

38. Strategic Policy 05 – Protecting and Enhancing the Environment states that:

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

39. A section 76 agreement is required to secure the delivery of the bridge. Strategic Policy 07 – Section 76 Agreements states that:

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

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

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

40. One dwelling is proposed. The strategic policy for Housing in Settlement Limits is set out in Part 1 of the Plan Strategy. Strategic Policy 08 Housing in Settlements states that

The Plan will support development proposals that:

- a) *are in accordance with the Strategic Housing Allocation provided in Table 3*
- b) *facilitate new residential development which respects the surrounding context and promotes high quality design within settlements*
- c) *promote balanced local communities with a mixture of house types of*

- different size and tenure including affordable and specialised housing*
- d) *encourage compact urban forms and appropriate densities while protecting the quality of the urban environment.*

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

Open Space, Sport and Outdoor Recreation

42. The proposal involves the loss of an area of existing open space. Policy OS1 Protection of Open Space states that:

Development that will result in the loss of existing open space or land zoned for the provision of open space will not be permitted, irrespective of its physical condition and appearance.

An exception will be permitted where it is demonstrated that redevelopment will bring substantial community benefits²⁴ that decisively outweigh the loss of the open space.

An exception may also be permitted where it is demonstrated that the loss of open space will have no significant detrimental impact on amenity, character or biodiversity of an area in either of the following circumstances:

- a) *an area of open space of 2 hectares or less, where alternative provision is made by the developer and is as accessible to current users and equivalent in terms of size, usefulness, attractiveness, safety and quality;*
- b) *playing fields and pitches within settlement limits, where it is demonstrated by the developer that the retention and enhancement of that facility can only be achieved by the development of a small part of the existing open space, limited to a maximum of 10% of overall area, which will have no adverse impact on the sporting potential of the facility*

Housing in Settlements

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

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

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

part of mixed use development.

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

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

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

- a) *the development respects the surrounding context, by creating or enhancing a local identity and distinctiveness that reinforces a sense of place, and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas*
- b) *archaeological, historic environment and landscape characteristics/features are identified and, where appropriate, protected and suitably integrated into the overall design and layout of the development.*

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

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

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

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

- a) *the design of the development must draw upon the best local architectural form, materials and detailing*
- b) *landscaped areas using appropriate locally characteristic or indigenous species and private open space must form an integral part of a proposal's open space and where appropriate will be required along site boundaries to soften the visual impact of the development and assist in its integration with the surrounding area*
- c) *where identified as a Key Site Requirement adequate provision is made for necessary local community facilities, to be provided by the developer*
- d) *residential development should be brought forward in line with the following density bands:*

- *City Centre Boundary 120-160 dwellings per hectare*
 - *Settlement Development Limits of City, Towns and Greater Urban Areas: 25-35 dwellings per hectare*
 - *Settlement Development Limits of Villages and small settlements 20-25 dwellings per hectare.*
 - *Within the above designated areas, increased housing density above the indicated bands will be considered in town centres and those locations that benefit from high accessibility to public transport facilities*
- e) *a range of dwellings should be proposed that are accessible in their design to provide an appropriate standard of access for all. The design of dwellings should ensure they are capable of providing accommodation that is wheelchair accessible for those in society who are mobility impaired. A range of dwelling types and designs should be provided to prevent members of society from becoming socially excluded*
- f) *dwellings should be designed to be energy and resource efficient and, where practical should include integrated renewable energy technologies to minimise their impact on the environment*
- g) *a proposed site layout must indicate safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks; meet the needs of mobility impaired persons; and respect existing public rights of way*
- h) *adequate and appropriate provision is made for car and bicycle parking including where possible electric vehicle charging points*
- i) *the design and layout must not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance*
- j) *the design and layout should where possible include use of permeable paving and sustainable drainage*
- k) *the design and layout design must demonstrate appropriate provision is made for householder waste storage and its collection can be facilitated without impairment to the access and maneuverability of waste service vehicles*
- l) *the development is designed to deter crime and promote personal safety.*
- m) *Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.*

46. The Justification and Amplification states that :

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

47. It also states that:

Accessible Accommodation

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

48. Given the scale of residential development public open space is required as part of the proposed development. Policy HOU5 - Public Open Space in New Residential Development states that:

Adequate provision must be made for green and blue infrastructure in public open space and for open space that links with green and blue infrastructure where possible and provides pedestrian and cycle linkages to nearby public amenity spaces. Proposals for new residential development of 25 or more units, or on sites of one hectare or more, must provide public open space as an integral part of the development, subject to the following:

- a) *the open space must be at least 10% of the total site area*
- b) *for development proposals of 300 or more units, or on sites of 15 hectares or more, the open space must be at least 15% of the total site area.*

The following exceptions to the above open space provision will apply where:

- a) *the residential development is designed to integrate with and make use of adjoining public open space*
- b) *the provision of open space below 10% of the total site area if the proposal is located within a city or town centre or it is demonstrated that it is close to and would benefit from ease of access to existing public open space*
- c) *in the case of apartment developments or specialist housing (see Policy HOU11) where a commensurate level of private communal open space is being provided.*

Development proposals of 100 units or more, or on sites of 5 hectares or more, must be provided with an equipped children's play area unless one already exists within a reasonable and safe walking distance (generally around 400 metres) of the majority of the units within the proposal.

Public open space required by this policy will be expected to conform to all of the following criteria:

- *it is designed as an integral part of the development with easy and safe access from the dwellings*
- *it is of demonstrable recreational or amenity value*
- *it is designed, wherever possible, to be multi-functional*
- *its design, location and appearance takes into account the needs of disabled persons and it respects the amenity of nearby residents*
- *landscape and heritage features are retained and incorporated in its design and layout.*

In all cases developers will be responsible for the laying out and landscaping of public open space required under this policy.

Developers must demonstrate 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.

49. The following paragraph in the Justification and Amplification is modified as follows:

Public open space can be provided in a variety of forms ranging from village greens and small parks through to equipped play areas and sports pitches. In addition, the creation or retention of blue/green infrastructure, woodland areas or other natural or semi-natural areas of open space can provide valuable habitats for wildlife and promote biodiversity. To provide for maximum surveillance, areas of open space are best located where they are overlooked by the fronts of nearby dwellings.

Natural Heritage

50. Given this is a large site the potential impact on the natural environment is considered.
51. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states that:

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

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

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

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

Access and Transport

52. No new access or additional infrastructure is required as part of this proposal. Policy TRA1 - Creating an Accessible Environment states that:

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

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

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

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

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

53. Policy TRA 2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

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

54. The justification and amplification states that:

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

55. Policy TRA8 - Active Travel Networks and Infrastructure Provision states that

Planning permission will only be granted for proposals where public transport, walking and cycling provision forms part of the development proposal.

A Transport Assessment/Travel Plan or, if not required, a supporting statement should indicate the following provisions:

- a) *safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks*
- b) *the needs of mobility impaired persons; and respect existing public rights of way*
- c) *safe, convenient and secure cycle parking.*

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

Flooding

- 56. The proposed development is to be located in close proximity to Carryduff River and drainage must be designed to take account of the impact on flooding elsewhere.
- 57. Policy - FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states:

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

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

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

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

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

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

Regional Policy and Guidance

Regional Policy

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

The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPPS within 5 years.

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

60. It states that:

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

61. Paragraph 3.6 of the SPPS states:

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

62. 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. At paragraph 6.91 it is also stated 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.

63. 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.
64. The proposal involves the erection of an additional dwelling in an existing housing development. It is stated at paragraph 6.136 that:

The policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. This approach to housing will support the need to maximise the use of existing infrastructure and services, and the creation of more balanced sustainable communities.

Retained Regional Guidance

65. Whilst not policy, the following guidance documents remain a material considerations:

Creating Places

66. The policy requires the guidance in the 'Creating Places – Achieving Quality in Residential Developments' (May 2000) to also be considered.
67. 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.

68. Paragraph 7.16 provides guidance on separation distances stating:

Where the development abuts the private garden areas of existing properties, a separation distance greater than 20 metres will generally be appropriate to minimise overlooking, with a minimum of around 10 meters between the rear of new houses and the common boundary.

69. Paragraphs 5.19 – 5.20 provides guidance on the level of private open space provision as follows:

Provision should be calculated as an average space standard for the development as a whole and should be around 70 square metres per house or greater. Garden sizes larger than the average will generally suit dwellings for use by families. An area less than around 40 square metres will generally be unacceptable.

Development Control Advice Note 8 - Housing in Existing Urban Areas

70. Paragraph 4.10 states that:

Planning Service will expect applicants and designers to carry out an appraisal of the local context, which takes into account the character of the surrounding area; and new development should respect the architectural, streetscape and landscape character of the area.

Assessment

71. Within the context of the planning policy tests outlined above, the following assessment is made.

Policy OS1 Protection of Open Space

72. There is a presumption against development that will result in the loss of existing open space irrespective of its physical condition and appearance.
73. The development associated with this application is necessary to enable the provision of a bridge to facilitate a pedestrian linkage between the Baronsgrange and the Carryduff Park.
74. A financial contribution derived from this development to resurface pathways within the Carryduff Park due to increased footfall along with the offer by the developer to construct and maintain the pedestrian bridge.
75. The history provides important context in this regard in that the original outline application for residential development on the wider housing zoning showed pedestrian linkage to the Carryduff Park.
76. The provision of infrastructure associated with the bridge was removed from the a subsequent full application [Y/2009/0160/F] when it was amended to provide for 380 dwellings as opposed to 400 dwellings as envisaged as part of the overall concept master plan for the wider development at Baronsgrange. It was always the intention to revisit the connection at a later stage.
77. Whilst Policy OS 1 states that there is a presumption against the loss of existing open space irrespective of its physical condition and appearance, it does however allow for an exception to be permitted where it is demonstrated

that the redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.

78. In this case, a statement is submitted in support of the application. It demonstrates the benefits of that the proposed footbridge connecting Baronsgrange to Carryduff Park offers wider community benefits to the neighbourhood by increasing overall permeability. Once constructed, it will enable the residents of Baronsgrange, Baronscourt, Manse and Carleton Hill areas to directly access Carryduff Park by foot and cycle without needing to use the main roads.
79. A number of letters of support received in relation to the proposed development advance the argument that the provision of the bridge will provide necessary links to the Carryduff Park and local shopping facilities without the need to travel to the Comber Road where there is heavier traffic and footpaths which are often obstructed by large vehicles.
80. It is further acknowledged that the bridge connection was always envisaged in the original design concept for Baronsgrange. It is also acknowledged that this link will form part of a community greenway for Carryduff as part of an overall Master Plan for connectivity. The applicant is revisiting what was considered to be a developer commitment before.
81. The substantial community benefits that will be gained through the loss of this area of open space for 10 dwellings (including the dwelling proposed under LA05/2022/0247/F) is considered to carry significant weight in this assessment.
82. Furthermore, it is considered that the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity as no mature trees are required to be felled to facilitate the housing and a small landscaped area of public open space is still to be retained north of the bridged hence the loss of amenity space is minimal.
83. The provision and maintenance of the bridge is required to be secured through a section 76 agreement with permission provided by the Council to land the bridge on Council Owned land.
84. For the reasons outlined above, the policy tests of OS1 are met.

Housing in Settlements

Policy HOU 1 New Residential Development

85. This application is for one additional residential units along with the reconfiguration of an area of public open space within the settlement limit of Carryduff.

86. The site associated with the application is zoned for housing in draft BMAP. Housing within the Baronsgrange development is largely complete and occupied and as such, the policy tests associated with policy HOU1 are considered to be met.

Policy HOU3 Site Context and Characteristics of New Residential Development

87. Baronsgrange is characterised by a mixture of house types including two storey detached, semi-detached and terraced properties the majority of which are orientated to face the public road. Finishes are mainly red/brown brick with pitched slate roofs.
88. Car parking is mainly in curtilage with private driveways evident to the front and side of the majority of properties.
89. A Design and Access statement (Planning Report) has been submitted in support of the application. It indicates that the proposed dwelling is two-storey in height with a maximum ridge height of 9.1 metres in keeping with the remainder of the development.
90. Taking into account the mixed residential character exhibited within the Baronsgrange development in general it is accepted that the proposed development will not result in unacceptable damage to the local character of this established residential area. Car parking is shown to be in curtilage.
91. In relation to criteria (a), it will respect the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of the dwelling, including landscaped and hard surfaced areas. Criteria (a) is met.
92. No archaeological, historic environment or landscape characteristics/features have been identified that require to be integrated into the overall design/layout. Criteria (b) is considered to be met.

Policy HOU4 Design in New Residential Development

93. The dwelling proposed is a two-storey detached with a ridge height of 9 metres above finished floor level. It is finished in clay facing brick and render with plain concrete roof tiles and comprises a kitchen/family area, lounge and hall with wc at ground floor level and the first floor comprises 4 bedrooms, one with en-suite, and separate family bathroom. The dwelling has an integral garage at ground floor level.
94. The dwelling is orientated to face the access road with in curtilage parking provided along with rear and side gardens.
95. The dwelling will have no adverse impact on residential amenity. The layout of the rooms, the position of the windows along with the separation distance also

ensures that there is no overlooking into the private amenity space of neighbouring properties. The building is not dominant or overbearing and no loss of light would be caused.

96. The proposed house type is considered to have a modern design which complements the surrounding built form, the variation of material finishes of brick and smooth render adds to streetscape. The proposed design and finishes are considered to draw upon the materials and detailing exhibited within the surrounding area and will ensure that the unit is as energy efficient as possible.
97. For the reasons outlined above, criteria (a), (e), (f) and (i) are considered to be met.
98. With regard to criteria (b) detail submitted with the application demonstrates that the provision of private amenity space will be in excess of the standards contained with Creating Places for a medium density housing development made up of three and four bedroom dwellings.
99. The amended landscape plan indicates that soft landscaping will be provided at the front of the site. A timber fence will form the boundary around the site.
100. There is no requirement for the provision of a local community or neighbourhood facility for this scale of development. That said, it is noted that the connectivity through to the Carryduff Park will open up pedestrian access for residents to the local shops within Carryduff.
101. With regard to criteria (d) the proposed density is not significantly higher than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area. The unit size exceeds space standards set out in supplementary planning guidance.
102. The internal road layout provides for safe and convenient access through the site and the provision of dropped kerbs and tactile paving will also serve to meet the needs of mobility impaired persons.
103. Proposed speed cushions are also to be provided along the Baronsgrange Park which will allow for speed control measures to ensure road safety standards are met. Adequate and appropriate provision is also made for in curtilage parking. Criteria (g) and (h) are considered to be met.
104. Appropriate fencing will serve to deter crime and promote personal safety. Criteria (l) is considered to be met.
105. Provision can be made for householder waste storage within the driveway for the unit and its safe collection can be facilitated without impairment to the access manoeuvrability of waste service vehicles.

106. In consideration of the works associated with the construction of a bridge, specification details and a method statement have been provided in support of the application.
107. The detail indicates that the ground immediately either side of the bridge will be raised and levelled above the Q100 level to provide a ramp across the Carryduff River as a continuation of the path. 1.6m high steel rails are to be placed either side of the bridge for safety when crossing.
108. Visually the materials used are considered to be acceptable and the bridge will not detract from the character of the area and will integrate sufficiently with the parkland and open space areas.
109. Environmental Health, Water Management Unit, Rivers Agency and Inland Fisheries have raised no concerns. Further details within the method statement are to be submitted and agreed by the Council prior to commencement of works on site. Environmental Health have no objections in relation to the substation subject to conditions.
110. For the reasons outlined above, it is accepted that the development complies with the policy tests associated with Policy HOU4 of the Plan Strategy

Policy HOU 5 Public Open Space in New Residential Development

111. Detail submitted with the application (in conjunction with application LA05/2023/0247/F) indicates that the site exceeds one hectare. As such open space must be provided as an integral part of this development.
112. As explained, that the application site is within lands which were subject to a wider approval for a residential development comprising apartments, semi-detached and detached dwellings (total yield of 380 dwelling units), mixed use centre, public and private open and ancillary infrastructure (Y/2009/0160/F). This proposal included areas of open space as integral parts of the development along with an equipped children's play park.
113. Within the context of policy HOU5 the thresholds and requirements for the provision of open space and play remain the same.
114. For the reasons outlined above, this application in association with LA05/2022/0247/F provides the financial means for the connecting bridge to be provided to an existing area of public open space. A small landscaped area will also remain.
115. Based on a review of the information it is accepted that the tests associated with Policy HOU5 are met and that arrangements will be put in place for the future management and maintenance in perpetuity consistent with policy.

Access and Transport

116. The P1 Form indicates that the development involves the use of an existing access to a public road for both vehicular and pedestrian use.

TRA1 – Creating an Accessible Environment

117. Detail associated with the application shows that the vehicular access and internal road layout has been designed to an adoptable standard in accordance with the Private Streets Determination drawing.
118. The drawings submit with the application indicates that the dwelling proposed will have in curtilage car parking in line with current standards.
119. DfI Roads have not identified any concerns in relation to the layout, access and arrangement of the parking for the residential unit.
120. Based on a review of the detail submitted with the application and advice from DfI Roads it is considered that the proposed complies with the SPPS and Policy TRA1 of the draft Plan Strategy as modified in that the detail demonstrates that an accessible and safe environment will be created through the provision of footways and traffic calming measures.

TRA2 Access to Public Roads

121. The detail submitted demonstrates that the use of the existing access will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.

TRA7 Car Parking and Servicing Arrangements

122. For the reasons outlined earlier in the report, the detail demonstrates that adequate provision for in-curtilage car parking and appropriate servicing arrangements have been provided so as not to prejudice road safety or inconvenience the flow of traffic. The tests associated with Policy TRA7 are capable of being met.

TRA8 Active Travel Networks and Infrastructure Provision

123. The proposal also complies with policy TRA8 in that the funding of a pedestrian bridge linking the wider development to the Carryduff Park. This makes for a more permeable neighbourhood and promotes cycling and walking as an alternative to the use of the car.

Natural Heritage

124. A biodiversity checklist has been submitted in support of the application. The ecological statement associated with this checklist confirms that the ecological statement associated with the checklist has been completed by a suitably qualified person demonstrating that there will be no impact from the development on natural heritage features.
125. Furthermore, a Construction Environmental Management Plan (CEMP) has been submitted as requested by NIEA. It provides details of the bridge specifications. The CEMP has been considered by Water Management Unit and Inland Fisheries who have identified no concerns subject to the submission of further detail and agreement to be included in the CEMP prior to commencement of works on site.
126. For the reasons outlined above, it is considered that the proposal complies with the SPPS and Policy NH 5 of the Plan Strategy in that the detail demonstrates that the development is not likely to result in the unacceptable adverse impact on, or damage to known habitats, species or features of Natural Heritage Importance.

Flooding

127. There is a designated watercourse known to DfI Rivers as the "Sheltered Farm Stream that flows northwards within the site and links with the Carryduff stream. Rivers Agency flood maps detail that the proposal lies outside the 1 in 100 year fluvial flood plain.
128. In relation to FLD2, DFI Rivers advise that a working maintenance strip of a minimum width of 5 meters is retained to facilitate future maintenance.
129. In relation to FLD3 the hard standing areas proposed as part of this application do not exceed 1000m² therefore no drainage assessment is necessary.
130. In relation to FLD4 Rivers advise that the modification of any watercourse is permitted in exceptional circumstances only and subject to Schedule 6 consent.
131. In consideration of FLD5 of PPS 15 the DFI Rivers reservoir inundation maps indicate that this site is not in a potential area of inundation emanating from a reservoir.
132. Water Management Unit has also considered the impacts of the proposal on the surface water environment and in a response received on 02 May 2023 advised that they had considered the impacts of the proposal on the surface water environment and on the basis of the information provided, they had concerns that that the sewage loading associated with the proposal has the potential to cause an environmental impact if transferred to Newtownbreda Waste Water Treatment Works (WWTW).

133. Water Management Unit recommend that consultation should take place with Northern Ireland Water (NIW) to determine if both the WWTW and associated sewer network would be able to cope with the additional load or whether they would need to be upgraded.
134. WMU also stated that If NIW indicated that the WWTW and associated sewer network is able to accept the additional load, with no adverse effect on the WWTW or sewer network's ability to comply with their Water Order Consents, then Water Management Unit would have no objection to this aspect of the proposal.
135. WMU went on to say that if NIW advise that it is not possible to connect the proposed development to mains sewer then alternative arrangements would be required and an NIEA discharge consent issued under the terms of the Water (Northern Ireland) Order 1999 will be required for the discharge of sewage effluent from the proposed development.
136. In relation to the individual dwelling and footbridge NI Water in a response received on 01/04/22 stated that:

*There is available capacity at the Waste Water Treatment Works.
The above information will only be valid for a maximum period of 18 months from the date of this consultation response. Should Planning Approval not be granted within this period, a re-consultation will be required to review public sewerage availability and to confirm NI Water's recommendation of this development proposal.*
137. As the application is approaching the 18 month period whereby this needs to be reviewed, the agent has confirmed that a wastewater impact assessment has been prepared and submitted to NI Water, which has identified storm off-setting as a solution. He further stated that they are currently in the process of identifying a site for the off-setting in conjunction with NI Water.
138. The agent also confirmed that they would be willing to accept a condition, that has been attached other recent residential proposals, which states that no dwellings should be constructed above sub floor level before a design engineering solution is agreed with NIW which address their concerns.
139. In consideration of the proposed bridge, specification details and a method statement have been provided. Environmental Health, Water Management Unit, Rivers Agency and Inland Fisheries have raised no concerns.
140. Further details within the method statement are to be submitted and agreed by the Council prior to commencement of works on site. This can be conditioned to be submitted to the Council and agreed in writing prior to commencement of works on site. Environmental Health have no objections in relation to the proposed development subject to conditions.

Consideration of Representations

141. Four letters of objection have been received in relation to the proposal. Consideration of representations are as detailed below;

Policy QD1 states that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Replacement of open space with dwelling is in direct conflict with policy and at odds with green space approved under application Y/2009/0160/F

142. This has been fully considered in the context of Policy OS1 and it is acknowledged that there are other areas of open space provided for within the development. There will be no loss of amenity and an area of open space will remain to the north of the bridge with further benefits in relation to the pedestrian linkage with the Carryduff Park. In this case there is alternative public open space and play park provision within the Carryduff Park which will now be accessible to all users.

143. It is accepted that the proposal falls under an exception and the benefits of the linkage to Carryduff Park decisively outweigh the loss of a portion of open space within the Baronsgrange Development. It is therefore not in conflict with policy.

Proposal, if approved, could set a precedent for other similar developments on open space areas.

144. The proposal has been considered in terms of its individual merits and it is concluded that the substantial benefits as a result of the footbridge outweighs the loss of a portion of open space for residential development.

Further devastation on local wildlife due to development of more open space lands

145. The proposal has been considered in terms of its impact on natural heritage interests and it is concluded that there will be no detrimental adverse impact on these features.

Construction of bridge is a further obstacle in way of enjoyment of maintained open spaces

146. It is considered that the bridge will allow for access to maintained open space as part of the Carryduff Park, further enhancing the enjoyment of this public area for local residents in Baronsgrange.

Safety concerns in respect of the bridge leading to the sprawl of anti-social behaviour from Carryduff Park.

143. The bridge will allow connectivity between the Carryduff Park and the Baronsgrange development and will provide a safe access through into the park.

Bridge will be unsightly.

144. The visual appearance of the bridge has been considered and it is agreed that the materials used and specification details will not detract from the area. The method statement allows for the longer term maintenance of the bridge.

Conclusions

145. For the reasons outlined above and subject to section 76 Agreement, the proposal is considered to comply with the SPPS and policies HOU1, HOU3, HOU4 and HOU5 of the Plan Strategy.
146. It is also considered to comply with Policies OS1, NH 5, TRA1, TRA2 TRA7, TRA8, and FLD3 of the Plan Strategy.

Recommendations

147. It is recommended that planning permission is approved subject to a section 76 agreement to secure the delivery of affordable housing at this location; the delivery of a pedestrian bridge over the Carryduff River which will connect the Baronsgrange development with Carryduff Park and to secure a financial contribution for the improvement of footpaths in the park in lieu of providing open space and play facilities in the Baronsgrange development.

Conditions

148. The following conditions are recommended:
1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
 2. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out during the first available planting season prior to the occupation of any part of the development.
Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

3. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.
Reason: To ensure the continuity of amenity afforded by existing trees.
4. 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.
5. No development shall take place until drawings necessary to enable a determination to be made in accordance with Article 3 of the Private Streets (Northern Ireland) Order 1980 have been submitted to, and approved by, the Council.
Reason: To ensure there is a safe and convenient road system to comply with the provisions of the Private Streets (Northern Ireland) Order 1980
6. A Construction Method Statement, as detailed in the DAERA response dated 2nd May 2023, should be submitted to the Planning Authority for their written agreement prior to works commencing on site.
Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment prior to works commencing on site.

Site Location Plan – LA05/2022/0249/F



Lisburn & Castlereagh City Council

Planning Committee	
Date of Meeting	6 November 2023
Committee Interest	Local – Exceptions Apply
Application Reference	LA05/2022/0018/F
Date of Application	04 January 2022
District Electoral Area	Lisburn South
Proposal Description	Demolition of existing dwelling and construction of residential development comprising 19 detached dwellings (13 detached and 6 semi-detached), garages, associated access with right hand turning lane, internal road, parking, landscaping and associated works.
Location	Lands at 126 Hillsborough Road, Lisburn
Representations	One
Case Officer	Maire-Claire O'Neill
Recommendation	Approval

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—

- (a) a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*

- (b) *any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

- [4] *Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.*

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

4. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications.
5. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

6. This is a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that the application requires a legal agreement to secure the delivery of affordable housing.
7. This application is presented to the Planning Committee with a recommendation to approve as the proposed development creates a quality residential environment. When the buildings are constructed, they will not adversely impact on the character or visual amenity of the area and is in accordance with policies HOU1 and HOU3. The requirements for meeting the policy tests of HOU3 are subject to a condition requiring an archaeological assessment before any works are carried out on site in accordance with policy HE4.
8. Furthermore, the layout and arrangement of the buildings draws on the best local architectural form, materials and detailing and the development will not have a detrimental impact on the amenity of existing residents in properties

- adjoining the site by reason of overlooking or dominance. Amenity space is provided at the required standard and the access arrangements are designed to promote walking and cycling. The proposal is in accordance with the requirements of policy HOU4 of the Plan Strategy.
9. Open space is a requirement of policy as the site is more than one hectare in size. The proposal is considered to comply with policy HOU5 of the Plan Strategy in that public open space is provided as an integral part of the development at more than 10% of the total site area.
 10. It is considered that the proposal is also in accordance with the requirements of policy HOU10 of the Plan Strategy in that alternative provision is to be made for affordable housing at 20% of the total number of units. This provision will be subject to a Section 76 planning agreement.
 11. The proposed complies with policy of TRA1 the Plan Strategy in that the detail demonstrates that an accessible environment will be created through the provision of footways and pedestrian crossing points.
 12. It is also considered that the development complies with policies TRA2 and TRA3 of the Plan Strategy in that the detail submitted demonstrates that the access will not prejudice road safety or significantly inconvenience the flow of traffic. Regard is also had to the nature and scale of the development, the character of the existing development, the location and number of existing accesses and the standard of the existing road network.
 13. The proposal complies with policies TRA7 of the Plan Strategy in that it is demonstrated that an acceptable level of car parking is provided.
 14. The site is also located in close proximity to Moore's Bridge (Grade B1) which is of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI) 2011. HED (Historic Buildings).
 15. The listed structure is taken account of in the design and layout of the proposal and the landscaping promotes access to and provides information about the importance of the heritage. Officers have no reason to disagree with the advice of the statutory consultee and it is considered that the proposed development complies with policy HE9 of the Plan Strategy.
 16. The proposal complies with policy NH2 of the Plan Strategy in that the ecology report submitted in support of the application demonstrates that the proposed development will give rise to no significant adverse effects on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby.
 17. The proposal also complies with policy NH5 of the Plan Strategy in that the ecology report submitted in support of the application demonstrates that appropriate mitigation and/or compensatory measures have been proposed to address the impact of the development on priority habitats and species.

18. It is accepted that the proposal complies with policies FLD3 of the Plan Strategy in that the site does not lie within the 1 in 100 year fluvial flood plain and the mitigation measures proposed ensure that all surface water discharge is attenuated and limited to greenfield run-off rates.

Description of Site and Surroundings

Site Context

19. This site is approximately 1.8 hectares in size and located on the western side of the Hillsborough Road towards the edge of Lisburn and is approximately 1.3 kilometres south west of the city centre.
20. The site is currently occupied by a large two-storey detached dwelling set on a large curtilage with a tennis court to the rear.
21. A belt of mature trees is present along the western boundary (boundary with Hillsborough Road). A small woodland area lies adjacent to the northern site boundary leading up to the rear gardens of properties in Woodview Crescent. The lands to the west are undeveloped and adjoining the site and to the south is the River Lagan and associated towpath.
22. The topography of the site slopes gently up from the river in a northerly direction towards the existing dwelling and tennis court, before rising more steeply towards the northern boundary.

Surrounding Context

23. The site is located within the development limits and is within the Lagan Valley Regional Park (LVRP). The Lagan Towpath is adjacent to the site. The lands surrounding to the north, northwest, south and southeast is primarily urban in character and mainly in residential use.

Proposed Development

24. The proposed development comprises the demolition of existing dwelling and construction of residential development comprising 19 dwellings (13 detached and 6 semi-detached), garages, associated access with right hand turning lane, internal road, parking, landscaping and associated works.
25. The application is supported with the following documents:
 - Design and Access Statement
 - Planning and Supporting Statement
 - Tree Survey Report
 - Arboricultural Report.
 - Construction Environmental Management Plan (CEMP)
 - NI Biodiversity Checklist
 - Preliminary Ecological Assessment
 - Bat Survey Report

- Preliminary Risk Assessment
- Flood Risk and Drainage Assessment
- Archaeological Method Statement
- Archaeological Monitoring Report
- Transport Assessment Form
- Residential Travel Plan
- Landscape Management Plan

Relevant Planning History

26. The relevant planning history is as follows:

Application Reference	Proposal	Decision
S/2010/0689/F	Proposed demolition of existing dwelling, construction of new 100 bed hotel with function rooms, health suite, free-standing interpretative centre, new road access with right hand turning pocket, car parking & site works.	Approved 15 February 2012

27. Full planning approval was granted on the application site for a 3 storey 100 bedroom hotel in February 2012. This proposal extended approximately 40 metres further west than the current proposal and included function rooms, health suite, parking and circulation area and comprised a new access from Hillsborough Road including a right hand turning lane.

28. This permission has now expired and as such, no weight is attached to this history in assessing this current application.

Consultations

29. The following consultations were carried out:

Consultee	Response
DfI Roads	No objection
LCCC Environmental Health	No objection
NI Water	No objection
Natural Heritage	No objection
Water Management Unit	No objection

Consultee	Response
HED Historic Monuments	No objection
Dfl River Agency	No objection
Lagan Valley Regional Park Office	No objection
Tree Officer LCCC	No objection

Representations

30. One letter of representation in opposition to the application is received. The following issues are raised:

- Proposal will result in more traffic on an already busy road.
- Concerns about the development of land to the rear of objectors property which could result in land slippage.
- Some of the proposed houses are being built on a floodplain.
- Proposal is resulting in more green space along the river being lost.

Environmental Impact Assessment (EIA)

31. 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.

32. An EIA determination was carried out and it was concluded that the scale and nature of the proposal means that it is not likely to cause any significant adverse environmental impacts. As such, an Environmental Statement was not required to inform the assessment of the application.

Local Development Plan

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

Plan Strategy 2032

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

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

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

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

35. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.
36. The site lies within the development limits of Lisburn in both the LAP and in draft BMAP. It is previously developed and the land is not zoned for any purpose. The north-west corner of the site is located within Old Warren Site of Local Nature Conservation (SLNCI).
38. Policy COU 15 of draft BMAP states that:

planning permission will only be granted for new development or intensification of urban development where it can be demonstrated that the proposal is appropriate to, and does not adversely affect the character of the Park, the settlement, the landscape quality and features or the visual amenity.

39. Draft BMAP states that the Lagan Valley Regional Park is a unique asset for the population of the Belfast Metropolitan Area [albeit quashed].
40. 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.

41. The site is also inside the LVRP and the requirements of the Park Plan also still apply.

Lagan Valley Regional Park Local Plan 2005

42. The aim of the Lagan Valley Regional Park Local Plan 2005 are:
- To protect and enhance the natural and man-made heritage of the Park
 - To conserve the essential character of the Park and to encourage its responsible public use.
 - To seek to ensure that the various land uses and activities within the Park can co-exist without detriment to the environment.
43. There are equivalent policies in the Plan Strategy of the Lisburn and Castlereagh City Council Plan 2032 to the regional policies described in LAP and draft BMAP and which take account of the LVRP Plan.
44. As explained above, this application is for residential development and a number of strategic policies apply. The strategic policy for Housing in Settlements is set out in Part 1 of the Plan Strategy.
45. Strategic Policy 08 Housing in Settlements states that:

The Plan will support development proposals that:

- a) *are in accordance with the Strategic Housing Allocation provided in Table 3*
 - b) *facilitate new residential development which respects the surrounding context and promotes high quality design within settlements*
 - c) *promote balanced local communities with a mixture of house types of different size and tenure including affordable and specialised housing*
 - d) *encourage compact urban forms and appropriate densities while protecting the quality of the urban environment.*
46. As more than 5 residential units are proposed Strategic Policy 07 – Section 76 Agreements states that:

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

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

- a) *improvements to the transport network, including walking and cycling routes, public transport or, where necessary appropriate parking*

- provision*
- b) *affordable housing*
 - c) *educational facilities and/or their upgrades*
 - d) *outdoor recreation*
 - e) *protection, enhancement and management of the natural and historic environment*
 - f) *community facilities and/or their upgrades*
 - g) *improvements to the public realm*
 - h) *service and utilities infrastructure*
 - i) *recycling and waste facilities.*

Housing in Settlements

47. As residential development is proposed policy HOU1 - New Residential Development states that:

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

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

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

48. The design and layout of the new buildings are subject to policy HOU3 - Site Context and Characteristics of New Residential Development which states:

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

- a) *the development respects the surrounding context, by creating or enhancing a local identity and distinctiveness that reinforces a sense of place, and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas*
- b) *archaeological, historic environment and landscape characteristics/features are identified and, where appropriate, protected and suitably integrated into the overall design and layout of the development.*

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

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

49. The design and layout of the new buildings are also subject to policy HOU4 - Design in New Residential Development which states:
Proposals for residential development will be expected to conform to all the following design criteria:
- a) *the design of the development must draw upon the best local architectural form, materials and detailing*
 - b) *landscaped areas using appropriate locally characteristic or indigenous species and private open space must form an integral part of a proposal's open space and where appropriate will be required along site boundaries to soften the visual impact of the development and assist in its integration with the surrounding area*
 - c) *where identified as a Key Site Requirement adequate provision is made for necessary local community facilities, to be provided by the developer*
 - d) *residential development should be brought forward in line with the following density bands:*
 - *City Centre Boundary 120-160 dwellings per hectare*
 - *Settlement Development Limits of City, Towns and Greater Urban Areas: 25-35 dwellings per hectare*
 - *Settlement Development Limits of Villages and small settlements 20-25 dwellings per hectare.*
 - *Within the above designated areas, increased housing density above the indicated bands will be considered in town centres and those locations that benefit from high accessibility to public transport facilities*
 - e) *a range of dwellings should be proposed that are accessible in their design to provide an appropriate standard of access for all. The design of dwellings should ensure they are capable of providing accommodation that is wheelchair accessible for those in society who are mobility impaired. A range of dwelling types and designs should be provided to prevent members of society from becoming socially excluded*
 - f) *dwellings should be designed to be energy and resource efficient and, where practical should include integrated renewable energy technologies to minimise their impact on the environment*
 - g) *a proposed site layout must indicate safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks; meet the needs of mobility impaired persons; and respect existing public rights of way*
 - h) *adequate and appropriate provision is made for car and bicycle parking including where possible electric vehicle charging points*
 - i) *the design and layout must not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance*

- j) *the design and layout should where possible include use of permeable paving and sustainable drainage*
- k) *the design and layout design must demonstrate appropriate provision is made for householder waste storage and its collection can be facilitated without impairment to the access and maneuverability of waste service vehicles*
- l) *the development is designed to deter crime and promote personal safety.*
- m) *Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.*

50. The Justification and Amplification states:

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

51. It also states that:

Accessible Accommodation

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

52. As the site area is more than one hectare in size public open space is required as part of the proposed development. Policy HOU5 - Public Open Space in New Residential Development states that:

Adequate provision must be made for green and blue infrastructure in public open space and for open space that links with green and blue infrastructure where possible and provides pedestrian and cycle linkages to nearby public amenity spaces. Proposals for new residential development of 25 or more units, or on sites of one hectare or more, must provide public open space as an integral part of the development, subject to the following:

- a) *the open space must be at least 10% of the total site area*
- b) *for development proposals of 300 or more units, or on sites of 15 hectares or more, the open space must be at least 15% of the total site area.*

The following exceptions to the above open space provision will apply where:

- a) *the residential development is designed to integrate with and make use of adjoining public open space*
- b) *the provision of open space below 10% of the total site area if the proposal is located within a city or town centre or it is demonstrated that it is close to and would benefit from ease of access to existing public open space*
- c) *in the case of apartment developments or specialist housing (see Policy HOU11) where a commensurate level of private communal open space is being provided.*

Development proposals of 100 units or more, or on sites of 5 hectares or more, must be provided with an equipped children's play area unless one already exists within a reasonable and safe walking distance (generally around 400 metres) of the majority of the units within the proposal.

Public open space required by this policy will be expected to conform to all of the following criteria:

- *it is designed as an integral part of the development with easy and safe access from the dwellings*
- *it is of demonstrable recreational or amenity value*
- *it is designed, wherever possible, to be multi-functional*
- *its design, location and appearance takes into account the needs of disabled persons and it respects the amenity of nearby residents*
- *landscape and heritage features are retained and incorporated in its design and layout.*

In all cases developers will be responsible for the laying out and landscaping of public open space required under this policy.

Developers must demonstrate 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.

53. The following paragraph in the Justification and Amplification states:

Public open space can be provided in a variety of forms ranging from village greens and small parks through to equipped play areas and sports pitches. In addition, the creation or retention of blue/green infrastructure, woodland areas or other natural or semi-natural areas of open space can provide valuable habitats for wildlife and promote biodiversity. To provide for maximum surveillance, areas of open space are best located where they are overlooked by the fronts of nearby dwellings.

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

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

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

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

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

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

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

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

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

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

55. The Justification and Amplification states:

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

56. The Glossary associated with Part 2 of the Plan Strategy states that *Affordable Housing – affordable housing is:*

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

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

Affordable housing which is funded by Government must remain affordable or alternatively there must be provision for the public subsidy to be repaid or recycled in the provision of new affordable housing.

Natural Heritage

57. Given the size of the site and the scale of development proposed a bio-diversity and detailed ecology report is submitted in support of this application.

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

European Protected Species

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

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

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

National Protected Species

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

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

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

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

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

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

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

Access and Transport

60. The P1 Form indicates that access arrangements for this development involve the construction of a new access to an existing adopted estate road for both pedestrian and vehicular use.

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

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

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

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

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

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

62. Policy TRA 2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

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

63. The Hillsborough Road is a protected route within a settlement. Policy TRA 3 – Access to Protected Routes states for other protected routes in settlements:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access where it is demonstrated that access cannot reasonably be taken from an adjacent minor road; or, in the case of residential proposals, it is demonstrated that the nature

and level of access will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points.

In all cases, where access to a Protected Route is acceptable in principle it will also be required to be safe in accordance with Policy TRA2. Designated protected routes within this Council area are illustrated in Supplementary Planning Guidance, Part F: Protected Routes Map

64. Car parking is proposed as an integral part of the development. Policy TRA 7 – Car Parking and Servicing Arrangements states that:

Development proposals will provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to published standards or any reduction provided for in an area of parking restraint designated in the Local Development Plan.

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

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

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

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

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

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

Flooding

65. This is a large site and the drainage must be designed to take account of the impact on flooding elsewhere Policy - FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains

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

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

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

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

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

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

Historic Environment and Archaeology

66. There is a scheduled monument in close proximity to the site and there may be other buried archaeology that is unknown. Policy HE4 – Archaeological Mitigation states that:

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

67. The site is close to listed structure and policy HE9 – Development affecting the Setting of a Listed Building states that:

Proposals which would adversely affect the setting of a listed building will not be permitted. Development proposals will normally only be considered appropriate where all the following criteria are met: a) the detailed design respects the listed building in terms of scale, height, massing and alignment b) the works and architectural details should use quality materials and techniques (traditional and/or sympathetic) in keeping with the listed building c) the nature of the use proposed respects the character of the setting of the building.

Regional Policy and Guidance

Regional Policy

68. 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.

69. As this proposal is for new housing in a settlement it is stated at paragraph 6.136 that:

The policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. This approach to housing will support the need to maximise the use of existing infrastructure and services, and the creation of more balanced sustainable communities

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

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. 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) 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.

71. Given the size of the site and the extent of land proposed for development in regard to Natural Heritage paragraph 6.174 of the SPPS state 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.

72. Paragraph 6.182 of the SPPS further 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.

73. 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.

74. Again give the size of the site and the potential for surface water run-off to exacerbate flooding elsewhere in regard 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.

75. Paragraph 6.132 of the SPPS further 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.

Assessment

Policy HOU 1 – New Residential Development

76. This application is for residential development on land previously developed for a dwelling within the settlement limit of Lisburn. There is a presumption in favour of development on this type of site subject to all other planning and environmental considerations being satisfied. As criteria (c) of the policy applies the requirements of policy is met.

Policy HOU3 - Site Context and Characteristics of New Residential Development

77. The surrounding context is characterised mainly by suburban residential development which comprises a mix of two-storey and one and a half storey semi-detached dwellings mainly finished with a brown brick façade.
78. The River Lagan and towpath is located beyond the southern boundary of the site.
79. There is a large area to the rear of the site which comprises mature trees and other vegetation consistent with a mature woodland setting close to the river in the regional park.
80. The dwellings located along the Hillsborough Road are of varying age, design scale and mass. There is no predominant form of housing. Immediately adjacent to the site these are large two-storey dwellings on generous plots. Lisburn Care home is located on the opposite side of the Road.
81. The planning statement indicates at page 9 that the dwellings will be two storey and that the scale, proportions and massing of the built development is appropriate to the character of the site and surrounding context.
82. For the reasons outlined above, it is accepted that the proposed development will respect the suburban form of housing found in the local context and the scheme is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance. Criteria (a) is met.
83. Paragraph 6.3 of the Planning Supporting Statement makes reference to the landscape quality and features of this part of the LVRP being characterised by the woodland to the north of the site, mature road front vegetation along Hillsborough Road, riparian vegetation adjacent to the River Lagan and the undeveloped lands to the west [outwith the application site].
84. It is these features that contribute to amenity, landscape and ecological value of the site. They have been identified, protected and incorporated into the proposed layout.
102. The residential character of the area will not be significantly changed or significantly harmed by the proposed development. The trees surrounding the site are protected by a TPO and the majority of them are shown to be retained and augmented where necessary with native planting along with standard and heavy standard trees.
85. Whilst the planning statement indicates that there are no features of the archaeological environment and built heritage present on the site advice from Historic Environment Division confirms that the site is in close vicinity of a scheduled, raised rath or early medieval homestead (DOW014:038).
86. Advice indicates that this is a monument of regional importance scheduled for protection under the Historic Monuments and Archaeological Objects (NI) Order 1995. The application site is also in the vicinity of two sites that are entered in

the Department's Industrial Heritage Record, Moore's Bridge (IHR02869) and Costello's Bridge (IHR02870).

87. The recorded sites and monuments nearby and the location of the site adjacent to the ford of Lagan and Ravernet rivers indicate a significant potential for further, previously unrecorded archaeological remains to be encountered within the application site.
88. That said, the impact of the proposal has been considered and advice provided that it complies with policy subject to conditions for the agreement and implementation of a developer funded programme of archaeological works.
89. The Council accept the advice provided by HED. There is a requirement under policy HE4 where the Council is minded to grant planning permission to recommend this be subject to the use of a negative planning condition requiring archaeological investigation and mitigation. Criteria (b) of policy HOU3 is met subject an archaeological evaluation being carried out before any other development is carried out on the site.

Policy HOU4 - Design in New Residential Development

90. The layout as shown on the proposed Site Layout and Landscape drawing published to the Planning Portal on 04 October 2023 demonstrates that there are a number of different house types proposed. A sample description of some of these house types is outlined below.
91. House type 1A is a four-bedroom detached dwelling comprising approximately 170 square metres of floor space. It has a red brick finish and reconstituted stone on some surrounds. The windows comprise white sliding sash and composite doors.
92. House type 4b comprises a 2-storey detached 4 bedroom dwelling (9 metres in height). It has a red brick façade with stone surround to doors and windows and slate roof. There is a rear return with a flat roof and key light roof lantern.
93. The dwellings are all two storey in height. Some have integral garages and others are detached.
92. The layout of the rooms in each of the units, the position of the windows along with the separation distance also ensures that there is no overlooking into the private amenity space of neighbouring properties.
93. The development on the site does not conflict with surrounding land uses. It is well separated from adjoining residential development on the north and is situated at a lower ground level. The buildings are not dominant or overbearing and no loss of light would be caused.
94. A minimum of 20 metres separation distance is provided between units which back onto each other within the proposed development. These figures are consistent with the guidance set out at paragraphs 5.19 – 5.20 of the Creating Places document.

95. The proposed layout is consistent with the form of housing found in the surrounding area. The proposed houses all face towards the internal service road.
96. The house types provided are accessible and designed to ensure that they are capable of providing accommodation that is wheelchair accessible for persons with impaired mobility.
97. The proposed design and finishes are considered to draw upon the materials and detailing exhibited within the surrounding area and will ensure that the units are as energy efficient as possible.
98. For the reasons outlined above, criteria (a), (e), (f) and (i) are considered to be met.
99. There is no requirement for the provision of a local community or neighbourhood facility for this scale of development. The site is accessible to a number of shops and other neighbourhood facilities in Lisburn. Criteria (c) is met.
100. Private outdoor amenity space for each unit ranges from 70 square metres – 245 square metres which is well in excess of the guideline stipulated in Creating Spaces. The rear gardens range from 12 metres to 19 metres and this is considered acceptable.
101. The landscape plan demonstrates that the mature trees along the site frontage with the Hillsborough Road are retained. Extra heavy standard tree planting is shown to line the access into the site and to supplement gaps in roadside planting.
102. An Arboricultural report was submitted with the application as there are a number of TPO trees within the site boundaries. In its executive summary, it is stated that the layout of the development proposal has also been designed to ensure the incorporation and protection of trees and vegetation along the riparian corridor by the River Lagan and to the west, in recognition of their contribution to the visual amenity and character of the Lagan Towpath, and ecological contribution to the nearby Site of Local Nature and Conservation Importance (SLNCI).
103. The findings also indicate that some of the trees to be removed are subject to a Tree Preservation Order. A large number of these trees are younger ornamental species planted as landscaping around the existing dwelling and driveway and offer limited or no public visual amenity. The other TPO trees that will be impacted include an early mature treeline along Hillsborough Road that were previously granted removal under a planning application in 2012 for a new entrance.
104. However, a landscape plan submitted as part of the application proposes a diverse mix of new trees within the site. This new planting will include a varied age and mix of native and non-native trees. The landscape plan proposes tree planting along the northern boundary and by Hillsborough Road to complement

and enhance the existing mature tree population and to strengthen the future amenity and ecological benefits provided by trees in this area.

105. The tree officer in the council has been consulted on a number of occasions throughout the processing of the application. In the latest response dated 4 September 2023, it was concluded that the amended layout in relation to the TPO is welcomed, in particular the removal of Sites 21-25 and the relocation of Site 1. It is considered that these amendments will protect the overall integrity of the TPO along the Hillsborough Road, particularly when the replacement planting has been carried out. Conditions are also proposed.
106. The proposed site layout drawing includes details of other internal boundary treatments including formal and informal hedges to housing areas and block retaining walls having regard to the change in topography across the site. The retaining structures are green faced to soften any impact.
107. For the reasons outlined above, criteria (b) is met.
- 101 With regard to criteria (d) the proposed density equates to 16.13 dwellings per hectare which is much less than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area. The average unit size exceeds space standards set out in supplementary planning guidance.
103. The internal road layout provides for safe and convenient access through the site and the provision of dropped kerbs and tactile paving will also serve to meet the needs of mobility impaired persons. Adequate and appropriate provision is also made for in curtilage parking which meets the required parking standards. Criteria (g) and (h) are considered to be met.
108. The careful delineation of plots with appropriate fencing will serve to deter crime and promote personal safety. Criteria (l) is considered to be met.
109. Provision can be made for householder waste storage within the curtilage of each unit and its safe collection can be facilitated without impairment to the access manoeuvrability of waste service vehicles. Criteria (k) is met.

Policy HOU 5 - Public Open Space in New Residential Development

104. Detail submitted with the application indicates that the site exceeds one hectare and as such, open space must be provided as an integral part of this development.
105. The proposed layout plan indicates that 2014 square metres of open space is provided as an integral part of the development. This equates to 12.7% of the overall site area which is in excess of the 10% requirement for residential development. This space extends along the sites boundary with the existing towpath.

106. The development is designed to allow for easy access to the towpath which adds quality to the proposal.
107. For the reasons outlined above, the policy tests associated with HOU5 are met.

Policy HOU10 – Affordable Housing

108. The proposal includes more than 5 dwellings. The Agent indicates in an email dated 21 August 2023, that it is their intention to make alternative provision through the delivery of an affordable housing scheme on lands located off Leamington Place, Grand Street Lisburn. It explains that this site already benefits from planning permission [LA05/2021/1142/F] and that works are due to commence on site soon.
109. The policy does state that that in exceptional circumstances alternative provision can be made off-site by the applicant. A case is made that the scale and mature of the proposed development does not lend itself to the provision of affordable housing. This is a suburban location and the proposed housing falls outside the normal cost parameters for affordable housing. Another more sustainable location closer to the City Centre is offered along with a larger number of units than the minimum required by policy. The mix and type of affordable units are subject to consultation with the NIHE.
110. An exception is demonstrated for the reasons outlined above and subject to a section 76 agreement, the tests associated with Policy HOU10 are met.

Natural Heritage

111. A Preliminary ecological Assessment (PEA) prepared by Blackstaff Ecology has been submitted as part of the application to assess the likely impact of the proposal upon ecological sites, species and Habitats.
112. The PEA highlighted the need for bay surveys to be carried out as the existing house and garage were identified as having bat roost potential and they are identified as to be demolished to facilitate the proposed development.
113. These surveys were carried out and as a result of the activity observed, it is recommended that removal of the roofs of these 2 buildings is undertaken at the appropriate time of year to allow the bats to be fly away or be moved by an experienced ecologist.
114. No other evidence of any other protected species has been identified in or surrounding the site.
115. The northwest corner and strips along the western boundary of the application site are located on the eastern edge of the Old Warren SLNCI, which extends almost a mile north west of the site along the river corridor. It is noted for its floodplain habitats and associated flora.
116. The layout of the development has been designed to protect and maintain these habitats along the southern boundary of the site and mature belt of

vegetation along the Hillsborough Road frontage which fall within the SLNCI designation and are protected by the TPO on the site.

117. In paragraph 97 of the PEA, it identifies the small area of SLNCI located on steeply sloping ground in the north-west corner of the site to be in poor condition, overall being overrun with bramble scrub. This part of the SLNCI lies well outside of the floodplain and does not contain any wetland habitats.
118. Furthermore, a Construction Environment Management Plan (CEMP) has been submitted to mitigate against any likely significant effects on these designations from the proposed development.
119. It is therefore considered that due to limited biodiversity value and in the context of the overall impact on the wider SLNCI, that development of this area will not have a significant impact on the old Warren SLNCI in accordance with requirements of ENV 2 of draft BMAP.
120. Based on a review of the detail submitted with the application and the advice received from NED, it is accepted that appropriate mitigation and/or compensatory measures have been proposed to outweigh the impact on priority habitats and priority species consistent with policies NH2 and NH5 of the Plan Strategy.

Access and Transport

Policy TRA1 Creating an Accessible Environment

121. The proposed development will link with existing pedestrian infrastructure in the area and tactile paving, dropped kerbs and a new pedestrian refuge island across the A1 will be provided to assist pedestrians crossing the proposed site access.

Policy TRA2 Access to Public Road

122. The proposal involves a new access and right hand turning pocket onto the Hillsborough Road which is a protected route. The proposed access is similar to the one approved under the hotel application.
123. Vehicle and pedestrian access to the site will be directly from A1 Hillsborough Road via a reconfiguration of the existing site access. The site access is located approximately 500m north from the Hillsborough Road/ Ravernet Road/ Blairs Road Signal-Controlled Junction.
124. A Transport Assessment Form (TAF) is submitted in support of the application. It provides detail of Travel Characteristics, Transport Impacts and Measures to mitigate impacts/influence travel to the site.
125. The detail contained within the TAF illustrates that the proposed site access can accommodate the additional traffic movements associated with the development proposals.

126. Accordingly, the vehicle movements associated with the proposed development are not anticipated to cause any noticeable impact on the surrounding area. Pedestrian and cyclist access to the site will be via the exiting footway provision along A1 Hillsborough Road.
127. As set out in the TAF, there are 5 bus stops within 400 metres of the application site providing services to Ballynahinch, Newcastle, Newry, Belfast City Centre and local city service around Lisburn itself.
128. Advice received from DfI Roads confirms that they have no objection subject to endorsement of PSD drawings.

TRA3 – Access onto Protected Route

129. As explained above, the proposal involves a new access and right hand turning pocket onto the Hillsborough Road which is a protected route. In this case, there is no opportunity for access to be taken from an adjacent road and the detail submitted in terms of access arrangements along with the provision of a right hand turning lane will assist with the creation of a quality environment without compromising road safety or resulting in an unacceptable proliferation of access points.
130. Advice received from DfI Roads confirms that they have no objection and as such, it is accepted that the tests associated with Policy TRA3 have been met.

TRA7 – Carparking and servicing arrangements in new developments

131. The proposal is required to provide 54 parking spaces to fully comply with parking standards. The proposed site layout will include 55 parking spaces in accordance with parking standards and this is deemed acceptable.
132. The TAF explains that parking will conform to the guidelines for housing contained within Creating Places and the demand is based on in-curtilage supply, type of dwelling and size of dwelling.
133. A Travel Plan was also submitted in support of the application. The objective of this Travel Plan is to set out a long-term strategy to maximise the opportunity for those travelling to the site to avail of sustainable travel modes and to reduce the dependency on travel by private car.
134. In accompanying this Travel Plan, a Residential Travel Pack will be provided to the residents of the development, which will provide detailed information relating to the sustainable transport modes of walking, cycling and public transport.
135. The information in the travel plan details that Translink Smartlink Cards are available for use on all bus services from the site to the city centre, reducing the cost of travel on Metro and Ulsterbus services.

136. In addition, the residents and visitors will be made aware of Translink's a-link initiative, as the financial savings could incentivise travellers to make use of public transport.
137. The consultants have stated that the Travel Plan will encourage cycling to and from the proposed development by:
- Promoting the economic, health and environmental benefits of cycling – saves money, helps lose weight, delivers a less polluted journey;
 - Providing copies of Sustrans leaflets at information areas as well as a link to the online map;
 - Promoting cycling activities/ elements of Sustrans; and
 - Making residents aware of the Bike2Work initiative
138. Based on a review of the information and the advice received it is considered that the proposal satisfies the policy tests associated with policies TRA1, TRA2, TRA3 and TRA7 of the Plan Strategy.

Historic Environment and Archaeology

139. The application site is in the close vicinity of a scheduled, raised rath or early medieval homestead (DOW014:038). This is a monument of regional importance scheduled for protection under the Historic Monuments and Archaeological Objects (NI) Order 1995. The application site is also in the vicinity of two sites that are entered in the Department's Industrial Heritage Record, Moore's Bridge (IHR02869) and Costello's Bridge (IHR02870).
140. The recorded sites and monuments nearby and the location of the site adjacent to the ford of Lagan and Ravernet rivers indicate a significant potential for further, previously unrecorded archaeological remains to be encountered within the application site. HED (Historic Monuments) has considered the impacts of the proposal.
141. HED (Historic Monuments) were consulted and are content that the proposal satisfies policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation. It is therefore recommended that conditions are attached to the decision notice.
142. The site is also located in close proximity to Moore's Bridge (Grade B1) which is of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI) 2011. HED (Historic Buildings) also has considered the impacts of the proposal on the designation and on the basis of the information provided advises that it is content with the proposal without conditions.
143. Officers have no reason to disagree with the advice of the statutory consultees. It is taken account of in the design and layout of the proposal and the landscaping promotes access to and provides information about the importance of the heritage.

144. It is therefore contended that the proposed development complies with policies HE4 and HE9 of the Plan Strategy.

Flooding

145. The P1 Forms indicates that both surface water and foul sewage will be disposed of via mains connection.
146. A Drainage and Flood Assessment submitted in support of the application provides details of the existing runoff and post development run off.
147. With regard to existing run off, it explains that the existing site is 4.03 hectares and is a greenfield. It advises based on the existing site layout and applying a surface water run off rate of 10 l/s/ha that the site generates 40.3 l/s.
148. With regard to post development runoff, it explains that it is proposed to construct new storm sewers to serve the development and that it is proposed to limit the discharge to a maximum of 50 l/s from Network 1 as per current adoption agreement. IN addition, 11.1 l/s and the schedule 6 consented rate will be discharged from Network 2 to the adjacent, undesignated watercourse.
149. The assessment indicates that these rates are achieved through use of flow control devices with approximately 402m³ [Network 1] and 222m³ [Network 2] of attenuation provided within oversized drainage infrastructure.
150. It also indicates that the proposed network provides considerable attenuation for return periods exceeding the performance requirements of Sewers for Adoption NI.
151. An addendum to the Drainage Assessment received in July 2022 addressed comments from DfI Rivers in a response dated September 2020 in respect of changes to the site layout and levels. This addendum provides details on a review undertaken in relation to drainage options and detailed design of the storm and foul drainage networks to ensure compliance with consented rates of discharge.
152. In addition to the provisions for storm drainage, foul sewage will be discharged to the existing sewer network to the south east of the site. External works to create capacity in the existing public sewer network have been agreed with NI Water and are to be delivered in advance of occupation.
153. Advice received from DfI Rivers on 22 September 2020 confirmed that the site does not lie within the 1 in 100 year fluvial flood plain and as such, they had no reason to object to the proposed development from a drainage or flood risk perspective.
154. In relation to Policy FLD 3, the response confirms that the mitigation measures proposed to ensure that all surface water discharge is attenuated and limited to greenfield run-off rates is agreed and whilst not responsible for the preparation of the Drainage Assessment report accepts its logic and has no reason to disagree with its conclusions.

155. Water Management Unit advised that they had considered the impacts of the proposal on the water environment and would advise the proposal has the potential to adversely affect the surface water environment.
156. Advice received from NI Water confirms that there was public water supply within 20 metres of the proposed site. In relation to public foul sewer, the response advised that a formal sewer connection application was required to be made for all developments including those where it is proposed to re-use existing connections.
157. With regard to public surface water sewer, the advice confirmed that there was no surface water sewer within 20 metres of the site.
158. Confirmation was also provided to indicate that there was available capacity at the receiving Waste Water Treatment Works.
159. Officers have no reason to disagree with the advice of the consultees. Based on a review of the information and advice received from DfI Rivers, Water Management Unit and NI Water, it is accepted that the proposal complies with policy FLD3 of the Plan Strategy.

Consideration of Representations

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

Proposal will result in more traffic on an already busy road

161. As detailed above, the proposal meets the relevant policies. The proposed access and car parking is acceptable and the proposal will not prejudice road safety.

Concerns about the development of land to the rear of objector's property which could result in land slippage

162. Material weight cannot be afforded to this assertion as no contrary evidence has been put forward to substantiate this claim. Retaining is proposed where appropriate and any alternative design that is required to support a boundary with a neighbouring property may require separate approval in its own right.

Some of the proposed houses are being built on a floodplain.

163. No dwellings are proposed to be built on the flood plain and the Assessments submitted illustrate that the proposal will not result in an increase in flood risk.

Proposal is resulting in more green space along the river being lost.

164. The proposal is located on lands within the development limits and open space is provided as part of the overall scheme. No designated areas of open space will be lost due to the proposal.

Recommendation

165. The application is presented with a recommendation to approve subject to conditions outlined and a Section 76 Agreement requiring the developer to:

- Make provision for affordable housing at an alternative site and that no more than 14 dwellings shall be constructed prior to the confirmation of the commencement of the development at the alternative location. Otherwise the developer will be required to provide 20% affordable housing at this site which is 3 units.

Conditions

166. The following conditions are recommended:

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

Reason: Time limit

2. No development shall take place until drawings necessary to enable a determination to be made in accordance with Article 3 of the Private Streets (Northern Ireland) Order 1980 have been submitted to, and approved by, the Council.

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

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

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

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

4. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 3.

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

5. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 3. These measures shall be implemented and a final archaeological report shall be submitted to Lisburn and Castlereagh City Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Lisburn and Castlereagh City Council.

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

6. No site works of any nature or development shall take place until a fence has been erected around the area specified, on a line to be agreed with the Historic Environment Division (Historic Monuments). No works of any nature or development shall be carried out within the fenced area. No erection of huts or other structures, no storage of building materials, no dumping of spoil or topsoil or rubbish, no bonfires, nor any use, turning or parking of plant or machinery shall take place within the fenced area. The fence shall not be removed until the site works and development have been completed.

Reason: to prevent damage or disturbance of archaeological remains within the application site.

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

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

8. Prior to the commencement of any of the development hereby approved, a final drainage assessment, containing a detailed drainage network design shall be submitted to the Council for agreement.

Reason: In order to safeguard against surface water flood risk

9. No retained tree shall be uprooted or have its roots damaged within the root

protection area nor shall arboriculture work or tree surgery take place on any retained tree other than in accordance with the Arboricultural Impact Assessment & Method Statement (including the Tree Impact & Protection Plan and Tree Constraints Plan), bearing Council date stamp 22nd June 2023, without the written consent of the Council. Any approved arboricultural work or tree surgery shall be carried out in accordance with British Standard 3998:2010 Recommendations for Tree Work.

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

10. All trees and planting within the site shall be retained unless shown on the Tree Impact & Protection Plan, bearing Council date stamp 22nd June 2023 and Site Layout and Landscape Plan (date stamped 22nd June 2023) as being removed. Any trees or planting indicated on the approved drawings which die, are removed or become seriously damaged, diseased or dying, shall be replaced during the next planting season (October to March inclusive) with other trees or plants of a location, species and size to be first approved in writing by the Council.

Reason: In the interests of visual amenity.

11. Prior to any work commencing all tree protective measures, protective barriers (fencing) and ground protection is to be erected or installed as specified on the Tree Impact & Protection Plan, bearing Council date stamp 22nd June 2023 and in accordance with the British Standard 5837: 2012 (section 6.2) on any trees to be retained within the site, and must be in place before any materials or machinery are brought onto site for demolition, development or soil stripping. Protective fencing must remain in place until all work is completed and all associated materials and equipment are removed from site.

Reason: To ensure the protection of, and to ensure the continuity of amenity afforded by any existing trees to be retained within the site and on adjacent lands.

12. 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.

14. There shall be no demolition works carried out on the building with a known bat roost prior to the granting of a NIEA Wildlife Licence. In order to satisfy the provisions of the Habitats Regulations, it must be shown in a method statement that the proposed development will not have a detrimental impact on the conservation status of the species in its natural range. Please note that this licence may be subject to further conditions.

Reason: To minimise the impact of the proposal on bats.

15. A soft strip of the roof of the building known to contain roosting bats, followed by await period of 24 hours before any further development work continues.

Reason: To ensure protection of bats and their roosts.

16. Works on the identified building due for demolition to be restricted to the periods of 15th August - 1st November and 1st March – 15th May to minimise impacts to bats.

Reason: To minimise impacts to bats.

17. Compensatory bat roosting opportunities must be incorporated into the proposal and installed prior to the demolition of the existing dwelling.

Reason: To ensure compensatory roosting opportunities for bats are provided.

18. Prior to works commencing on site, all existing trees shown on Layout Plan, Drawing Number 17, as being retained shall be protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

Reason: To protect the biodiversity value of the site, including protected species.



Lisburn & Castlereagh City Council

Planning Committee	
Date of Meeting	06 November 2023
Committee Interest	Local Application – Called In
Application Reference	LA05/2020/0106/O
Date of Application	05 February 2020
District Electoral Area	Killultagh
Proposal Description	Proposed dwelling and demolition of existing shed required to provide access to the site.
Location	Lands to the rear of 54 Crumlin Road Upper Ballinderry Lisburn BT28 2JZ
Representations	Two
Case Officer	Richard McMullan
Recommendation	Refusal

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—

- (a) *a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*

- (b) *any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

- [4] *Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.*

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] *Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.*

4. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications.
5. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

6. This application is categorised as a local application. It is referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In
7. The application is recommended for refusal as it is considered that the proposal is contrary to paragraph 6.73 of the SPPS, and policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032 (in that the proposed development is not a type of development which in principle is acceptable in the countryside).
8. The proposal is contrary to the SPPS and Policy COU 2 of the Plan Strategy in that
- the proposed dwelling is not located within an existing cluster of development which lies outside of a farm and consists of 4 or more buildings of which at least three are dwellings;

- the proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape.
 - the proposed dwelling is not within a cluster of development that is associated with a focal point such as a social/community building/facility or is located at a cross roads.
 - the identified site cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with other development within a cluster of development.
 - the development of the site cannot be absorbed into a cluster of development as it is not located within one, through rounding off and consolidation as it would if permitted, visually intrude into the open countryside.
9. The proposal is contrary to the SPPS and policy COU16 of the Plan Strategy in that the proposed development fails to respect the traditional pattern of settlement. It would also result in urban sprawl and have an adverse impact on the rural character.

Description of Site and Surroundings

Site

10. The site is located on the eastern side of the Crumlin Road, Upper Ballinderry, Lisburn. It is located to the east and rear of 54 Crumlin Road.
11. Access to the site is from the existing access which serves the dwelling at 54 Crumlin Road. A tin shed will be removed to facilitate access to the site.
12. The application site comprises the south western corner of a medium sized agricultural field. It is at a lower level than the Crumlin Road and the dwellings which front onto the road to the immediate west of the site at 54a, 54b, 54 & 56. Detail provided with the application illustrates the site to be approximately 4.5 metres below the level of 54 Crumlin Road.
13. The northern site boundary is defined by mature trees. The southern site boundary is defined by semi mature trees and post and wire fencing. The eastern site boundary is noted to be undefined with the western boundary being seen to be defined by a post and wire fence.

14. It is noted that the larger field in which the site is located is defined on its eastern boundary by a stream and mature trees.

Surroundings

15. The site is located within a in the open countryside, outside of any defined settlement. The land is rural in character and mainly in agricultural use.

Proposed Development

16. The development proposed is for proposed dwelling and demolition of existing shed required to provide access to the site.
17. Supporting Information provided for consideration within this application consists of the following;
- Supporting Statement in form of drawing
 - Bat report
 - Bat Activity Survey
 - Flood Risk Assessment
 - N. I. Biodiversity Checklist
 - Clarification information from ecologist

Relevant Planning History

18. Planning History associated with the site and the adjacent site is set out in the table below;

Reference	Description	Location	Decision
S/1974/0344/	Petrol filling station and shop	Aghadolgan Glenavy	Refusal
S/1987/0480/	Extension to dwelling to provide additional residential dwelling.	54a Crumlin Road, Lower Ballinderry	Approval
S/1978/0554/	Ext. to dwelling	54a Crumlin Road, Lower Ballinderry	Approval
S/1982/0467/	Extension	54a Crumlin Road, Lower Ballinderry	Approval

Consultations

19. The following consultations were carried out:

Consultee	Response
SES	No objection
DAERA NED	No objection
DFI Rivers	No objection
DFI Roads	No objection
DAERA WMU	No objection
LCCC EHO	No objection
NI Water	No objection

Representations

20. Two letters of objection have been received in relation to the proposal. A summary of the issues raised are set out below and the issues include:

- Overlooking to rear garden
- Light loss
- Intensification of use of access/Crumlin Road
- Impact upon landscape
- Loss of trees/landscaping to facilitate development
- Impact upon local ecology
- Have not been able to view drawings/detail associated with application.

Local Development Plan

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

Plan Strategy 2032

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

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

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

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

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

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

25. In draft BMAP (2004) this site is also identified as being located in the open countryside. The Plan Strategy document states that:

The Department has begun progressively to replace the Rural Strategy. The Planning Strategy section of the Rural Strategy has been superseded by the RDS, whilst the topic policy sections are progressively being replaced by PPS's. The Rural Strategy remain material considerations until superseded by PPS's.

26. In the subsequent revision to draft BMAP (2014) this site is located in the open countryside. It is stated at policy SETT 4 at page 32 of Part 3 Volume 1 that:
The policies contained in 'A Planning Strategy for Rural Northern Ireland', except where superseded by prevailing regional planning policies, will apply to the entire Plan Area.
27. It is then stated in the supplementary text under the policy at pages 32 and 33 that:

PPS 7: Quality Residential Environments and PPS 7 Addendum: Safeguarding the Character of Established Residential Areas set out the prevailing regional planning policies for achieving quality in the design and layout of new residential developments. They embody the Government's commitment to sustainable development and the Quality Initiative. They contain criteria-based policies against which all proposals for new residential development, including those on land zoned will be assessed, with the exception of single dwellings in the countryside. These will continue to be assessed under policies contained in PPS 21: Sustainable Development in the Countryside.

28. There are equivalent policies in the Plan Strategy of the Lisburn and Castlereagh City Council Plan 2032 to the regional policies described in LAP and draft BMAP.
29. This application is for a new dwelling in the open countryside. The strategic policy for new housing in the countryside is set out in Part 1 of the Plan Strategy. Strategic Policy 09 Housing in the Countryside states:

The Plan will support development proposals that:

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

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

Development in the Countryside

31. This is an application for a single dwelling in the open countryside. Policy COU 1 – Development in the Countryside states:

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

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

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

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

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

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

32. As explained this is an application for a new dwelling in an existing cluster and in accordance with the requirements of Policy COU 1, the application falls to be assessed against policies COU 2, COU 15 and COU 16.
33. Policy COU2 New Dwellings in Existing Clusters states:

Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- a) the cluster of development lies outside of a farm and consists of four or more established buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) forming a close grouping of buildings, of which at least three are dwellings*
- b) the cluster appears as a visual entity in the local landscape*
- c) the cluster is associated with a focal point such as a social/community building*
- d) the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster*
- e) development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside through the creation of ribbon development*

34. The justification and amplification of COU2 further states:

For the purpose of this policy the following definitions will apply:

A visual entity in the local landscape is defined as a collective body of buildings, separated from the countryside when viewed from surrounding vantage points.

A focal point is defined as a social/community building, usually visually significant within the cluster and which defines a different built form and use to the rest of the buildings in the cluster.

Effective design principles for compliance with the policies of COU2 are illustrated and set out in the Department's design guidance, 'Building on Tradition'.

Integration and Design of Buildings in the Countryside

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

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

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

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

Rural Character and other Criteria

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

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

A new development proposal will be unacceptable where:

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

Waste Management

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

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

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

Natural Heritage

38. This is a large site with hedgerow. Policy NH5 Habitats, Species or Features of Natural Heritage Importance states that:

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

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

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

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

Access and Transport

39. A building is to be removed and a new access is to be constructed to the public road to serve the proposed dwelling and Policy TRA2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- a) *it will not prejudice road safety or significantly inconvenience the flow of*

- vehicles; and,
 b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

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

40. The justification and amplification states:

New development will often affect the public road network surrounding it. This policy seeks to avoid or mitigate adverse impacts and ensure that proposed access arrangements are safe and will not unduly interfere with the movement of traffic.

Development proposals involving a new access, or the use of an existing access must be in compliance with the requirements of the Department's Development Control Advice Note 15, Vehicle Access Standards (2nd Edition, published in August 1999). For the purposes of this policy, a field gate is not an existing access.

The proximity of the proposed access to junctions, other existing accesses and the total number of accesses onto a given stretch of road are relevant matters in the assessment of traffic hazards. The combining of individual access points along a road will be encouraged as this can help to improve road safety.

Control over the land required to provide the requisite visibility splays will be required to ensure that they are retained free of any obstruction. This may be subject to a planning condition requiring that no development shall take place until the works required to provide access, including visibility splays, have been carried out.

Flooding

41. Policy FLD5 Development in Proximity to Reservoirs states that

New development will only be permitted within the potential flood inundation area of a 'controlled reservoir' as shown on DfI Flood Maps NI if:

- (a) *it can be demonstrated that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety, so as to enable the development to proceed; or*
- (b) *where assurance on the condition, management and maintenance regime of the relevant reservoir(s) is not demonstrated, the application is accompanied by a Flood Risk Assessment, or other analysis, which assesses the downstream flood risk in the event of an uncontrolled*

release of water due to reservoir failure as being acceptable to enable the development to proceed.

There will be a presumption against development within the potential flood inundation area for proposals that include:

- *Essential infrastructure;*
- *Storage of hazardous substances; and*
- *Bespoke accommodation for vulnerable groups.*

Replacement Building(s): where assurance on the condition, management and maintenance of the relevant reservoir(s) is not demonstrated, planning approval will be granted for the replacement of an existing building(s) within the potential flood inundation area of a controlled reservoir provided it is demonstrated that there is no material increase in the flood risk to the proposed development or elsewhere.

Regional Policy and Guidance

Regional Policy

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

The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPPS within 5 years.

43. 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

44. This proposal is for a dwelling in a cluster. Bullet point one of paragraph 6.73 of the SPPS states that:

provision should be made for a dwelling at an existing cluster of development which lies outside a farm provided it appears as a visual entity in the landscape; and is associated with a focal point; and the development can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;

45. It is further stated at paragraph 6.78 of the SPPS that:

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

Retained Regional Guidance

46. Whilst not policy, the following guidance document remain a material consideration.

Building on Tradition

47. Whilst not policy, and a guidance document, the SPPS states that regard must be had to the guidance in assessing the proposal. BOT states in relation to cluster development that:

4.3.0 Policy CTY2A of PPS 21, Sustainable Development in the Countryside, defines what constitutes a cluster and that it sets down very clear guidance on how new developments can integrate with these. The guidance also acknowledges that a key requirement is that the site selected has a suitable degree of enclosure and is bounded on two sides with other development in the cluster.

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.

48. With regards to waste water treatment, 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.

Development Control Advice Note 15 – Vehicular Access Standards

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

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

Assessment

New dwellings in Existing Clusters

64. Policy COU2 firstly outlines that planning permission will be granted for a dwelling at an existing cluster of development provided listed criterion are met.
65. In turn the first assessment to be made of such an application is to determine if the application site is located within an existing cluster of development.
66. A drawing has been provided by the agent in support of the application. This drawing outlines the characteristics of the site and expresses the view that the site sits within an already established cluster.
67. The drawing contends that the Silver Eel (coloured purple) is the focal point for the purposes of the policy criteria.
68. A number of dwellings are also coloured yellow to illustrate what buildings comprise the existing cluster of development.
69. A number of statements are annotated upon the supporting drawing by the agent as below;
- The proposed site is situated in close proximity to the existing premises of the Silver Eel Pub, 135 Lurgan Road, Glenavy, Crumlin. Existing as a visual entity in the local landscape at the cross roads of the Lurgan/Crumlin Road, Chapel and the Aghadolgan Road.
 - Suitable enclosure and bound on at least 2 sides-This site has existing mature vegetation to two boundaries.
 - It lies outside of a farm and consists of 4 or more buildings of which at least 3 are dwellings.

- Proposed dwelling can be absorbed into the existing cluster through rounding off & consolidation of existing character. Lies at cross-roads, encompassing the existing curtilage of the Silver Eel-Providing focal point.
 - The development would not adversely impact on residential amenity.
 - CTY13 and CTY14-Any proposed dwelling design will be sympathetic & integrate, nor will it damage the rural character of its surroundings.
70. Having regard to the above justification provided by the agent in support of the proposal and having visited the site, it is considered that the application site does not fall within a cluster of development as suggested for the reasons outlined below.
71. It is considered that the cluster of development which is adjacent to the Silver Eel Public house terminates at 1 and 3 Chapel Road to the south. The site does not read as part of the visual entity
72. For this reason the application site does not fall within a cluster of development that lies outside of a farm and which consists of four or more buildings of which three are dwellings. Criteria (a) is not met.
73. The reason why the site does not read as part of the visual entity is that a large belt of mature trees defines the boundary between 1 and 3 Glenavy Road and 56 Crumlin Road and divides the development to the south of the trees (56 Crumlin Road onwards) from the rest of the cluster.
74. The application site is located to the rear of a ribbon of development which is located to the south of the cluster, starting with 56 Crumlin Road and extending in a southerly direction.
75. The site is approximately 180 to 190 metres south east of the Silver Eel Public House. The site is not visually linked to the Silver Eel Public House when viewed from within the site.
76. Differences in levels (site at a lower level than the road) and mature landscaping along with the intervening buildings means there is no visual linkage from the site to the cluster of development associated with the Silver Eel Public House.
77. For the reasons outlined above, criteria (b) and (c) of Policy COU2 are also not met.
78. The site is bounded to the west by 54 Crumlin Road and to the south by 54a Crumlin Road and a planning history check undertaken in respect of 54a to the south of the site does not provide records of planning permission for the extended curtilage of these properties.

79. As the application site is not located within a cluster of development, it is not considered to be capable of providing a suitable degree of enclosure nor is it bounded on at least two sides with other development in the cluster.
80. Furthermore, as it is considered that the application site falls outside of a defined cluster of development, this means that the development of the site cannot be absorbed into an existing cluster of development by rounding off and consolidation. It would in turn alter the character of the rural area, visually intruding into the open countryside.
81. For the reasons outlined, criteria (d) and (e) are not met.

Policy COU15 - Integration and Design of Buildings in the Countryside

82. Turning then to policy COU15, it is considered that the proposed development, would not be a prominent feature within the local landscape as a result of it being at a lower level than the Crumlin Road and it is clustered with adjacent dwellings to the west.
83. A dwelling if approved would be able to blend into the site utilising existing trees/landscaping (in conjunction with additional planting), the dwellings adjacent to the site to the west and level differences between the site and the Crumlin Road which provide a backdrop.
84. It is considered that the application site can provide a suitable degree of integration with the existing mature boundaries in conjunction with additional planting.
85. It is not considered that the development would rely solely upon new landscaping for purposes of integration as there is already a level of existing vegetation within the site.
86. It is seen that as a result of level differences between the Crumlin Road and the site, ancillary works are required to provide access to the site via level alterations and a proposed retaining wall.
87. It is considered that these ancillary works would not be a highly visible feature when viewed from the Crumlin Road to the west of the site and as such they are deemed to be acceptable. No issues of concern with regard to the integration of same would arise.
88. As this application seeks outline permission only it is seen that detailed drawings in respect of the design of the dwelling proposed have not been provided for assessment. If approved design would be a matter reserved for consideration within a subsequent RM application or a full application.
89. For the reasons outlined above, the policy tests associated with Policy COU15 are capable of being met.

Policy COU16 - Rural Character and Other Criteria

90. For the reasons outlined above, a new building would not be prominent in the landscape and would be sited to cluster with existing dwellings to the west. Criteria (a) and (b) are met.
91. The application seeks to provide a dwelling to the rear of a ribbon of development which is noted to the west of the site running in a north-south direction along the Crumlin Road. This is not considered to be in keeping with the traditional pattern of development noted within the local area as the proposed development is in behind existing development and results in a suburban style of development creating urban sprawl. Criteria (c), (d) and (e) are not met.
92. In relation to criteria (f) a dwelling is capable of being sited and designed to ensure that the proposal does not have an adverse impact on neighboring residential amenity levels. This criteria is capable of being met.
93. In respect of criteria (g) and (h) all of the proposed services are provided underground or from existing overhead lines along the road frontage or adjacent to the site. No adverse environmental impact is identified in terms of connecting this development to services and the ancillary works will not harm the character of the area as they are already a feature of the landscape at this location.
94. In respect of criteria (i) for the reasons set out in the following paragraphs, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

Waste Management

95. Details submitted with the application indicates that a septic tank is proposed as a means of non-mains sewerage provision.
96. NI Water, LCCC Environmental Health and DAERA Water Management Unit are seen to offer no objections to the development, illustrating that no issues of concern shall arise with regard to sewerage disposal.
97. 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. The policy tests associated with Policy WM2 are met.

Access, Movement and Parking

98. It is proposed to create a new access alongside the one for which serves 54 Crumlin Road to provide access to the site which is to the rear/east of the site. An existing tin shed within the curtilage of 54 is required to be demolished to facilitate access to the site.

99. A detailed drawing has been provided illustrating the proposed access arrangements with visibility splays of 2.4 metres by 110.0 metres to the left hand side and 2.4 metres by 129.0m to the right hand side as you exist the site.
100. DfI Roads have been consulted and offer no objections subject to conditions in relation to the provision access arrangements and car parking at reserved matter stage.
101. Based upon a review of the information provided and the advice from statutory consultees, it is accepted that a new access to the public road can be accommodated without prejudice to road safety or significant inconvenience to the flow of traffic. The requirements of policy TRA2 of the Plan Strategy are met in full.

Natural Heritage

102. Ecological information provided has been assessed and consultation with DAERA NED & WMU has taken place. The SES unit have also been consulted.
103. This application site is seen to be located adjacent to a stream and its boundaries are seen to consist of mature trees and hedging.
104. DAERA NED have been consulted a number of times and in turn within their last consultation response it is seen that they offer no objections to the development as proposed.
105. NIEA Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, is content with the proposal, subject to recommendations.
106. NED offered a number of conditions are which are intended to protect acknowledged bats within the site, minimise the impact of the development on the biodiversity value of the site & protect the watercourse which is adjacent to the site and downstream designated sites.
107. As noted SES have also been consulted requested that as a condition of approval the applicant must submit a detailed drawing identifying a suitable and clearly defined buffer of at least 10m from the watercourse on the eastern boundary, for the purposes of refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. This 10m buffer must be adhered to at all times during the construction phase. This is to ensure that the project will not have an adverse effect on the integrity of any European site.
108. DAERA WMU refer the planning authority only to standing advice in respect of single dwellings and have no objection to the proposed development.

109. Taking the advice of the three consultees together into account it is considered that the development will not cause any harm to any noted features of natural heritage importance. The requirements of policies NH 5 of the Plan Strategy are met in full and the proposal will not have an adverse impact on habitats, species or features of natural heritage importance.

Planning and Flood Risk

110. Rivers Agency have provided comment in respect of the development because the site is within the inundation area of two reservoirs.

111. Dfl Rivers have stated that with regard to policy FLD 5 that;

Dfl Rivers reservoir inundation maps indicate that this site is in a potential area of inundation emanating from both Stoneyford Reservoir and Leathemstown Reservoir.

Dfl Rivers is in possession of information confirming that Stoneyford Reservoir has 'Responsible Reservoir Manager Status'. Consequently Dfl Rivers has no reason to object to the proposal from a reservoir flood risk perspective.

For any subsequent planning consultation for development within the potential area of inundation of this reservoir, the condition of the reservoir will need to be reconsidered.

Dfl Rivers is in possession of information confirming that Leathemstown Reservoir has 'Responsible Reservoir Manager Status'. Consequently Dfl Rivers has no reason to object to the proposal from a reservoir flood risk perspective.

For any subsequent planning consultation for development within the potential area of inundation of this reservoir, the condition of the reservoir will need to be reconsidered.

112. It has been confirmed that nearby Reservoirs have "Responsible Reservoir Manager Status" and are therefore deemed to safe. For this reason the advice of Dfl Rivers is accepted and it is considered a refusal of permission on the basis of policy FLD 5 cannot be sustained.

Representations

113. The following points of objection have been raised within two letters of objection and are considered below:

Overlooking to rear garden

114. It is considered that overlooking concerns could be negated via the provision of a dwelling of appropriate size, design and scale (single storey). Separation distances from the site to the rear of neighbouring dwellings are noted and are deemed to be adequate. In situ landscaping in conjunction with additional landscaping would negate overlooking issues to an acceptable level.

Light loss

115. It is considered that the development as proposed as a result of in situ separation distances and level differences would not result in any issues of concern in respect of light loss to neighbouring properties.

Intensification of use of access/Crumlin Road

116. It is seen that DFI Roads offer no objections to the development as proposed. As a consequence, it is considered that no issues of concern would arise with respect to the access as proposed or increased traffic generated from the development and existing traffic levels along the Crumlin Road.

Impact upon landscape

117. This proposal is assessed against prevailing planning policy it is considered that it would erode the rural and landscape character of the area by reason of creating urban sprawl and not respecting the pattern of development found within the local area.

Loss of trees/landscaping to facilitate development

118. Detail provided within the application (and provided to NED) outlines that all trees are to be retained as indicated. This is to be secured via a condition as requested by NED. In the event of approval being granted additional landscaping would also be requested but in this instance, the application has been recommended for refusal for the reasons as outlined.

Impact upon local ecology

119. DAERA NED, WMU and the SES unit have all been consulted within the processing of this application and, subject to condition are seen to be content. Council are therefore content that the development as proposed, subject to

conditions would not adversely harm any noted interests of natural heritage importance either within the site, or remote from it.

Have not been able to view drawings/detail associated with application

120. All information is available to view online via the planning portal. If required all planning application can be viewed in person within LCCC Planning Unit. There is no prejudice as a consequence of the information being made available.

Conclusions

121. For the reasons outlined, the application is considered to be contrary to paragraph 6.73 of the SPPS and policies COU1, COU2 and COU16 of the Plan Strategy.

Recommendations

122. It is recommended that planning permission is refused.

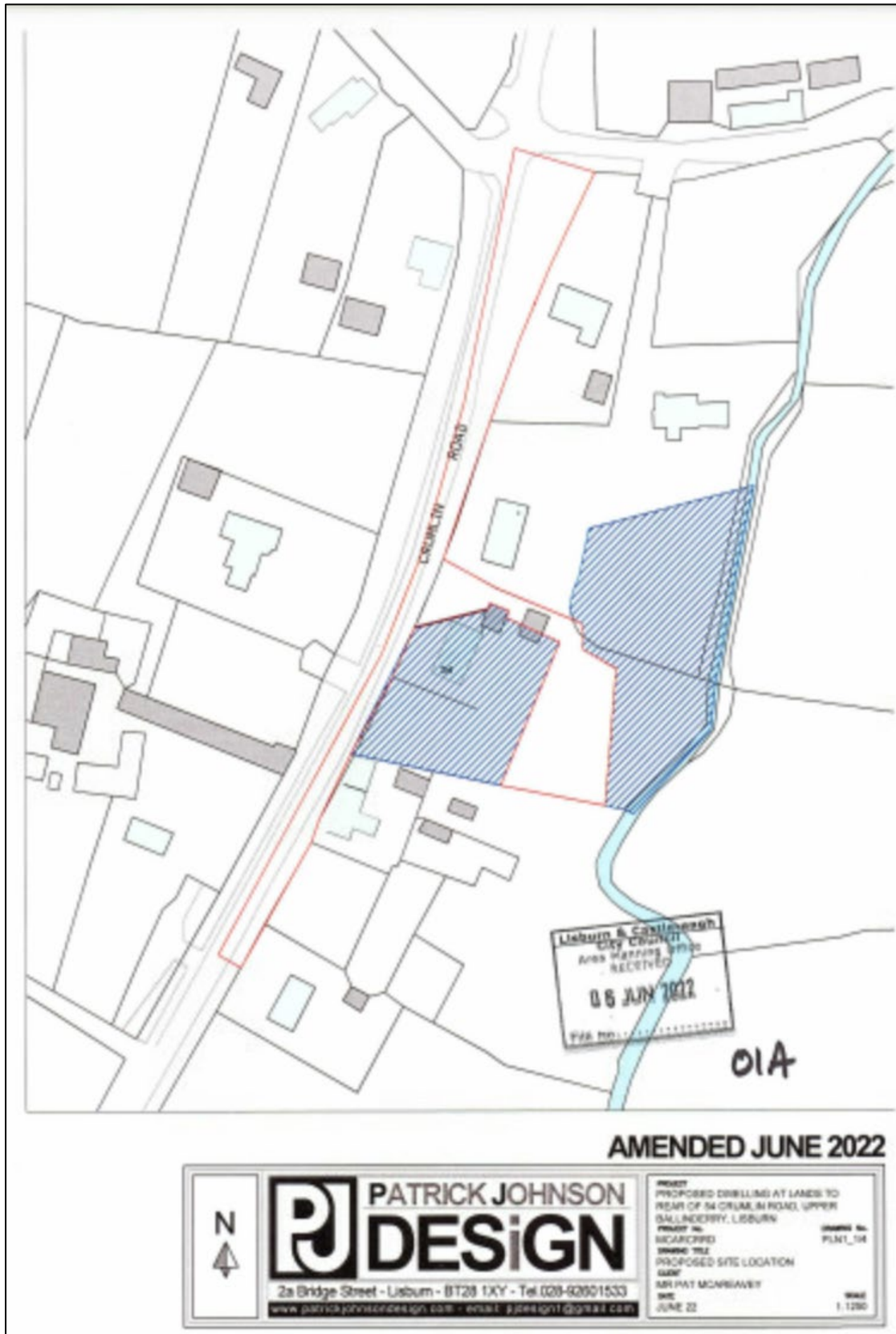
Conditions

123. The following refusal reasons are recommended;

- The application is recommended for refusal as it is considered that the proposal is contrary to paragraph 6.73 of the SPPS, and policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032 (in that the proposed development is not a type of development which in principle is acceptable in the countryside).
- The proposal is contrary to the SPPS and Policy COU 2 of the Plan Strategy in that
 - the proposed dwelling is not located within an existing cluster of development which lies outside of a farm and consists of 4 or more buildings of which at least three are dwellings;
 - the proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape.

- the proposed dwelling is not within a cluster of development that is associated with a focal point such as a social/community building/facility or is located at a cross roads.
 - the identified site cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with other development within a cluster of development.
 - the development of the site cannot be absorbed into a cluster of development as it is not located within one, through rounding off and consolidation as it would if permitted, visually intrude into the open countryside.
- The proposal is also contrary to policy COU16 of the Plan Strategy in that the proposed development fails to respect the traditional pattern of settlement, result in urban sprawl and have an adverse impact on the rural character of this part of the Crumlin Road.

Site Location Plan – LA05/2020/0106/O



Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee	06 November 2023
Committee Interest	Called In
Application Reference	LA05/2021/0946/O
Date of Application	26 August 2021
District Electoral Area	Killtulagh
Proposal Description	Site for a dwelling, garage and ancillary site works to replace all aspects of existing commercial buildings, yard and previously/last use as a Horticulture Nursery/Garden Centre.
Location	40m East of 20 Mullaghcarron Road Ballinderry Upper Lisburn BT28 2NP
Representations	None
Case Officer	Richard McMullan
Recommendation	Refusal

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] *Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—*

(a) a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and

(b) any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.

Discontinuance of departmental development plan on adoption of local development plan

[4] *Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.*

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

4. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications.
5. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

5. This application is categorised as a local application. It is referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
6. The proposal is contrary to Paragraph 6.73 of the SPPS and policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that it is not a type of development which in principle is considered to be acceptable in the countryside.
7. The proposal is contrary to policy COU3 of the Lisburn and Castlereagh City Council Plan Strategy, in that the replacement of these former non-residential

buildings for a single dwelling-would not bring significant environmental benefits and the proposed dwelling would have a significantly greater visual impact than the existing buildings.

8. The proposal is contrary to bullet point 5 of Paragraph 6.73 of the SPPS and Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development, if approved, would add to a ribbon of development along the Mullaghcarron Road.
9. The proposal is contrary to policy COU15 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development is prominent, not sited to cluster with an established group of buildings and lacks long established boundaries to allow a building to blend into the landscape.
10. The proposal is contrary to policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development is not sited to cluster with an established group of buildings and it would have an adverse impact on the rural character of the area because of its prominence on the roadside.

Description of Site and Surroundings

Site

8. This 0.6 hectare site is located on the northern side of the Mullaghcarron Road, Lisburn, to the east of an occupied dwelling at 20 Mullaghcarron Road..
9. The site is rectangular in form and comprises a rough area of hardstanding which was partially overgrown. Access is from the Mullaghcarron Road along an existing private driveway. Within the western corner of the site a number of small single storey buildings presented in an L-shaped arrangement.
10. Whilst maps would indicate the presence of a single building, it is clear from site inspection that there are three separate buildings, all in various states of disrepair.
11. The first building (the main block) has a rectangular footprint and is of single block construction with smooth rendered walls and a profiled tin roof (grey). A door opening and window are on the front east elevation; another window opening is on the north facing elevation; door is on the west facing elevation.
12. At the time of inspection, the building appeared to have been used for storage but there were no obvious signs that it had been used for horticulture in recent times. There were a number of disregarded items of furniture lying around the floor. The building was observed to have been open to the elements with no front door in place with plants/weeds growing through the front window.

13. To the immediate south of the main building there are two other buildings which were single storey wooden sheds. . Both were in a dilapidated and significant state of disrepair.
14. The northern site boundary is partially undefined and partially defined with a wooden ranch fence and mature hedgerow. The eastern boundary is defined by a wooden ranch fence and soil bund. The southern boundary consists of a roadside wooden ranch fence with some hedgerow to its rear. A separate double gate access point is noted to the hardstanding. The western boundary is defined by open board wooden fencing with semi mature landscaping.

Surroundings

15. The site is located in the open countryside and the surrounding lands are rural in character and mainly in agricultural use. However, to the south of the site a number of single dwellings are noted fronting onto the Mullaghcarron Road.
16. The dwelling opposite at 21 Mullaghcarron Road has a number of large agricultural outbuildings within its curtilage. A car body repair business is also noted associated with 19 Mullaghcarron Road.
17. To the north west of the application site (within the blue line of this application) there is a small pond.
18. To the south west of the site the settlement of Maghaberry. In between the site and Maghaberry is a large solar farm, which is to the east of HMP Maghaberry.

Proposed Development

19. This is an outline application for a dwelling, garage and ancillary site works to replace commercial buildings and yard that were previously/last used as a Horticulture Nursery and Garden Centre.
20. Supporting Information provided within this application included the following;
 - Additional information in support of planning application (Supporting statement with aerial images).
 - Bat Survey (Emergence Survey-Eolas Ecology)
 - Clarification report from Ecologist (Eolas Ecology)

Relevant Planning History

21. The planning history associated with the site is set out in the table below.

S/1978/0371/F	20 Mullaghacarton Road, Lisburn	Extension to dwelling.	Approval 06.07.1978
S/1992/0159/F	Lands adjacent to 20 Mullaghacarton Road, Lisburn	Change of Use from Agricultural to Horticultural Nursery	Approval 23.06.1992

22. The previous planning history illustrates that the sites was last lawfully used as a horticultural nursery. From inspection of the site it is apparent that this used had ceased.
23. The earliest time stamped Google Image would suggest there was no horticultural operations on the site from September 2010 onwards.
24. There was no history of planning permission for a garden centre and no CLUD is submitted to establish a use immune from enforcement.

Consultations

25. The following consultations were carried out:

Consultee	Response
NI Water	No objection
DAERA Water Management Unit	No objection
LCCC Environmental Health	No objection
DfI Roads	No objection
DAERA NED	No objection
SES	No objection
HSENI	No objection

Representations

26. No representations were received.in opposition to the proposal.

Local Development Plan

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

Plan Strategy 2032

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

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

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

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

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

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

31. In draft BMAP (2004) this site is also identified as being located in the open countryside. The Plan Strategy document states that:

The Department has begun progressively to replace the Rural Strategy. The Planning Strategy section of the Rural Strategy has been superseded by the RDS, whilst the topic policy sections are progressively being replaced by

PPS's. The Rural Strategy remain material considerations until superseded by PPS's.

32. In the subsequent revision to draft BMAP (2014) this site is located in the open countryside. It is stated at policy SETT 4 at page 32 of Part 3 Volume 1 that: *The policies contained in 'A Planning Strategy for Rural Northern Ireland', except where superseded by prevailing regional planning policies, will apply to the entire Plan Area.*

33. It is then stated in the supplementary text under the policy at pages 32 and 33 that:

PPS 7: Quality Residential Environments and PPS 7 Addendum: Safeguarding the Character of Established Residential Areas set out the prevailing regional planning policies for achieving quality in the design and layout of new residential developments. They embody the Government's commitment sustainable development and the Quality Initiative. They contain criteria-based policies against which all proposals for new residential development, including those on land zoned will be assessed, with the exception of single dwellings in the countryside. These will continue to be assessed under policies contained in PPS 21: Sustainable Development in the Countryside.

34. There are equivalent policies in the Plan Strategy of the Lisburn and Castlereagh City Council Plan 2032 to the regional policies described in LAP and draft BMAP.
35. This application is for new housing in the open countryside.
36. The strategic policy for new housing in the countryside [Strategic Policy 09] states:

The Plan will support development proposals that:

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

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

Development in the Countryside

38. The proposal is for the replacement of non-residential buildings in the open countryside with a dwelling.

39. Policy COU 1 – Development in the Countryside states:

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

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

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

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

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

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

Replacement Dwellings

41. As previously stated the proposal seeks to replace the buildings linked to the operation of a horticultural enterprise with a single dwelling house.

42. Policy COU3 – Replacement Dwellings states:

Replacement of Non-Residential Buildings

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

In addition to the above, proposals for a replacement dwelling will only be permitted where all of the following criteria are met:

a) the proposed replacement dwelling must be sited within the established curtilage of the existing building, unless either (i) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (ii) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;

b) the overall size of the new dwelling must not have a visual impact significantly greater than the existing building;

c) the design of the replacement dwelling should be of a high quality appropriate to its rural setting.

Integration and Design of Buildings in the Countryside

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

In all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and be of an appropriate design. A new building will not be permitted if any of the following apply:

a) it is a prominent feature in the landscape

b) it is not sited to cluster with an established group of buildings

c) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop

d) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape

e) it relies primarily on the use of new landscaping for integration

f) the design of the building is inappropriate for the site and its locality

g) ancillary works do not integrate with their surroundings.

Rural Character and other Criteria

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

In all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area. A new development proposal will be unacceptable where:

a) it is unduly prominent in the landscape

b) it is not sited to cluster with an established group of buildings

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

Infill/Ribbon Development

45. As the proposed dwelling is shown on a concept drawing not on the footprint of the non-residential building being replaced and located along the frontage of the Mullaghcarron Policy COU 8 Infill/Ribbon Development states:

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

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

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

Natural Heritage

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

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

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

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

Waste Management

48. A septic tank is proposed and Policy WM 2 - Treatment of Waste Water states:

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

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

Access and Transport

49. The proposal involves use of an existing unaltered access to the public road but nature of the use is changed and the access arrangements must still be assessed. Policy TRA2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, the location and number of existing accesses

and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

Regional Policy and Guidance

Regional Policy

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

The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPPS within 5 years.

51. 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.

52. This proposal is for the replacement of non-residential buildings with a dwelling. There is no equivalent provision in the SPPS to policy COU 3 of the Plan Strategy and bullet point two of paragraph 6.73 of the SPPS does not apply in this circumstance. :

53. It is further stated at paragraph 6.78 of the SPPS that:

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

54. The SPPS remains a material consideration of significant weight irrespective of what stage the Local Development Plan making process is at. .

Retained Regional Guidance

55. Whilst not policy, the following guidance document remains a material consideration:

Building on Tradition

56. Paragraph 5.1.3 of Building on Tradition states that:

Replacement projects can help to reinvigorate our rural landscape through the sensitive redevelopment of the historic footprints of long established buildings. Sites for replacement projects can prove an attractive option for building in the countryside as they will generally have key services in place in terms of access, water and power etc. but will also have well established mature boundaries that will already have achieved a strong visual linkage with the landscape. Renewing development on these sites reinforces the historic rural settlement pattern.

57. At paragraph 5.2, it provides basic rules for replacement dwellings as follows:

The replacement dwelling should generally be placed as close as possible to the footprint of the original house, unless significant benefits are apparent in terms of visual and functional integration.

The replacement dwelling should be of a form and scale that integrates well with the characteristics of the site. Replacement dwellings should not be of an excessive size in comparison to the original building or be located a significant distance away from the original footprint unless there are clear and evident benefits.

The proposal takes full advantage of the retention of established and mature landscape and boundary features and retains the discreet character of existing access points. Use is made of recycled building materials in the new proposal.

58. It also notes with regards to visual integration that the following points be considered:

- *Work with the contours (not against them)*
- *Look for sheltered locations beside woodland*
- *Make use of natural hollows*
- *Avoid full frontal locations where bad weather can damage buildings*
- *Avoid north facing sloping sites (difficult to achieve good passive solar gains)*
- *Look for sites with at least two boundaries in situ and preferably three*
- *Look for sites that face south (easy to achieve good passive solar gains).*

59. It also includes design principles that have been considered as part of the assessment:

- *Get the size and scale right relative to what is existing.*
- *Understand and reflect the character and layout of the group in terms of the relationship between buildings and landscape.*
- *Avoid the use of typical suburban features such as dormer and bay windows, porticos and pediments on the building and concrete kerbs, tarmac, blockwork walls, pre-cast concrete fencing and ornate gates and lampposts around the site.*
- *Retain existing hedgerows, boundaries and mature vegetation.*
- *Acknowledge building lines and informal setbacks.*

- *Maximise rural landscape treatments such as gravelled lanes and driveways, grass verges and local native species for new planting.*

60. With regards to waste water treatment, 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.

Assessment

61. The application seeks to replace a non-residential building [associated with a former horticulture business] with a single dwelling.
62. Within a supporting statement provided in support of the application the agent outlines the following points:
- Site planning history: S/1992/0159 - Change of use from agricultural to horticultural nursery.
 - Relevant recent similar applications: S/2009/1004/F & LA05/2018/1151/F
 - Relevant Policy Consideration related to policy (CTY 3) of PPS 21 (which is now replaced with policy COU 3 of the Plan Strategy).
 - The proposal seeks permission to replace all aspects of the existing commercial yard and premises and associated last use as nursery/garden centre (as approved under the 1992 planning application) with a single dwelling and garage.

- This redevelopment of the site as proposed would bring obvious environmental benefits such as the site being tidied up and all commercial activities would cease bringing benefit to the amenities of the adjacent/nearby properties due in the most part to a less intensive use of the site in terms of noise and nuisance etc. and the number of visitors to the premises being much reduced when comparisons with a single dwelling are made.
- Google Aerial photographs of the site dating back to 2002 show the extent of the activities that took place at the site in association with the business and also to a degree demonstrates that the commercial use was not ideally located being directly opposite the existing dwellings, no's 17a, 19, 19a, 21 and indeed the adjacent no. 20 on the same side of the Mullaghcarron Road.
- Based on the above information, the existing site specific circumstances and the similar policy considerations by the Council in relation to S/2009/1104/F & LA05/2018/1151F it is contended that this application is compliant with the relevant policies and therefore we would hope that approval will be granted.

68 The agent states that the following section of policy COU3 is applicable

Favourable consideration will be given to the replacement of a redundant non residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality.

69 Having regard to the case presented, it is considered that the building(s) which this development seeks to replace are not listed, and it is considered that they do not make an important contribution to the heritage, appearance or character of the locality. It is accepted that they are not non-listed vernacular dwellings.

70 The submitted P1 states that the present use of the land/buildings is

vacant yard and premises associated with former horticultural nursery/garden centre.

71. This use is also evidenced in the planning history referred to earlier in the report.

72. The supporting information advances an argument that the redevelopment of the site would bring obvious environmental benefits such as the site being tidied up and all commercial activities would cease bringing benefit to the amenity of adjacent/nearby properties due in the most part to a less intensive use of the land in terms of noise and nuisance, traffic from visiting member of the public.

73. the general observations from the site inspection and an exploration of the historical images on Google maps would indicate there has been no horticultural enterprise operating here since September 2010.
74. Even if it could be brought back into use the permission is only for the production of horticultural products. It cannot be used as a garden centre without the need to secure a separate planning permission. The amenity benefits of replacing the former use is not obvious. The buildings are small in scale and growing plants in the open or stocking them in the yard for onward sale elsewhere is not visually intrusive. It is also not a noise generating activity requiring the use of machinery.
75. Furthermore, a review of LPS Domestic and Non Domestic Valuation Lists indicates that the site is not currently rated on a commercial basis.
76. No material weight is afforded to the precedent examples highlighted by the agent. The circumstances are not the same and cannot be directly applied to this site specific circumstance.
77. A number of PAC decisions are brought to the attention of Members. Appeals 2013/A0042, 2017/A0216 and 2020/A0051 provide guidance in respect of assessing applications seeking to replace redundant non-residential buildings based on the former policy CTY 3 but do provide context for the matters to be weighed in what is meant by 'significant environmental benefit'.
78. With specific reference to planning appeal decision 2020/A0051 the Commissioner considered the visual benefits of replacing buildings with a dwelling within the Lisburn and Castlereagh Area. At paragraph 10 of the Commissioners report it states that:

Any advantage in visual terms, of replacing the building with a new dwelling, must be assessed in the context of its landscape setting. While unsightly, the appeal building is of a design that commonly occurs in the countryside and which is therefore not out of place. Furthermore, any visual enhancement accruing from removal of the appeal building would be limited to the extent that two other unsightly sheds would remain. In these circumstances I conclude that an appropriately designed and landscaped proposal could yield enhancement, albeit modest, in terms of visual and residential amenity and rural character.
79. In this case, the building(s) are set back approximately 30 metres from the Mullaghcarron road and whilst unsightly, they are of a design, scale and finish that would be common within the countryside and as such would not be considered to be out of place.
80. The buildings are visible while travelling in a south/south east direction towards the site for approximately 150 metres. There are limited views available on the approach from the west of the site due to the site being screened with existing vegetation and the dwelling at 20 Mullaghcarron Road.

81. A contextual map submitted in support of the application indicates that the new dwelling proposed to replace the existing buildings is to be a 1.5 storey dwelling.
82. Given that the existing buildings are small single storey buildings, it is considered that a 1.5 storey dwelling would have a visual impact significantly greater than the existing buildings. It is also considered that the provision of a double garage within the site would also add to the visual impact of the development when compared to the current arrangement within the site.
83. For the reasons outlined above it is not considered that favourable consideration should be given to the replacement of the redundant non-residential buildings and yard with a single dwelling. The former use was small in scale and no significant environmental benefits are demonstrated for a use which is typical of a countryside setting.

Infill/Ribbon Development

84. On the 24th May 2022 Mr Justice Scofield delivered judgment in Gordon Duff's Application (Re Glassdrumman Road, Ballynahinch) for Judicial Review. Whilst this decision is under appeal, the Court discussed the general approach to be taken to the policy assessment of such applications, and they are important to bear in mind as the interpretation of policy is a matter for the Courts.
85. 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."*

86. It is borne in mind that the policy in COU8 of the Lisburn and Castlereagh City Council Plan Strategy is similarly restricted as CTY8 and that any infill application is an exception to the prohibition on ribbon development.
87. In considering whether this proposal is an exception to the prohibition on ribbon development the first step is therefore to consider whether the proposal creates or extends a ribbon of development. The justification and amplification of COU8 describes a ribbon as:
- A ribbon of development cannot be defined by numbers, although, if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning. Most frontages are not intensively built up and have substantial gaps between buildings, giving visual breaks in the developed appearance of the locality. Infilling of these gaps is visually undesirable and, in most cases, creates or adds to a ribbon of development.*
88. Whilst the justification and amplification of COU8 is less prescriptive than paragraph 5.33 of the justification and amplification of policy CTY 8 there are two buildings beside one another on the same road frontage at this location.
89. The dwelling house at 20 Mullaghcarron Road and the neighbouring buildings last used for the horticultural business do have frontage to public road which suggest a tendency to ribboning. However there no buildings beyond this which are close to and that bookend the site that would engage the exception test.
90. This site is part of a significant gap that is a visual break. The development of this land for a dwelling would add a ribbon of development and is contrary to policy COU8.

Policy COU15 - Integration and Design of Buildings in the Countryside

91. This proposal seeks to remove existing non-residential buildings and to replace them off-site in a road frontage location. There is insufficient enclosure provided by the bund (which has no planning permission) on one side of the site and no boundary on the other. A new dwelling along the road frontage will be prominent. Criteria (a) is not met.
92. Without prejudice to the view expressed earlier in the report with regard to the principle of development, the development by virtue of the existing buildings being removed would not be sited to cluster with an established group of buildings and as such, criteria (b) is not met.
93. The development would not blend with the landform and existing natural features which provide a backdrop when viewed from the Mullaghcarron Road for the same reasons described above. Criteria (c) and (d) are not met. New landscaping will be relied on to integrate a new building into the landscape when approaching the site from 20 Mullaghcarron Road. Criteria (e) is not met.

94. The outline application seeks to establish the principle of development only and as such, no design details have been provided. That said, a dwelling could be sited and designed to be appropriate to the site and its locality. Such detail would be further considered at reserved matters stage. Criteria (f) is capable of being met.
95. The nature and scale of ancillary works required to service a dwelling at this location are not likely to present any issues in relation to integration. This criteria is capable of being met.

Policy COU16 - Rural Character and Other Criteria

96. In terms of policy COU16, it is considered that a dwelling of appropriate design, scale and massing could not be sited and designed so as not to be a prominent feature within the local landscape for the same reasons highlighted in the previous section of the report. Criteria (a) is not met.
97. As outlined above the proposed development would not be sited to cluster with an established group of buildings. This would therefore be contrary to criteria (b) of policy COU16.
98. The siting as proposed in the concept drawing would be in keeping with the established pattern of roadside development in adjacent sites. Criteria (c) is capable of being met.
99. Whilst the proposal does not mar the distinction between a settlement and surrounding countryside, it does result in urban sprawl by virtue of build-up of development which in turn has an adverse impact on the rural character of the area by reason of urban sprawl. Criteria (d) and (e) are not met.
100. Adequate separation distances can be provided between the proposed dwelling and neighbouring dwellings and as such, no issues of concern would arise from the development as proposed in respect of neighbouring residential amenity levels arise. Criteria (f) is capable of being met.
101. In respect of criteria (g) and (h) all of the proposed services are provided underground or from existing overhead lines along the road frontage or adjacent to the site. No adverse environmental impact is identified in terms of connecting this development to services and the ancillary works will not harm the character of the area as they are already a feature of the landscape at this location.
102. In respect of criteria (i) for the reasons set out in the following paragraphs, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

Policy WM2 - Waste Management

116. LCCC Environmental Health were consulted and offer no objection in principle subject to a detailed site plan which includes the location of the proposed dwelling, the septic tank/biodisc and area of subsoil irrigation for the disposal of effluent being provided at reserved matters stage.
117. Advice from Water Management Unit refers to standing advice and explains that the onus is on the applicant to ensure that all other regulatory consents are in place.
118. Consideration of flood risk is included as a criteria for assessment in policy WM 2. This proposal is not of sufficient scale to require the submission of a flood risk assessment and consent to discharge is required as a parallel consent process. Foul and storm discharge is normally through a soakaway designed to an appropriate standard. No flood risk is identified.

Access and Transport

119. The P1 form submitted with the application indicates that proposal seeks to use an existing unaltered access to a public road, for vehicular and pedestrian use,
120. DfI Roads have been consulted and offer no objections subject to conditions in relation to the provision access arrangements and car parking at reserved matter stage.
121. Based upon a review of the information provided and the advice from statutory consultees, it is accepted that a new access to the public road can be accommodated without prejudice to road safety or significant inconvenience to the flow of traffic. The requirements of policy TRA2 of the Plan Strategy are met in full.

Natural Heritage

122. Ecological information provided has been assessed and consultation with DAERA NED & WMU has taken place. The SES unit have also been consulted.
123. An active bat roost was identified within the concrete shed on site. It is outlined that a protected species licence will be required prior to any works taking place on this building in the event of approval being granted.
124. The site hosts a mature oak tree which was assessed as having Moderate bat roosting potential. NED notes that this tree is shown to be retained on the Site Location Context Map.
125. DAERA NED offered no objections to the development as proposed, subject to a number of conditions aimed at minimising the impact of the development on

bats, to protect nesting & breeding birds and to maintain the biodiversity value of the site.

126. SES have outlined within an informal consultation that NIEA NED are only concerned with local bat/bird and hedge habitats and no issues for any designated sites local or international.
127. There is approximately a 70m land buffer to a pond in an adjacent site. This buffer will ensure the protection of the water feature from any construction pollution issues. The pond is not a feature of or connected in any way with any European Site.
128. SES outline that 'the potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any conceivable effect on the features of any European Site'.
129. DAERA WMU within their consultation response indicate they have no objections and refer to standing advice.
130. Taking the advice of the three consultees together into account it is considered that the development will not cause any harm to any noted features of natural heritage importance. The requirements of policies NH 5 of the Plan Strategy are met in full and the proposal will not have an adverse impact on habitats, species or features of natural heritage importance.

Health and Safety

131. The application site is seen to be located within the consultation distance (CD) of a major hazard installation in the form of a large gas pipeline. It is 160 metres from the pipeline.
132. The HSENI outline that they would not advise against this development (based on the 160 metres distance and after consulting with PADHI). The HSENI advised that the pipeline operator should be contacted for comment.
133. The pipeline operator has been contacted for comment but no response has been received.

Other Material Considerations

134. Within the agents supporting statement reference is made to decisions associated with planning applications S/2009/1104/F & LA05/2018/1151/F.
135. These decisions related to relate to the same site at 60m NE of 2 Filterbeds Road, Derrykillultagh, Lisburn.

136. Within the context of LA05/2018/1151/F, planning permission was granted for the replacement of all existing buildings on site with a detached dwelling and garage-as per CTY3 of PPS 21. It was effectively an renewal of planning permission granted under S/2009/1104/F.
137. The two buildings that were 'replaced' were considered to be of a much greater scale and had a much greater visual impact on the landscape. It was considered that the replacement of these buildings with a modest dwelling would bring significant environmental benefits.
138. It is not considered that the proposal would bring the same environmental benefits as the applications identified above for the reasons set out in the report

Conclusions

130. For the reasons outlined above, the proposal fails to meet the policy tests associated with the SPPS and Policy COU1, COU3, COU8, COU 15 and COU 16 of the Plan Strategy.

Recommendations

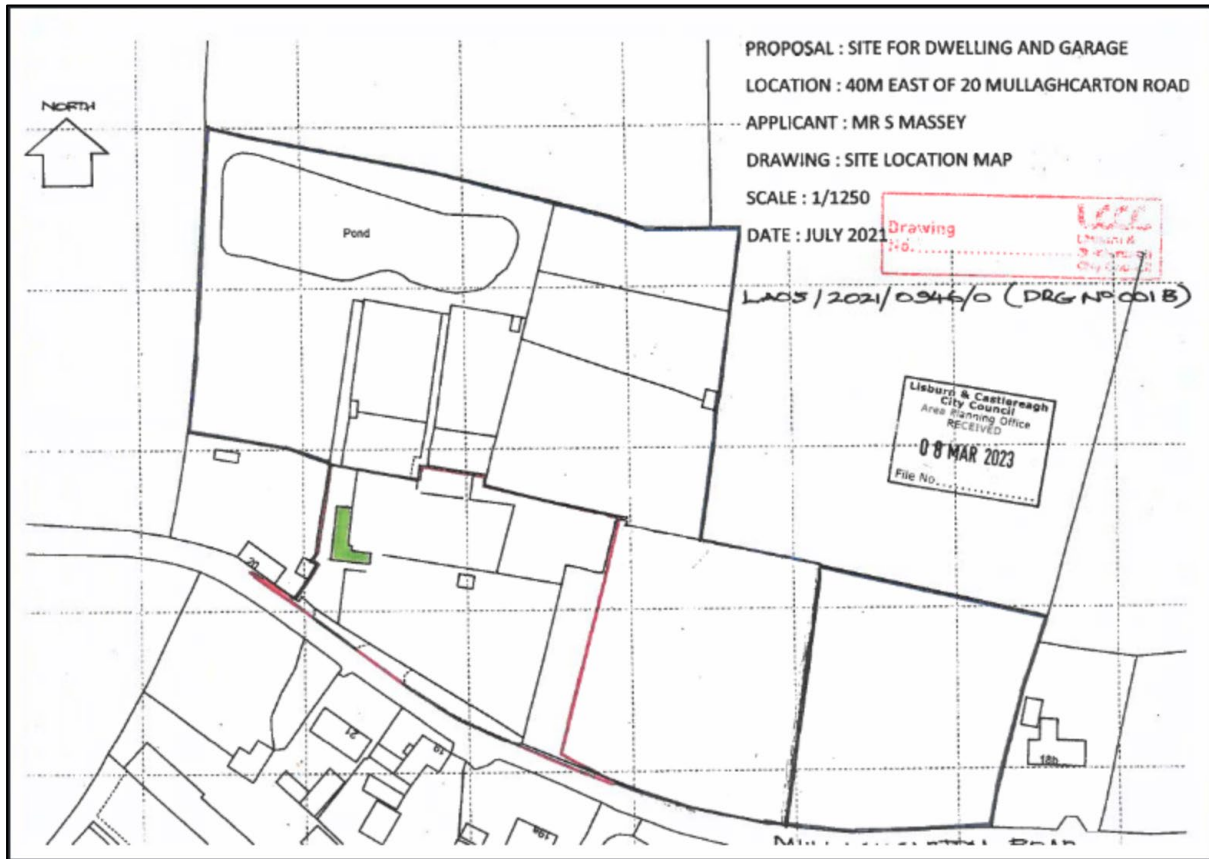
131. It is recommended that planning permission is refused

Refusal Reasons

132. The following refusal reasons are recommended:
- The proposal is contrary to Paragraph 6.73 of the SPPS and Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that it is not a type of development which in principle is considered to be acceptable in the countryside.
 - The proposal is contrary to policies COU3 of the Lisburn and Castlereagh City Council Plan Strategy, in that the replacement of the non-residential buildings would not bring significant environmental benefits and the proposed dwelling would have a significantly greater visual impact than the existing buildings it is replacing.
 - The proposal is contrary to bullet point 5 of Paragraph 6.73 of the SPPS and Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development, if approved, would add to a ribbon of development along the Mullaghcarton Road.

- The proposal is contrary to the SPPS and policy COU 15 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development is prominent, not sited to cluster with an established group of buildings and lacks long established boundaries to allow a building to blend into the landscape.
- The proposal is contrary to policy COU 16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development is not sited to cluster with an established group of buildings and it would if approved have an adverse impact on the rural character of the area because of its prominence on the roadside.

Site Location Plan – LA05/2021/0946/O



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	06 November 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2020/0420/O
Date of Application	8 June 2020
District Electoral Area	Downshire West
Proposal Description	Site for a dwelling, garage and associated site works
Location	35 metre due north of 68 Gregorlough Road Dromore, BT25 1RR
Representations	Eight
Recommendation	Approval

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—

- (a) a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*
- (b) any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

[4] Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

4. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications..
5. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

6. This application is categorised as a local application. It was previously referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it had been Called In.
7. Late representations were received after the decision by the committee on 04 September 2023 to grant planning permission. Officers required time in the intervening period to consider the content of the representations and to seek clarification from the applicant.
8. The planning report is updated to take account of new issues and the fact that the Plan Strategy is adopted. This means that the application is presented back to the committee for determination.
9. Furthermore, the proposal respects the existing development pattern along the frontage in terms of its size, and plot size.

10. In addition, the proposal is considered to meet the requirements of policy COU15 of the Plan Strategy 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 for the reasons outlined below.
11. The proposal also complies with the requirements of policy COU16 of the Plan Strategy in that in that the dwelling will not be unduly prominent, it will cluster with an established group of buildings and is capable of being sited and designed so as not to have an adverse impact on residential amenity of any neighbouring property. No adverse environmental or visual impact is identified from the proposed ancillary works and the connection to the proposed services will not harm the character of the area as they are already features of the landscape.
12. The proposal complies with policy NH 5 of the Plan Strategy in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
13. A new access is created to the public road. Details of the access arrangements demonstrates that the proposal complies with policy TRA2 of the Plan Strategy in 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

14. The application site is located at lands 35 metres north of 68 Gregorlough Road, Dromore and consists of part of an agricultural field.
15. It is bounded to the west by a mixed hedgerow a post and wire fence and an agricultural gate. To the south the site is partly bounded by a rendered wall and an agricultural style shed. The boundaries to the north and east are undefined. Further to the east of the site is a small stream. In relation to topography, the application site is predominantly flat in nature.

Surroundings

16. The character of the area is rural in nature, defined by open agricultural lands with single detached dwellings interspersed. Agricultural grasslands delineated by treelines and hedgerows with interspersed residential and farm buildings dominate the wider area. The site lies within the open countryside.

Proposed Development

17. This is an outline application for an infill dwelling and garage.

Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2020/0421/O	Site for dwelling and garage and associated site works	Lands 65m due north of 68 Gregorlough Road, Dromore	Under consideration
S/2003/1050/O	Site for dwelling and garage	Lands to rear of outbuildings and south east of 60 Gregorlough Road, Dromore	Approval 01 st December 2003
S/2004/1272/RM	Erection of dwelling and detached garage	Lands to the south east of 60 Gregorlough Road, Dromore	Approval 28 th October 2004
S/2004/1995/RM	Repositioning of approved dwelling and detached garage (planning ref S/2004/1272/RM)	Lands to south east of 60 Gregorlough Road, Dromore	Approval 06 th April 2005

19. The application referenced LA05/2020/0421/O on an adjacent site makes up the other part of the gap in the road frontage and processed in parallel with this proposal. It is a material consideration to be taken account of.

Consultations

20. The following consultations were carried out:

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

Representations

21. Six letters of representation were received in opposition to the proposal initially. The following issues were raised.
- Road/Pedestrian safety and traffic generation. Proposal would result in the widening or relocation of an agricultural access
 - Proposal would result in further suburbanisation of the countryside for financial gain
 - Incorrect address
 - Lack of screening to site – loss of privacy
 - Loss of wildlife
 - Noise pollution and disturbance. Dogs located at No. 65 Redhill Road, this proposal may lead to their upset and the potential for a noise complaint from any future resident
 - Loss of trees and hedgerow
 - Two dwellings would not be in keeping with the local landscape
 - The septic tank of another property if located within the site. Its removal may lead to pollution of a river to the rear
 - Proposal would result in surface run off
22. Following the meeting in August 2023, a further two representations were received. The following issues were raised:
- Landownership
 - Use of building to rear
 - Sight lines
23. The issues raised have been considered as part of the assessment of this application.

Local Development Plan Context

Local Development Plan Context

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

Plan Strategy 2032

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

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

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

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

26. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations. The site is located in the Green Belt in LAP and at page 49 it states:

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

27. In draft BMAP (2004) this site was located in the open countryside and the Belfast Metropolitan Area Green Belt. It is stated at page 17 of the associated Plan Strategy document that:

The Department has begun progressively to replace the Rural Strategy. The Planning Strategy section of the Rural Strategy has been superseded by the RDS, whilst the topic policy sections are progressively being replaced by

PPS's. The Rural Strategy remain material considerations until superseded by PPS's.

28. In the subsequent revision to draft BMAP (2014) this site is located in the open countryside but reference to the Belfast Metropolitan Area Green Belt is removed. It is stated at policy SETT 4 at page 32 of Part 3 Volume 1 that:

The policies contained in 'A Planning Strategy for Rural Northern Ireland', except where superseded by prevailing regional planning policies, will apply to the entire Plan Area.

29. There are equivalent policies in the Plan Strategy of the Lisburn and Castlereagh City Council Plan 2032 to the regional policies described in LAP and draft BMAP.
30. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out in Part 1 of the Plan Strategy.
31. Strategic Policy 09 Housing in the Countryside states:

The Plan will support development proposals that:

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

Development in the Countryside

32. This is an application for a single dwelling in the open countryside. Policy COU 1 – Development in the Countryside states:

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

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

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

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

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

33. As explained this is an application for an infill dwelling and in accordance with the requirements of Policy COU 1, the application falls to be assessed against policies COU8, COU 15 and COU 16.

Infill/Ribbon Development

34. Policy COU8 – Infill/Ribbon Development states:

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

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

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

35. The justification and amplification of COU8 states:

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

Integration and Design of Buildings in the Countryside

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

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

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

- a) *it is a prominent feature in the landscape*
- b) *it is not sited to cluster with an established group of buildings*

- c) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- d) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape*
- e) *it relies primarily on the use of new landscaping for integration*
- f) *the design of the building is inappropriate for the site and its locality*
- g) *ancillary works do not integrate with their surroundings.*

37. There are landscape features including trees and hedgerow and it is stated in the justification and amplification of this policy that:

All landscape features which are required to be retained will be appropriately conditioned to be protected prior to the commencement of any other site works including site clearance.

Rural Character and other Criteria

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

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

A new development proposal will be unacceptable where:

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

Waste Management

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

Development proposals to provide mains sewage Wastewater Treatment Works (WwTWs) will be permitted where it is demonstrated to the Council there is a need

for new or extended capacity requirements and the new facilities comply with the requirements of Policy WM1.

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

Access and Transport

40. A new access is proposed to the public road. Policy TRA2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

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

Regional Policy and Guidance

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

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

42. It is stated a paragraphs 1.11 of the SPPS that:

Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

The Plan Strategy was adopted on 26 September 2023. The operational policies in Part 2 are considered to take precedence over the retained suite planning policy statements in accordance with paragraph 1.11 of the SPPS.

43. 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

44. This proposal is for infill development. 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

45. It is further stated at paragraph 6.78 of the SPPS that:

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

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

Consideration of the Courts

47. Officers have paid close attention to consideration of this planning policy by the High Court. On the 24th May 2022 Mr Justice Scoffield 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 important to bear in mind as the interpretation of policy is a matter for the Courts.

48. 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.”

49. Officers have borne in mind that the policy in COU8 of the Plan Strategy 2032 is similarly restricted as CTY8 and that any infill application is an exception to the prohibition on ribbon development.
50. Whilst not policy, the following guidance documents remain material considerations:

Building on Tradition

50. Whilst a guidance document, as opposed to a policy document, 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.

51. 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.

52. The guidance notes that :

- 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.

53. 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.

54. 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.

55. 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

56. With regard to waste water treatment, 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.

Development Control Advice Note 15 – Vehicular Access Standards

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

57. As the Courts have noted in the Glassdrumman Road, Ballynahinch Judicial Review, and for the reasons described above officer's bear in mind that the policy in COU8 is restricted and that any infill application is an exception to the prohibition on ribbon development.
58. The first step is therefore to consider whether the proposal creates or adds to a ribbon of development. The justification and amplification of COU8 describes a ribbon as:
- A ribbon of development cannot be defined by numbers, although, if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning. Most frontages are not intensively built up and have substantial gaps between buildings, giving visual breaks in the developed appearance of the locality. Infilling of these gaps is visually undesirable and, in most cases, creates or adds to a ribbon of development.*
59. Officers are satisfied that the proposal does engage ribbon development. The frontage is significantly built up either side of the site. To the south is a dwelling and at least two agricultural buildings with a frontage to the road. To the north is a dwelling and a domestic outbuilding. This consistent with the description of what a ribbon is in the justification and amplification of policy COU8.
60. The buildings to the south are beside one another and front the Gregorlough Road. The buildings to the north are also beside one another and visually linked.

The issue of exception

61. The next step is to consider whether the proposal comes within the exception set out in the policy.
62. The first step is to consider whether there is a substantial and continuously built up frontage. This is described in the policy as a line of four or more buildings, of which at least two must be dwellings excluding domestic ancillary buildings.
63. In terms of a substantial and continuously built up frontage, the applicant is relying on the dwelling and shed located at 65 Gregorlough Road, the dwelling and shed located at 68 Gregorlough Road and the shed adjoining and immediately south of 68 Gregorlough Road.
64. The dwelling at 65 Gregorlough Road presents a dual frontage to both the Gregorlough Road and Redhill Road and is counted as part of the substantial and continuously built up frontage. The other building within the curtilage of this property is considered to be a domestic outbuilding and not counted as part of the assessment.
65. The dwelling at 68 Gregorlough Road has a frontage to the road as does an adjacent barrel vaulted shed which is not considered to be domestic in mass or scale and also with a frontage to the road.
66. Beyond this to the south is a large agricultural building which is double vaulted and has a lean-to extension which is on the Gregorlough Road frontage.
67. Taking these buildings into account it is considered that there is a substantial and continuously built up frontage consisting of four buildings with a frontage to the road. At least two of these are dwellings and the ancillary building at 65 Gregorlough Road is excluded. This part of the exception test is met.
68. The next step is to consider whether a small gap exists sufficient to accommodate two dwellings.
69. In considering whether a small gap site exists, whilst the policy text and supplementary guidance recognise that such a site may be able to accommodate two infill dwellings which respect the existing development officers have not assumed that any site of that size is necessarily a small gap site within the meaning of the policy.
70. Officers remain mindful that the issue is one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
71. The gap between the two closest buildings at 65 Gregorlough Road and 68 Gregorlough Road is 94 metres.
72. This proposed site has a frontage of 35 metres. This proposal is for approximately half of the gap with another application (LA05/2020/0421/O) also

under consideration for the other half of the field that fronts to the road with a site frontage of 48 metres. The average of these two frontages is 41.5 metres.

73. A concept layout submitted with the application details the other frontages at 65 Gregorlough Road as 65 metres, at 68 Gregorlough Road as 55 metres and the outbuilding adjoining 68 Gregorlough Road as 44 metres respectively. The average site frontage is 55 metres in the general vicinity of the site.
74. Whilst the Building on Tradition document is written with a different policy in mind the proposal is consistent with the advice detailed at paragraph 4.5.1 of the Building on Tradition document in that the size of the gap in the Gregorlough Road frontage does not exceed the average plot width of 55 metres. On the plot size analysis alone, and comparing the existing plots, the gap site is small in the sense of accommodating two dwellings of comparable plot size.
75. It is stated at bullet point 3 of page 71 of the Building on Tradition document that when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots. The gap at 94 metres is also not more than twice the width of the average plot which is 110 metres (55 metres x 2). However, there are other considerations before a final assessment can be reached.
76. Consideration is also given to the significance of the gap. Guidance contained at 4.4.0 and 4.4.1 of Building on Tradition and the worked examples on page 71 are of limited material weight in the assessment of this proposal as some of the examples are for single dwellings and the gap needs to be large enough to accommodate two. The words 'a maximum of' will no longer apply.
77. The general criteria at 4.5.0 and 4.5.1 still apply. However, the site is not an important visual break in the developed appearance of the local area. The frontage is narrow and there is no stand of mature trees that could be said to create a visual break between the buildings.
78. In this case, there are no local features recorded or observed to indicate that the gap frames a viewpoint or provide in an important setting for the amenity and character of the established dwellings. The site is not comprised of a woodland or other feature to suggest that it is an important visual break in the developed appearance of the landscape at this location.
79. Taking into account the application on the neighbouring site and for the reasons set out above this is considered to be a small gap sufficient to accommodate two dwellings. This part of the exception test is met.
80. It is also a requirement for the dwellings to respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings in the continuously built up frontage.

81. A proposed site layout drawing has been submitted identifying the siting of each dwelling and explaining how the plot size respect the existing pattern of development.
82. In examination of the details of the plan the adjacent frontage at 65 Gregorlough Road is 65 metres, at 68 Gregorlough Road is 55 metres and the outbuilding adjoining 68 Gregorlough Road is 44 metres. The average of these frontages is 55 metres.
83. The proposed frontage for each of the plots is within this range for the reasons outlined above are considered to respect the established pattern in line with policy and the guidance set out in Building on Tradition.
84. The plot at 65 Gregorlough Road is approximately 2190 square metres in size, the plot size at 68 is approximately 1786 square metres in size and the plot of the shed adjoining 68 is approximately 1628 square metres in size. The two infills dwellings 1586 and 1895 square metres in size respectively.
85. Both plots are considered in general to be in accordance with the existing pattern of development in terms of their size.
86. The site layout plan also demonstrates how the proposal would be in keeping with the building line along this part of the road.
87. For the reasons outlined above, the proposed development is capable of being sited and designed to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size.
88. The final part of the test is requires consideration of whether the buildings are visually linked. When standing on the Gregorlough Road in front of the site, all four buildings are visually linked to one another. The dwelling at 65 Gregorlough Road is less obvious in the spring and summer when the trees and hedgerows are in full leaf but there is a sequential linkage as you travel along from this dwelling towards the group of buildings at 68 Gregorlough Road. This part of the exception test is met.
89. The proposed development of a dwelling at this location when considered alongside the application on an adjacent site meets all the exception tests and is in accordance with policy COU8.

Policy COU 15 - Integration and Design of Buildings in the Countryside

90. This outline application seeks to establish the principle of development only. Full plans have not been submitted.
91. That said, it is accepted that a dwelling could be sited and designed so as not to appear as a prominent feature in the landscape given the enclosure provide by the buildings and vegetation on the northern and southern extents of the site

and the rising ground and trees and hedgerow in the backdrop. The requirements of criteria (a), (c), (d) and (e) are met.

92. Criteria (b) requires the proposed building to be sited to cluster with an established group of buildings. This proposal is considered to cluster with an established group of buildings to the south of the site this is one of the two bookends to the gap.
93. This is an outline planning application and details of the design are not included. That said the bulk, scale, massing and external appearance of the building can be controlled by condition. The requirement of criteria (f) is met.
94. The main impact resulting from the ancillary works is the construction of the access. An opening will be required along the road frontage but traffic speeds are low and there is a verge that will accommodate the majority of the visibility splay. The loss of significant vegetation can be mitigated without impacting significantly on the ability to integrate the development into the countryside. The requirements of criteria (g) are met.
95. For the reasons outlined in the preceding paragraphs it is considered that all of the criteria of policy COU15 are or can be met at the approval of reserved matters stage.

Policy COU16 - Rural Character and Other Criteria

96. A dwelling can be accommodated within the site without appearing unduly prominent in the landscape for the same reasons outlined in the preceding section. The traditional pattern of settlement is also respected as this site is part of a gap sufficient to accommodate two dwellings and the concept plan demonstrates where a building of a similar footprint to the other dwellings adjacent can be sited to respect the character of this rural location. Criteria (a) and (c) are met.
97. Criteria (b) of policy COU16 requires the dwelling to cluster with and established group of buildings. This is also dealt in the preceding section.
98. In respect of (d) the proposal will not mar the distinction between a settlement and the open countryside as the site is not adjacent to a settlement. Furthermore, it will not result in urban sprawl as the exception tests to policy COU8 are considered to be met for the reasons outlined above.
99. In respect of criteria (g) and (h) all of the proposed services are provided underground or from existing overhead lines along the road frontage or adjacent lands. No adverse environmental impact is identified in terms of connecting this development to services and the ancillary works will not harm the character of the area as they are already a feature of the landscape at this location.

100. In respect of criteria (i) and for the reasons set out later in the report within the Access and Transport section of the report, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

Natural Heritage

101. A Biodiversity Checklist and ecological statement was submitted during the processing of the application.
102. It is noted that the application site (0.20 hectares) is not currently occupied by any buildings and therefore no demolition of any structure would be required to accommodate the proposal. The application site is currently used for agricultural purposes.
103. NIEA Natural Environment Division [NED] were consulted and has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to appropriate conditions and informatives.
104. From the Ecological Statement provided, the Council satisfied that sufficient information is supplied to assess for potential impacts on protected/priority species and habitats. The ecologist found no evidence of otter or badger activity while surveying, and while a mammal trail was identified along the northern and eastern boundaries of the site.
105. As noted by the ecologist, should the mature Ash tree within the western hedgerow, assessed as having moderate bat roosting potential be required for removal, further emergence/re-entry bat surveys must be completed based on the ecologists bat roost potential determination, however plans do not indicate that this tree is to be removed.
106. Due to the presence of a watercourse traversing the northern and eastern boundaries of the site, NED recommend a 10 metre buffer is maintained between the location of all construction works and this natural heritage feature in order to protect the water environment. This mitigation is addressed by planning condition.
107. Given the potential for breeding/nesting birds to be utilising vegetation, including scrub habitat on site, NED recommend any necessary vegetation removal required for the proposed development is completed outside of the bird breeding season to ensure compliance with Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended). This mitigation is also addressed by planning condition.
108. For the reasons outlined above, it is considered that the proposal is not likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance. The requirements of policy NH5 of the Plan Strategy are considered to be met in full.

TRA2 - Access to Public Road

109. The P1 form indicates that the access arrangement for this development involve construction of a new access to a public road.
110. Advice received from DfI Roads confirmed that they had not objection subject to visibility splays being provided at 2 metres by 43 metres to the north and 2 metres by 53 metres to the south.
111. Based on a review of the information provided and the advice received, it is considered that an access to the public road can be accommodated without prejudice to road safety or significantly inconveniencing the flow of traffic. The requirements of Policy TRA2 of the Plan Strategy are met in full.

Policy WM2 - Waste Management

112. Detail submitted with the application indicates a main supply of water that foul sewage is disposed of via septic tank and surface water via soakaway.
113. LCCC Environmental Health were consulted and offer no objection in principle subject to a detailed site plan which includes the location of the proposed dwelling, the septic tank/biodisc and area of subsoil irrigation for the disposal of effluent being provided at reserved matters stage.
114. Advice from Water Management Unit refers to standing advice and explains that the onus is on the applicant to ensure that all other regulatory consents are in place.
115. Consideration of flood risk is included as a criteria for assessment in policy WM 2. This proposal is not of sufficient scale to require the submission of a flood risk assessment and consent to discharge is required as a parallel consent process. Foul and storm discharge is normally through a soakaway designed to an appropriate standard. No flood risk is identified.
116. Based on a review of the information and advice received from consultees, it is accepted that a septic tank/package treatment plant and the area of subsoil irrigation for the disposal of effluent can be sited and designed so as not to create or add to a pollution problem. The requirements of Policy WM2 of the Plan Strategy are met in full.

Consideration of Representations

117. Consideration of issues raised by way of representation are set out in the paragraphs below.

Road/Pedestrian safety and traffic generation. Proposal would result in the widening or relocation of an agricultural access

118. DfI Roads have been consulted and have no objection subject to standard conditions. The access arrangements for the development involve the construction of a new access along the Gregorlough Road. Account has been taken of the advice of DfI Roads and the Council has no reason to disagree with the conclusion that a safe access can be achieved to the site in the interest of road safety and convenience of road users at this location.

Proposal would result in further suburbanisation of the countryside for financial gain

119. Following a site inspection and an assessment of planning policy it is considered that the site is one half of a small gap in a substantial and continuously built up frontage and an exception to the prohibition on ribbon development. The development respects the existing pattern of development within the identified frontage for the reasons set out above. This is not a suburban development or suburbanisation of the countryside. It is an acceptable form of development in the open countryside. Financial gain is not a material consideration to be given any weight as the policy requirement is met and no restriction there is no restriction on the occupation of the dwelling should the applicant choose to sell the site.

Incorrect address

120. During the processing of this application an amended site address was submitted. The application was re-advertised and neighbour/objector notified. No one is prejudiced as the correct location of the site is identified.

Loss of privacy

121. It is considered that adequate separation distances can be achieved to mitigate the loss of any privacy. This is an outline planning application and the planning conditions will allow for an appropriate design solution to be controlled at the approval of reserved matters stage. The concept drawing shows the new building with a gable elevation to the closest occupied dwelling.

Loss of wildlife

122. A biodiversity checklist and ecological statement has been submitted with the application. Natural Heritage Division has provided advice on the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to suggested conditions. The advice of the consultee is agreed with and the proposal will not have a detrimental impact on any natural heritage features.

Noise pollution and disturbance. Dogs located at 65 Redhill Road, this proposal may lead to their upset and the potential for a noise complaint from any future resident

123. Environmental Health have been consulted and have no objection to the proposed development. Nuisance arising from noise and general disturbance are not dealt with under planning legislation and is a matter for the local Environmental Health Office. There is no evidence to indicate the kennelling or breeding of dogs and it was not observed at the site visit that there was any adverse amenity impact caused by a large number barking dogs. In the absence of any evidence that there would be loss of amenity by reason of noise or nuisance this objection is not sustained.

Loss of trees and hedgerow

124. This is an outline application and a condition is proposed to ensure the existing natural screenings of this site are retained and augmented were necessary except to accommodate the provision of the access and visibility splays. New planting of native species hedgerow shall be planted to the rear of the visibility splays to ensure the provision, establishment and maintenance of screening to the site.

Two dwellings would not be in keeping with the local landscape

125. This is linked to the related objection above in terms of suburbanisation of the countryside. For the same reasons explained above the requirements of policy are met. The landscape has the capacity to absorb a dwelling at this location. It has enclosure and a back drop. The site is not prominent and any new building can be absorbed into the landscape for the reasons outlined above.

The septic tank of another property is located within the site.

126. Environmental Health have no objection to the above proposed development subject to at the subsequent planning stage the applicant providing 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. The relationship between any proposed and existing tank can be reconciled at the detailed design stage.

Proposal would result in surface run off

127. NIEA Water Management Unit and NI Water were consulted on the application and has considered the impacts of the proposal on the water environment and on the basis of the information provided have no objection with the necessary consents.
128. The Council accepts the advice of the consultees in this respect. As such, it is considered that sufficient information is available in respect of sewage and water quality to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.

Landownership

- 130 The view is expressed that the property at 68 Gregorlough Road is now sold [as of 30 June 2023]. A copy of the Transfer Deed with map is provided. It is stated that the applicant no longer owns the complete site for which he has applied for planning permission and that permission is not provided for the portion of land included within the red line to be used.
- 131 The applicant clarifies that the land transfer map associated with the deeds includes reference to an easement being retained across part of the frontage of 68 Gregorlough Road to facilitate the required visibility splays for the adjacent application site.
- 132 Whilst the objector indicates that they will not grant permission for the splay over their land this would appear to be a civil matter between the two parties. There is sufficient evidence to indicate that a condition can be met and that the applicant has access to the land to do so.
- 133 The interest of the new party is taken account of in the application process with the submission of an amended P2 form. The obligation to notify is met.

Use of building to rear

- 134 Reference is made to the intention of the new owner to use the large barrel vaulted shed adjacent to 68 Gregorlough Road as an ancillary domestic building.
- 135 The building referred to and as observed during the site visit not being a domestic outbuilding. It was designed in the shape and form of an agricultural building. It had a small building adjacent and in front which was observed as a canteen or small office that would suggest it was used for another non-domestic purpose such as light engineering.
- 136 No application is made to change the use of the building and it is still counted as a building in the substantial and continuous frontage. An intention by the new landowner to use the building for some other domestic purpose in the future is not an objection to be weighed as significant or sufficient to change the recommendation presented in this report.

Conclusions

- 137 The recommendation is to approve planning permission as the proposal is in accordance with the requirements of paragraph 6.73 of the SPPS and policies COU1, COU8 and COU16 of the Plan Strategy.
- 138 The proposal is also in accordance with other planning and environmental considerations and the policy test of NH5, TRA2 and WM2 are also satisfied.

Recommendations

139 It is recommended that planning permission is approved.

Conditions

140 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 indicating finished floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

- The dwelling hereby permitted shall be designed and landscaped in accordance with the Design Guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.'

Reason: To ensure that the proposal is in keeping with the character of the rural area.

- The existing natural screenings of this site shall be retained except that required to be removed to accommodate the provision of the access arrangement unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal. New planting of native species hedgerow shall be planted to the rear of the visibility splays.

Reason: To ensure the provision, establishment and maintenance of screening to the site.

- No development shall take place until there has been submitted to and approved by the Council a landscaping scheme. The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

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

- The dwelling hereby permitted shall not be occupied until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow/trees and shrubs of mixed woodland species planted on the inside.

Reason: To ensure the proposal is in keeping with the character of the rural area.

- Plans at Reserved Matters shall show replacement planting with appropriate native species to compensate for the proposed removal of NI Priority habitat hedgerow to Natural Heritage & Conservation Areas facilitate visibility splays. This new planting shall be at least of an equivalent length to the hedgerow proposed removed.

Reason: to maintain the biodiversity value of the site.

- A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the watercourse present along the northern and eastern boundaries of the site.

Reason: To protect the water environment.

- No retained tree/hedgerow vegetation (stated as retained within the supporting Ecological Statement provided) shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 Trees in relation to Design, demolition and construction.

Reason: To ensure the continuity of the biodiversity value afforded by existing trees and hedgerow vegetation

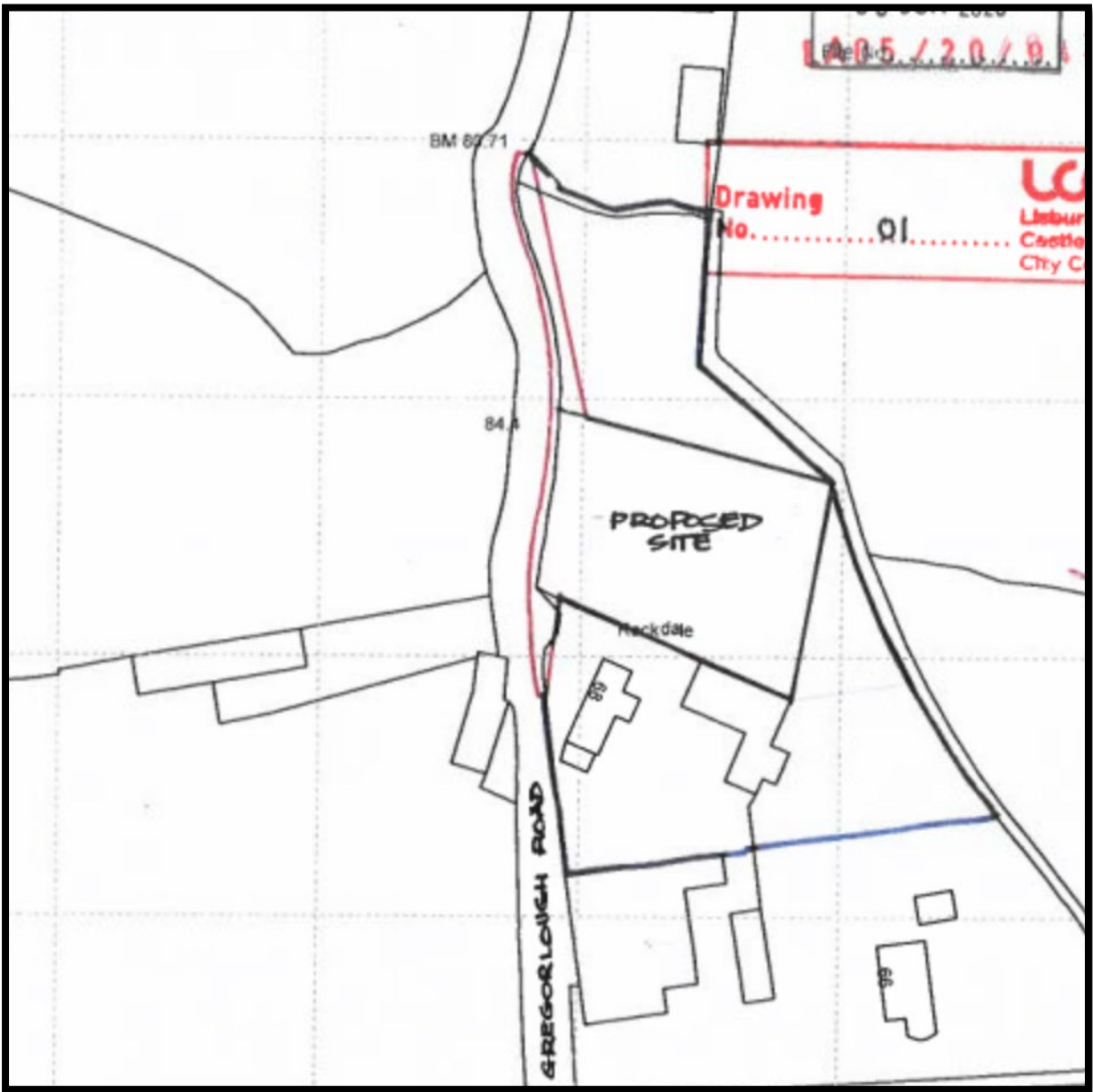
- Should the mature Ash tree, located within the western hedgerow and to the south of the Sycamore, as identified by the ecologist, be required for removal/felling, then an emergence/re-entry survey must be completed and submitted to the Planning Authority based on the ecologist's determination of the tree having moderate bat roosting potential.

Reason: To protect bats and their roosts.

- There shall be no vegetation clearance during the bird breeding season (1 March to 31 August inclusive), unless otherwise agreed in writing with the Planning Authority.

Reason: To protect breeding birds.

Site Location Plan – LA05/2020/0420/O



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	06 November 2023
Committee Interest	Local Application (Called In) - Amended
Application Reference	LA05/2020/0421/O
Date of Application	8 June 2020
District Electoral Area	Downshire West
Proposal Description	Site for a dwelling, garage and associated site works
Location	65 metres due north of 68 Gregorlough Road Dromore BT25 1RR
Representations	Eight
Recommendation	Approval

Adoption of Plan Strategy

1. The Plan Strategy was adopted by resolution of the Council on 26 September 2023.
2. The key statutory and policy provisions are as follows:

Planning (Local Development Plan) Regulations (NI) 2015.

The schedule to the 2015 regulations provides as follows:

Departmental development plan and plan strategy as local development plan

[3] Where a plan strategy is adopted by a council or approved by the Department in accordance with Part 2 of the 2011 Act—

- (a) a reference to the local development plan in the 2011 Act or any enactment relating to planning is a reference to the departmental development plan and the plan strategy read together; and*
- (b) any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.*

Discontinuance of departmental development plan on adoption of local development plan

[4] Where a council adopts a local policies plan for its district (or the Department approves a local policies plan for that district) so much of the departmental development plan as relates to that area shall cease to have effect.

Strategic Planning Policy

3. The Strategic Planning Policy Statement for Northern Ireland (the SPPS) provides at paragraph 1.11:

[1.11] Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

4. In accordance with Regulation 3 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Plan Strategy applies to all applications..
5. The existing suite of planning policy statements retained under the transitional arrangements in the SPPS cease to have effect, regardless of the date of the planning application being received.

Summary of Recommendation

6. This application is categorised as a local application. It was previously referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it had been Called In.
7. Late representations were received after the decision by the committee on 04 September 2023 to grant planning permission. Officers required time in the intervening period to consider the content of the representations and to seek clarification from the applicant.
8. The planning report is updated to take account of new issues and the fact that the Plan Strategy is adopted. This means that the application is presented back to the committee for determination.
9. This application is presented to the Planning Committee with a recommendation to approve as the proposal is considered to meet the requirements of paragraph 6.73 of the SPPS and and policy COU1 of Part 2: Operational Policies of the Lisburn and Castlereagh City Council Plan Strategy 2032 (subsequently referred to as the Plan Strategy) in that the proposal meets the exception test and is a gap site sufficient to accommodate two dwellings within an otherwise substantial and continuously built up frontage.

10. Furthermore, the proposal respects the existing development pattern along the frontage in terms of its size, and plot size. .
11. In addition, the proposal is considered to meet the requirements of policy COU15 of the Plan Strategy 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 for the reasons outlined below.
12. The proposal also complies with the requirements of policy COU16 of the Plan Strategy in that in that the dwelling will not be unduly prominent, it will cluster with an established group of buildings and is capable of being sited and designed so as not to have an adverse impact on residential amenity of any neighbouring property. No adverse environmental or visual impact is identified from the proposed ancillary works and the connection to the proposed services will not harm the character of the area as they are already features of the landscape.
13. The proposal complies with policy NH 5 of the Plan Strategy in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
14. A new access is created to the public road. Details of the access arrangements submitted demonstrate that the proposal complies with policy TRA2 of the Plan Strategy in 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

15. The application site is located at lands 65 metres north of 68 Gregorlough Road, Dromore and consists of part of an agricultural field to the eastern side of the road.
16. It is bounded to the north by a mixed hedgerow and mature trees. To the west the site is bounded by a two-metre high mixed hedgerow and scattering of mature trees. The boundary to the east consists of a mixed hedgerow, scattering of mature trees with a small stream beyond. The boundary to the south is undefined. In relation to topography, the land is mainly flat in nature.

Surroundings

17. The character of the area is rural in nature, defined by open agricultural lands with single detached dwellings interspersed. Agricultural grasslands delineated by treelines and hedgerows with interspersed residential and farm buildings dominate the wider area.

Proposed Development

18. This is an outline application for an infill dwelling and garage.

Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2020/0420/O	Site for dwelling and garage and associated site works (infill opportunity)	Lands 35 metres due north of 68 Gregorlough Road, Dromore	Under consideration
S/2003/1050/O	Site for dwelling and garage	Lands to rear of outbuildings and south east of 60 Gregorlough Road, Dromore	Approval 01 st December 2003
S/2004/1272/RM	Erection of dwelling and detached garage	Lands to the south east of 60 Gregorlough Road, Dromore	Approval 28 th October 2004
S/2004/1995/RM	Repositioning of approved dwelling and detached garage (planning ref S/2004/1272/RM)	Lands to south east of 60 Gregorlough Road, Dromore	Approval 06 th April 2005

20. The application referenced LA05/2020/0420/O on an adjacent site makes up the other part of the gap in the road frontage and processed in parallel with this proposal. It is a material consideration to be taken account of.

Consultations

21. The following consultations were carried out:

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

Representations

22. Six letters of representation in opposition to the proposal had been received initially. The following issues were raised:
- Road and pedestrian safety and traffic generation. Proposal would result in the widening or relocation of an agricultural access.
 - Proposal would result in further suburbanisation of the countryside for financial gain.
 - Incorrect address.
 - Lack of screening to site – loss of privacy.
 - Loss of wildlife.
 - Noise pollution and disturbance. Dogs are kennelled at 65 Redhill Road, this proposal may give rise to potential noise complaint from any future residents.
 - Loss of trees and hedgerow
 - Two dwellings would not be in keeping with the local landscape
 - The septic tank of another property impacted if located within the site. Its removal may lead to pollution of a river to the rear.
 - Proposal would result in surface run off.
23. Following the meeting in September 2023, a further two representations were received. The following issues are raised:
- Landownership
 - Use of building to rear
 - Sight lines
24. The issues raised are considered below as part of the assessment of this proposal.

Local Development Plan Context

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

Plan Strategy 2032

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

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

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

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

27. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.

28. The site is located in the Green Belt in LAP and at page 49 it states:

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

29. In draft BMAP (2004) this site was located in the open countryside and the Belfast Metropolitan Area Green Belt. It is stated at page 17 of the associated Plan Strategy document that:

The Department has begun progressively to replace the Rural Strategy. The Planning Strategy section of the Rural Strategy has been superseded by the RDS, whilst the topic policy sections are progressively being replaced by PPS's. The Rural Strategy remain material considerations until superseded by PPS's.

30. In the subsequent revision to draft BMAP (2014) this site is located in the open countryside but reference to the Belfast Metropolitan Area Green Belt is removed. It is stated at policy SETT 4 at page 32 of Part 3 Volume 1 that:

The policies contained in 'A Planning Strategy for Rural Northern Ireland', except where superseded by prevailing regional planning policies, will apply to the entire Plan Area.

31. There are equivalent policies in the Plan Strategy of the Lisburn and Castereagh City Council Plan 2032 to the regional policies described in LAP and draft BMAP.
32. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out in Part 1 of the Plan Strategy. Strategic Policy 09 Housing in the Countryside states:

The Plan will support development proposals that:

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

Development in the Countryside

33. This is an application for a single dwelling in the open countryside. Policy COU 1 – Development in the Countryside states:

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

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

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

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

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

34. As explained this is an application for an infill dwelling and in accordance with the requirements of Policy COU 1, the application falls to be assessed against policies COU8, COU 15 and COU 16.

Infill/Ribbon Development

35. Policy COU8 – Infill/Ribbon Development states:

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

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

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

36. The justification and amplification of COU8 states:

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

Integration and Design of Buildings in the Countryside

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

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

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

- a) *it is a prominent feature in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- d) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape*

- e) *it relies primarily on the use of new landscaping for integration*
- f) *the design of the building is inappropriate for the site and its locality*
- g) *ancillary works do not integrate with their surroundings.*

38. There are landscape features including trees and hedgerow and it is stated in the justification and amplification of this policy that:

All landscape features which are required to be retained will be appropriately conditioned to be protected prior to the commencement of any other site works including site clearance.

Rural Character and other Criteria

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

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

A new development proposal will be unacceptable where:

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

Waste Management

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

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

Development relying on non mains sewage treatment will only be permitted where it is demonstrated to the Council and its statutory consultees that there is sufficient

capacity to discharge treated effluent to a watercourse and that this will not create or add to a pollution problem or create or add to flood risk.

Access and Transport

41. A new access is proposed to the public road. Policy TRA2 – Access to Public Roads states:

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

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

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

Regional Policy and Guidance

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

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

43. It is stated a paragraphs 1.11 of the SPPS that:

Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.

44. The Plan Strategy was adopted on 26 Setpember 2023. The operational policies in Part 2 are considered to take precedence over the retained suite planning policy statements in accordance with paragraph 1.11 of the SPPS. .

45. 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

46. This proposal is for infill development. 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

47. It is further stated at paragraph 6.78 of the SPPS that:

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

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

Consideration of the Courts

49. Officers have paid close attention to consideration of this planning policy by the High Court. On the 24th 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 important to bear in mind as the interpretation of policy is a matter for the Courts.

50. 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."*

51. Officers have borne in mind that the policy in COU8 of the Plan Strategy 2032 is similarly restricted as CTY8 and that any infill application is an exception to the prohibition on ribbon development.

Planning Guidance

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

Building on Tradition

52. Whilst a guidance document, as opposed to a policy document, 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.

53. 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.

54. The guidance notes that :

- 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.

55. 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.*

56. 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.

57. 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

58. With regard to waste water treatment, 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.

Development Control Advice Note 15 – Vehicular Access Standards

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

59. As the Courts have noted in the Glassdrumman Road, Ballynahinch Judicial Review, and for the reasons described above officer's bear in mind that the policy in COU8 is restricted and that any infill application is an exception to the prohibition on ribbon development.

60. The first step is therefore to consider whether the proposal creates or adds to a ribbon of development. The justification and amplification of COU8 describes a ribbon as:

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

61. Officers are satisfied that the proposal does engage ribbon development. The frontage is significantly built up either side of the site. To the south is a dwelling and at least two agricultural buildings with a frontage to the road. To the north is a dwelling and domestic outbuilding. This consistent with the description of what a ribbon is in the justification and amplification of policy COU8.
62. The buildings to the south are beside one another and front the Gregorlough Road. The buildings to the north are also beside one another and visually linked.

The issue of exception

63. The next step is to consider whether the proposal comes within the exception set out in the policy.
64. The first step is to consider whether there is a substantial and continuously built up frontage. This is described in the policy as a line of four or more buildings, of which at least two must be dwellings excluding domestic ancillary buildings.

65. In terms of a substantial and continuously built up frontage, the applicant is relying on the dwelling and shed located at 65 Gregorlough Road, the dwelling and shed located at 68 Gregorlough Road and the shed adjoining and immediately south of 68 Gregorlough Road.
66. The dwelling at 65 Gregorlough Road presents a dual frontage to both the Gregorlough Road and Redhill Road and is counted as part of the substantial and continuously built up frontage. The other building within the curtilage of this property is considered to be a domestic outbuilding and not counted as part of the assessment.
67. The dwelling at 68 Gregorlough Road has a frontage to the road as does an adjacent barrel vaulted shed which is not considered to be domestic in mass or scale and also with a frontage to the road.
68. Beyond this to the south is a large agricultural building which is double vaulted and has a lean-to extension which is on the Gregorlough Road frontage.
69. Taking these buildings into account it is considered that there is a substantial and continuously built up frontage consisting of four buildings with a frontage to the road. At least two of these are dwellings and the ancillary building at 65 Gregorlough Road is excluded. This part of the exception test is met.
70. The next step is to consider whether a small gap exists sufficient to accommodate two dwellings.
71. In considering whether a small gap site exists, whilst the policy text and supplementary guidance recognise that such a site may be able to accommodate two infill dwellings which respect the existing development officers have not assumed that any site of that size is necessarily a small gap site within the meaning of the policy.
72. Officers remain mindful that the issue is one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
73. The gap between the two closest buildings at 65 Gregorlough Road and 68 Gregorlough Road is 94 metres.
74. This proposed site has a frontage of 48 metres. This proposal is for approximately half of the gap with another application (LA05/2020/0420/O) also under consideration for the other half of the field that fronts to the road with a site frontage of 35 metres. The average of these two frontages is 41.5 metres.
75. A concept layout submitted with the application details the other frontages at 65 Gregorlough Road as 65 metres, at 68 Gregorlough Road as 55 metres and the outbuilding adjoining 68 Gregorlough Road as 44 metres respectively. The average site frontage is 55 metres in the general vicinity of the site.

76. Whilst the Building on Tradition document is written with a different policy in mind the proposal is consistent with the advice detailed at paragraph 4.5.1 of the Building on Tradition document in that the size of the gap in the Gregorlough Road frontage does not exceed the average plot width of 55 metres. On the plot size analysis alone, and comparing the existing plots, the gap site is small in the sense of accommodating two dwellings of comparable plot size.
77. It is stated at bullet point 3 of page 71 of the Building on Tradition document that when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots. The gap at 94 metres is also not more than twice the width of the average plot which is 110 metres (55 metres x 2). However, there are other considerations before a final assessment can be reached.
78. Consideration is also given to the significance of the gap. Guidance contained at 4.4.0 and 4.4.1 of Building on Tradition and the worked examples on page 71 are of limited material weight in the assessment of this proposal as some of the examples are for single dwellings and the gap needs to be large enough to accommodate two. . The words 'a maximum of' will no longer apply.
79. The general criteria at 4.5.0 and 4.5.1 still apply. However, the site is not an important visual break in the developed appearance of the local area. The frontage is narrow and there is no stand of mature trees that could be said to create a visual break between the buildings.
80. In this case, there are no local features recorded or observed to indicate that the gap frames a viewpoint or provide in an important setting for the amenity and character of the established dwellings. The site is not comprised of a woodland or other feature to suggest that it is an important visual break in the developed appearance of the landscape at this location.
81. Taking into account the application on the neighbouring site and for the reasons set out above this is considered to be a small gap sufficient to accommodate two dwellings. This part of the exception test is met.
82. It is also a requirement for the dwellings to respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings in the continuously built up frontage.
83. A proposed site layout plan has been submitted identifying the siting of each dwelling and explaining how the plot size respects the existing pattern of development.
84. In examination of the details of the plan the adjacent frontage at 65 Gregorlough Road is 65 metres, at 68 Gregorlough Road is 55 metres and the outbuilding adjoining 68 Gregorlough Road is 44 metres. The average of these frontages is 55 metres.

85. The proposed frontage for each of the plots is within this range for the reasons outlined above are considered to respect the established pattern in line with policy and the guidance set out in Building on Tradition.
86. The plot at 65 Gregorlough Road is approximately 2190 square metres in size, the plot size at 68 is approximately 1786 square metres in size and the plot of the shed adjoining 68 is approximately 1628 square metres in size. The two infills dwellings 1586 and 1895 square metres in size respectively.
87. Both plot are considered in general to be in accordance with the existing pattern of development in terms of their size.
88. The site layout plan also demonstrates how the proposal would be in keeping with the building line along this part of the road.
89. For the reasons outlined above, the proposed development is capable of being sited and designed to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size.
90. The final part of the test is requires consideration of whether the buildings are visually linked. When standing on the Gregorlough Road in front of the site, all four buildings are visually linked to one another. The dwelling at 65 Gregorlough Road is less obvious in the spring and summer when the trees and hedgerows are in full leaf but there is a sequential linkage as you travel along from this dwelling towards the group of buildings at 68 Gregorlough Road. This part of the exception test is met.
91. The proposed development of a dwelling at this location when considered alongside the application on an adjacent site meets all the exception tests and is in accordance with policy COU8.

Policy COU 15 - Integration and Design of Buildings in the Countryside

92. This outline application seeks to establish the principle of development only. Full plans have not been submitted.
93. That said, it is accepted that a dwelling could be sited and designed so as not to appear as a prominent feature in the landscape given the enclosure provide by the buildings and vegetation on the northern and southern extents of the site and the rising ground and trees and hedgerow in the backdrop. The requirements of criteria (a), (c), (d) and (e) are met.
94. Criteria (b) requires the proposed building to be sited to cluster with an established group of buildings. This proposal is considered to cluster with an established group of buildings to the south of the site, this is one of the two bookends to the gap.

95. This is an outline planning application and details of the design are not included. That said the bulk, scale, massing and external appearance of the building can be controlled by condition. The requirement of criteria (f) is met.
96. The main impact resulting from the ancillary works is the construction of the access. An opening will be required along the road frontage but traffic speeds are low and there is a verge that will accommodate the majority of the visibility splay. The loss of significant vegetation can be mitigated without impacting significantly on the ability to integrate the development into the countryside. The requirements of criteria (g) are met.
97. For the reasons outlined in the preceding paragraphs it is considered that all of the criteria of policy COU15 are or can be met at the approval of reserved matters stage.

Policy COU16 - Rural Character and Other Criteria

98. A dwelling can be accommodated within the site without appearing unduly prominent in the landscape for the same reasons outlined in the preceding section. The traditional pattern of settlement is also respected as this site is part of a gap sufficient to accommodate two dwellings and the concept plan demonstrates where a building of a similar footprint to the other dwellings adjacent can be sited to respect the character of this rural location. Criteria (a) and (c) are met.
99. Criteria (b) of policy COU16 requires the dwelling to cluster with an established group of buildings. This is also dealt in the preceding section.
100. In respect of (d) the proposal will not mar the distinction between a settlement and the open countryside as the site is not adjacent to a settlement. Furthermore, it will not result in urban sprawl as the exception tests to policy COU8 are considered to be met for the reasons outlined above.
101. In respect of criteria (g) and (h) all of the proposed services are provided underground or from existing overhead lines along the road frontage or adjacent lands. No adverse environmental impact is identified in terms of connecting this development to services and the ancillary works will not harm the character of the area as they are already a feature of the landscape at this location.
102. In respect of criteria (i) and for the reasons set out later in the report within the Access and Transport section of the report, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

Natural Heritage

103. A Biodiversity Checklist and ecological statement was submitted during the processing of the application.

104. It is noted that the application site (0.20 hectares) is not currently occupied by any buildings and therefore no demolition of any structure would be required to accommodate the proposal. The application site is currently used for agricultural purposes.
105. NIEA Natural Heritage Division NHD were consulted and has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to appropriate conditions and informatives.
106. From the Ecological Statement provided, the Council satisfied that sufficient information is supplied to assess for potential impacts on protected/priority species and habitats. The ecologist found no evidence of otter or badger activity while surveying, and while a mammal trail was identified along the northern and eastern boundaries of the site.
107. As noted by the ecologist, should the mature Ash tree within the western hedgerow, assessed as having moderate bat roosting potential be required for removal, further emergence/re-entry bat surveys must be completed based on the ecologists bat roost potential determination, however plans do not indicate that this tree is to be removed.
108. Due to the presence of a watercourse traversing the northern and eastern boundaries of the site, NED recommend a 10 metre buffer is maintained between the location of all construction works and this natural heritage feature in order to protect the water environment. This mitigation is addressed by planning condition.
109. Given the potential for breeding/nesting birds to be utilising vegetation, including scrub habitat on site, NED recommend any necessary vegetation removal required for the proposed development is completed outside of the bird breeding season to ensure compliance with Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended). This mitigation is also addressed by planning condition.
110. For the reasons outlined above, it is considered that the proposal is not likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance. The requirements of policy NH5 of the Plan Strategy are considered to be met in full.

TRA2 - Access to Public Road

111. The P1 form indicates that the access arrangement for this development involve construction of a new access to a public road.
112. Advice received from DfI Roads confirmed that they had not objection subject to visibility splays being provided at 2 metres by 43 metres to the north and 2 metres by 53 metres to the south.

113. Based on a review of the information provided and the advice received, it is considered that an access to the public road can be accommodated without prejudice to road safety or significantly inconveniencing the flow of traffic. The requirements of Policy TRA2 of the Plan Strategy are met in full.

Policy WM2 - Waste Management

114. Detail submitted with the application indicates a main supply of water and that foul sewage is disposed of via septic tank and surface water via soakaway.
115. LCCC Environmental Health were consulted and offer no objection in principle subject to a detailed site plan which includes the location of the proposed dwelling, the septic tank/biodisc and area of subsoil irrigation for the disposal of effluent being provided at reserved matters stage.
116. Advice from Water Management Unit refers to standing advice and explains that the onus is on the applicant to ensure that all other regulatory consents are in place.
117. Consideration of flood risk is included as a criteria for assessment in policy WM 2. This proposal is not of sufficient scale to require the submission of a flood risk assessment and consent to discharge is required as a parallel consent process. Foul and storm discharge is normally through a soakaway designed to an appropriate standard. No flood risk is identified.
118. Based on a review of the information and advice received from consultees, it is accepted that a septic tank/package treatment plant and the area of subsoil irrigation for the disposal of effluent can be sited and designed so as not to create or add to a pollution problem. The requirements of Policy WM2 of the Plan Strategy are met in full.

Consideration of Representations

Road/Pedestrian safety and traffic generation. Proposal would result in the widening or relocation of an agricultural access

119. DfI Roads have been consulted and have no objection subject to standard conditions. The access arrangements for the development involve the construction of a new access along the Gregorlough Road. Account has been taken of the advice of DfI Roads and the Council has no reason to disagree with the conclusion that a safe access can be achieved to the site in the interest of road safety and convenience of road users at this location.

Proposal would result in further suburbanisation of the countryside for financial gain

120. Following a site inspection and an assessment of planning policy it is considered that the site is one half of a small gap in a substantial and continuously built up frontage and an exception to the prohibition on ribbon development. The development respects the existing pattern of development within the identified frontage for the reasons set out above. This is not a suburban development or suburbanisation of the countryside. It is an acceptable form of development in the open countryside. Financial gain is not a material consideration to be given any weight as the policy requirement is met and no restriction there is no restriction on the occupation of the dwelling should the applicant choose to sell the site..

Incorrect address

121. During the processing of this application an amended site address was submitted. The application was re-advertised and neighbour/objector notified. No one is prejudiced as the correct location of the site is identified.

Loss of privacy

122. It is considered that adequate separation distances can be achieved to mitigate the loss of any privacy. This is an outline planning application and the planning conditions will allow for an appropriate design solution to be controlled at the approval of reserved matters stage. The concept drawing shows the new building with a gable elevation to the closest occupied dwelling.

Loss of wildlife

123. A biodiversity checklist and ecological statement has been submitted with the application. Natural Heritage Division has provided advice on the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to suggested conditions. The advice of the consultee is agreed with and the proposal will not have a detrimental impact on any natural heritage features.

Noise pollution and disturbance. Dogs located at 65 Redhill Road, this proposal may lead to their upset and the potential for a noise complaint from any future resident

124. Environmental Health have been consulted and have no objection to the proposed development. Nuisance arising from noise and general disturbance are not dealt with under planning legislation and is a matter for the local Environmental Health Office. There is no evidence to indicate the kennelling or breeding of dogs and it was not observed at the site visit that there was any adverse amenity impact caused by a large number of barking dogs. In the absence of any evidence that there would be loss of amenity by reason of noise or nuisance this objection is not sustained.

Loss of trees and hedgerow

125. This is an outline application and a condition is proposed to ensure the existing natural screenings of this site are retained and augmented where necessary except

to accommodate the provision of the access and visibility splays. New planting of native species hedgerow shall be planted to the rear of the visibility splays to ensure the provision, establishment and maintenance of screening to the site.

Two dwellings would not be in keeping with the local landscape

126. This is linked to the related objection above in terms of suburbanisation of the countryside. For the same reasons explained above the requirements of policy are met. The landscape has the capacity to absorb a dwelling at this location. It has enclosure and a back drop. The site is not prominent and any new building can be absorbed into the landscape for the reasons outlined above.

The septic tank of another property is located within the site.

127. Environmental Health has no objection to the above proposed development subject to at the subsequent planning stage the applicant providing 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. The relationship between any proposed and existing tank can be reconciled at the detailed design stage.

Proposal would result in surface run off

128. NIEA Water Management Unit and NI Water were consulted on the application and has considered the impacts of the proposal on the water environment and on the basis of the information provided has no objection. The advice of the consultees in this respect is accepted.
129. As such it is considered that sufficient information is available in respect of sewage and water quality to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.

Landownership

130. The view is expressed that the property at 68 Gregorlough Road is now sold [as of 30 June 2023]. A copy of the Transfer Deed with map is provided. It is stated that the applicant no longer owns the complete site for which he has applied for planning permission and that permission is not provided for the portion of land included within the red line to be used.
131. The applicant clarifies that the land transfer map associated with the deeds includes reference to an easement being retained across part of the frontage of 68 Gregorlough Road to facilitate the required visibility splays for the adjacent application site.
132. Whilst the objector indicates that they will not grant permission for the splay over their land this would appear to be a civil matter between the two parties. There is sufficient evidence to indicate that a condition can be met and that the applicant has access to the land to do so.

133. The interest of the new party is taken account of in the application process with the submission of an amended P2 form. The obligation to notify is met.

Use of building to rear

134. Reference is made to the intention of the new owner to use the large barrel vaulted shed adjacent to 68 Gregorlough Road as an ancillary domestic building.

135. The building referred to and as observed during the site visit not being a domestic outbuilding. It was designed in the shape and form of an agricultural building. It had a small building adjacent and in front which was observed as a canteen r small office that would suggest it was used for another non-domestic purpose such as light engineering.

136. No application is made to change the use of the building and it is still counted as a building in the substantial and continuous frontage. An intention by the new landowner to use the building for some other domestic purpose in the future is not an objection to be weighed as significant or sufficient to change the recommendation presented in this report.

Conclusions

137. The recommendation is to approve planning permission as the proposal is in accordance with the requirements of paragraph 6.73 of the SPPS and policies COU1, COU8 and COU16 of the Plan Strategy.

138. The proposal is also in accordance with other planning and environmental considerations and the policy tests of NH5, TRA2 and WM2 are also satisfied.

Recommendations

139. It is recommended that planning permission is approved.

Conditions

140. 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 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 indicating finished floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

- The existing natural screenings of this site shall be retained except that required to be removed to accommodate the provision of the access arrangement unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal. New planting of native species hedgerow shall be planted to the rear of the visibility splays.

Reason: To ensure the provision, establishment and maintenance of screening to the site.

- No development shall take place until there has been submitted to and approved by the Council a landscaping scheme. The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

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

- The dwelling hereby permitted shall not be occupied until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow/trees and shrubs of mixed woodland species planted on the inside.
Reason: To ensure the proposal is in keeping with the character of the rural area.

- A suitable buffer of at least 10 metres must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the watercourse present along the northern and eastern boundaries of the site. The area to be protected will be defined by timber post and wire fencing or temporary metal site fencing.

Reason: To protect the water environment.

- No retained tree/hedgerow vegetation (stated as retained within the supporting Ecological Statement provided) shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction.

Reason: To ensure the continuity of the biodiversity value afforded by existing trees and hedgerow vegetation

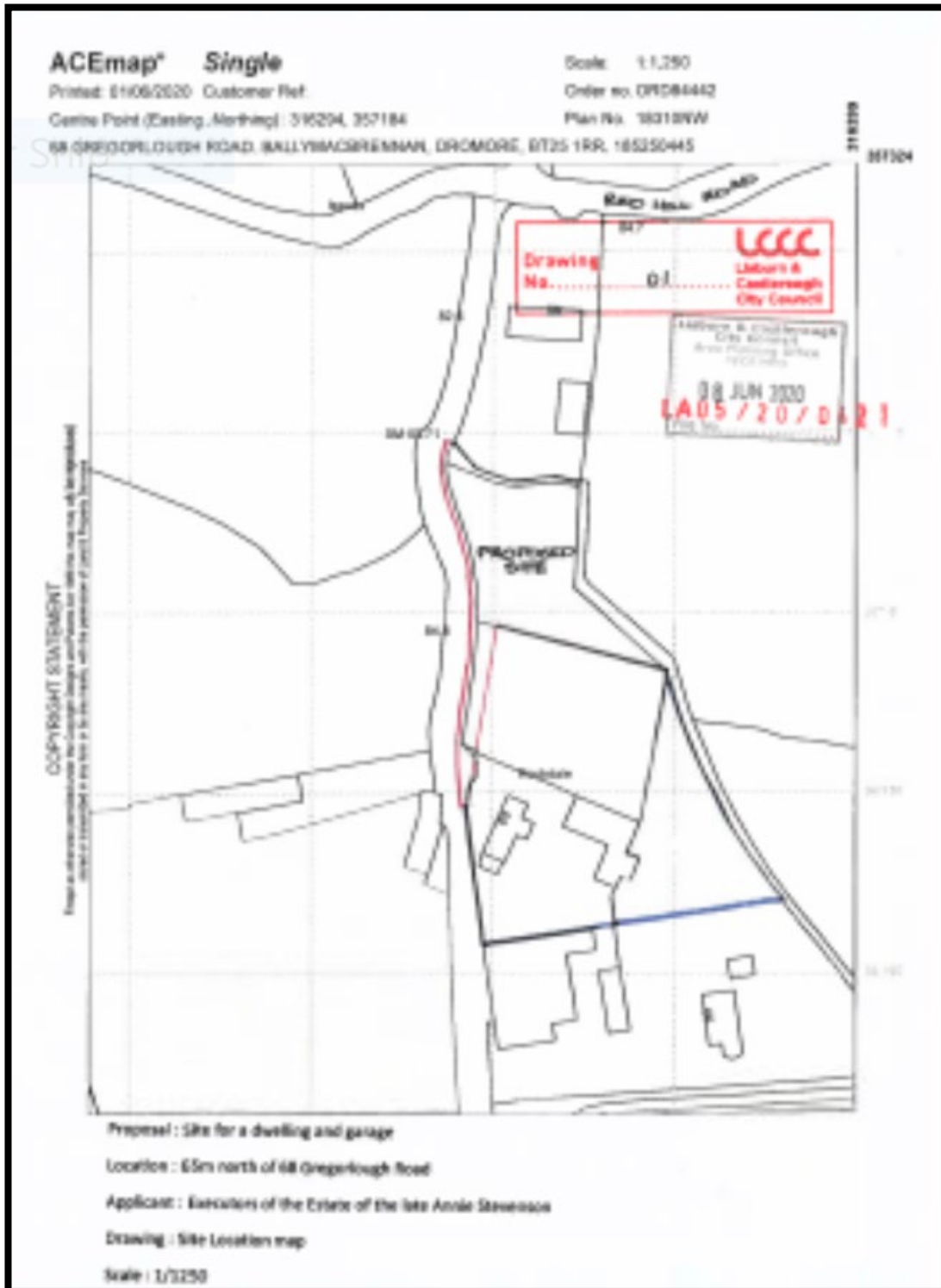
- Should the mature Ash tree, located within the western hedgerow and to the south of the Sycamore, as identified by the ecologist, be required for removal/felling, then an emergence/re-entry survey must be completed and submitted to the Planning Authority based on the ecologist's determination of the tree having moderate bat roosting potential.

Reason: To protect bats and their roosts.

- There shall be no vegetation clearance during the bird breeding season (1 March to 31 August inclusive), unless otherwise agreed in writing with the Planning Authority.

Reason: To protect breeding birds.

Site Location Plan – LA05/2020/0421/O





Committee:	Planning Committee
Date:	06 November 2023
Report from:	Head of Planning and Capital Development

Item for:	Noting
Subject:	Item 2 – Proposed erection of industrial unit with ancillary office, car parking, landscaping and associated site and access works and solar array on lands located to the east of Lissue Road, south of Ballinderry Road and west of Ferguson Drive, Lisburn

1.0	<p><u>Background</u></p> <p>1. Section 27 of the Planning Act (Northern Ireland) 2011 requires a prospective applicant, prior to submitting a major application, to give notice to the appropriate Council that an application for planning permission is to be submitted.</p> <p><u>Key Issues</u></p> <p>1. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report (see Appendix) set out how the requirement of the legislation and associated guidance has been considered as part of the submission.</p>	
2.0	<p><u>Recommendation</u></p> <p>It is recommended that the Members note the content of the Pre-application Notice attached and that it is submitted in accordance with the relevant section of the legislation and related guidance.</p>	
3.0	<p><u>Finance and Resource Implications</u></p> <p>There are no finance or resource implications.</p>	
4.0	<p><u>Equality/Good Relations and Rural Needs Impact Assessments</u></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out</p> <p>This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. The Notice is served in accordance with legislative requirements and EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No

4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out.</p> <p>This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. The Notice is served in accordance with legislative requirements and no RNIA is required.</p>	
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Appendices:	Appendix 3(a) - Report in relation to LA05/2023/0767PAN Appendix 3(b) – LA05/2023/0767/PAN – PAN Form Appendix 3(c) – LA05/2023/0767/PAN – Site Location Plan
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Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	06 November 2023
Responsible Officer	Conor Hughes
Date of Report	18 October 2022
File Reference	LA05/2023/0767/PAN
Legislation	Section 27 of the Planning Act (Northern Ireland) 2011
Subject	Pre-Application Notice (PAN)
Attachments	PAN Form and Site Location Plan

Purpose of the Report

1. The purpose of this report is to advise Members of receipt of a Pre-Application Notice (PAN) for the erection of industrial unit with ancillary office, car parking, landscaping, associated site and access works and solar array.
2. The site is located to the east of Lissue Road, south of Ballinderry Road and west of Ferguson Drive, Lisburn.

Background Detail

3. Section 27 of the Planning Act (Northern Ireland) 2011 requires that a prospective applicant, prior to submitting a major application must give notice to the appropriate council that an application for planning permission for the development is to be submitted.
4. It is stipulated that there must be at least 12 weeks between the applicant giving the notice (through the PAN) and submitting any such application.
5. The PAN for the above described development was received on 27 September 2023. The earliest possible date for the submission of a planning application is week commencing 18 December 2023.

Consideration of PAN Detail

6. Section 27 (4) stipulates that the PAN must contain:
A description in general terms of the development to be carried out;
7. The description associated with the FORM PAN1 is as described above.

8. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is considered that an adequate description of the proposed development has been provided.

The postal address of the site, (if it has one);

9. The postal address identified on the FORM PAN1 is as described above.
10. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that an adequate description of the location has been provided.

A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site;

11. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that a site location plan with the extent of the site outlined in red and submitted with the PAN form is sufficient to identify the extent of the site.

Details of how the prospective applicant may be contacted and corresponded with;

12. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10 it is noted that the FORM PAN1 as amended and associated covering letter includes details of how the prospective applicant may be contacted and corresponded with.
13. The Form PAN1 includes the name and address of the agent. Any person wishing to make comments on the proposals or obtain further information can contact the agent Turley at Hamilton House, 3 Joy Street, Belfast, BT2 8LE.
14. In addition to the matters listed above, regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;

15. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is noted that question 9 of the FORM PAN 1 indicates that no environmental impact assessment determination has been made.
16. It is accepted that this reference is made without prejudice to any future determination being made or the applicant volunteering an Environmental Statement.

A copy of any notice served by the Department under Section 26(4) or (6) i.e. confirmation (or not) of the Department's jurisdiction on regionally significant developments

17. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is considered that the form of development proposed is not specified in the Planning (Development Management) Regulations (Northern Ireland) 2015 as a major development (i.e. regionally significant) prescribed for the purpose of section 26 (1) of the Planning Act (Northern Ireland) 2011 and it is noted that consultation with the Department has not taken place.

An account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take

18. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 the account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take has been provided.

The PAN form indicates that a public event will take place at Lagan View Enterprise Centre, Drumbeg Drive, Old Warren Estate, Lisburn on 30 November 2023 at 3pm.

The event will be publicised in the Ulster Star on the week of the 17 November 2023.

Leaflets will also be distributed to properties within 500 metres of the proposed development and a consultation phone line promoted on the leaflet.

Hard copies of material can also be provided to parties unable to access the public event.

Elected members for the DEA identified as having an interest received a copy of the Proposal of Application Notice on 29 September 2023.

Recommendation

19. In consideration of the detail submitted with the Pre-Application Notice (PAN) and in respect of community consultation, it is recommended that the Committee note the information submitted.



www.lisburncastlereagh.gov.uk/resident/planning
Lisburn & Castlereagh City Council, Civic Headquarters, Lagan Valley Island, Lisburn, BT27 4RL
Tel: 028 9244 7300
E-mail: planning@lisburncastlereagh.gov.uk

Proposal of application notice
Planning Act (Northern Ireland) 2011

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Are you an agent acting on behalf of the applicant?

- Yes
No

Applicant Details

Name/Company

Title: Other, Other

First name

Surname

Company Name: Killutagh Estates

Address

Address line 1: 2nd Floor

Address line 2: Linenhall

Address line 3: 32-38 Linenhall Street

Town/City: Belfast

BT2 8BG

Country

United Kingdom

275

Contact Details

Telephone number

***** REDACTED *****

Mobile number

***** REDACTED *****

Email address

Agent Details

Name/Company

Company / Organisation

Turley

Title

Mrs

First name

Donna

Surname

Lyle

Address

Address line 1

Hamilton House

Address line 2

Address line 3

3 Joy Street

Town/City

Belfast

Postcode

BT2 8LE

United Kingdom

Contact Details

276

Telephone number

***** REDACTED *****

Mobile number

07467335314

Email address

***** REDACTED *****

Ref no.

KILB3013

Site Address

Disclaimer: Recommendations can only be based on the answers given to the questions.

If you cannot provide a postcode, then further details must be provided below for 'Description of site location' by providing the most accurate site description you can in order to help locate the site.

Number

Suffix

Property Name

Address Line 1

Lands located to the east of Lissue Road, south of Ballinderry Road

Address Line 2

and west of Ferguson Drive.

Town/city

Lisburn

Postcode

Description of site location (must be completed if postcode is not known)

Description

Lands located to the east of Lissue Road, south of Ballinderry Road and and west of Ferguson Drive, Lisburn.

Easting co-ordinates (x)

323217

364213

277

Site Area

What is the area of the site?

4.45

Hectares

Please note - due to the size of site area this application may also be subject to the completion of an Environmental Impact Assessment report (EIA).

Please give a concise and accurate description of all elements of the proposed development that requires consent, including the purpose for which the land / buildings are to be used. Provide details of all buildings proposed and any ancillary works including access arrangements associated with the proposal. Please also include details of any demolition if the site falls within a designated area.

Description of Proposed Development

Please give a brief description of the proposed development

Proposed erection of an industrial unit with ancillary office, car parking, landscaping and all associated site and access works including the provision of on site solar array.

Please indicate what type of application is being requested

- Outline permission
 Full permission

Floorspace Summary

Does the proposal include floorspace?

- Yes
 No

What is the total gross floor space of proposed development (sq m)?

10000

Renewable Energy

Does your proposal involve renewable energy development?

- Yes No

Determinations

Has a determination been made as to whether the proposed development would be of Regional Significance?

- Yes
 No

No

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Details of Proposed Consultation

Please add separate details for each proposed consultation

Proposed public event: Public Information Event

Venue: Lagan View Enterprise Centre, Drumbeg Drive, Old Warren Estate, Lisburn, BT28 1NY

Date and time: 30/11/2023 15:00

Please add separate details for each publication used for the above consultation

Publication

Name of publication Ulster Star

Proposed advert date start 17/11/2023

Proposed advert date finish 17/11/2023

Please specify details of any other consultation methods including distance from site for notifying neighbouring properties (e.g. 100m, 200m etc.) and method of notification (please include date, time and with whom)

Leaflets distributed to properties within 500m of the proposed development.

Consultation phone line promoted on project leaflet.

Hard copies of materials can be provided to parties unable to access public event.

Details of any other publicity methods (e.g. leaflets, posters)

Leaflets will include free-post feedback form and will provide a postal address and consultation telephone number for interested parties to use to provide feedback or ask questions.

Details of Other Parties Receiving a copy of this PAN

Are there any other parties receiving a copy of this PAN?

Yes No

Please state which other parties have received a copy of this Proposal of Application Notice

Details for elected member(s) for District Electoral Area

Elected member(s) for District Electoral Area:

Lisburn South DEA - Cllr Tim Mitchell (UUP), Cllr Alan Givan (DUP), Cllr Peter Kennedy (Alliance), Cllr Paul Porter (DUP), Cllr Andrew Ewing (DUP) AND Cllr Amanda Grehan (Alliance).

Date notice served:

29/09/2023

Other(s):

Lagan Valley MLAs - Robbie Butler MLA (UUP), David Honeyford MLA (Alliance), Paul Givan MLA (DUP), Emma Little-Pengelly MLA (DUP) and Sorcha Eastwood MLA (Alliance).

Date notice served:

29/09/2023

Other(s):

Lagan Valley MP - Sir Jeffery M. Donaldson MP (DUP)

Date notice served:

29/09/2023

Authority Employee/Member

Are you/the applicant/applicant's spouse or partner, a member of staff within the council or an elected member of the council?

- Yes
 No

Are you/the applicant/the applicant's spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?

- Yes
 No

It is an important principle of decision-making that the process is open and transparent.

Declaration

The information I / We have given is correct and complete to the best of my knowledge and belief.

I / We agree to the outlined declaration

Signed

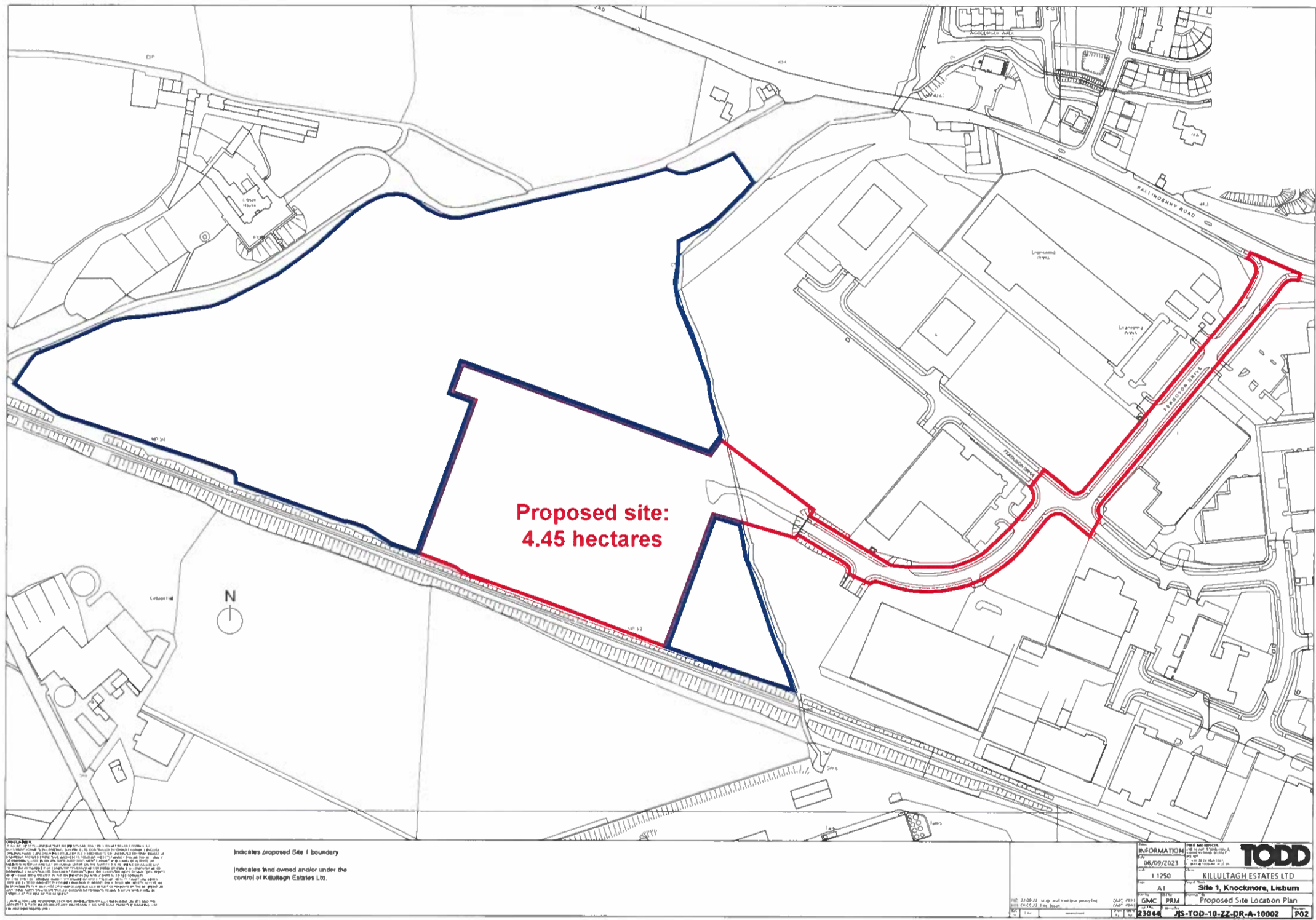
Donna Lyle

Date

27/09/2023

This information may be shared with other departments within the authority for the purposes of promoting investment. Please indicate by ticking the box below that you are providing your personal data on the basis of consent and are positively agreeing that it is shared with these departments and used for the purpose described, who may contact you and consider tailored support to meet your needs. Please note that availing of this service will have no influence on the planning process or the likelihood of you receiving planning permission.

I consent for my personal data to be shared with other departments within the authority



Committee:	Planning Committee
Date:	06 November 2023
Report from:	Head of Planning and Capital Development

Item for:	Noting
Subject:	Item 3 – Appeal Decision – LA05/2020/0614/O

1.0 **Background**

1. An application for dwelling and garage in the side garden of 21 Moss Brook Road, Carryduff was refused planning permission on 27 June 2022.
2. Notification that an appeal had been lodged with the Planning Appeals Commission was received on 14 December 2022. The procedure followed in this instance was written representations and the Commissioner visited the site on 14 August 2023.
3. The main issues in the appeal are whether the proposed development would be acceptable in principle in the countryside and the impact a new building on the site would have on the rural character of the area.
4. A decision received on 02 October 2023 indicated that the appeal was dismissed.

Key Issues

1. A preliminary matter is addressed at paragraph 2 of the decision whereby confirmation is provided that the assessment of the Commission is based on an amended proposal discussed at the Planning Committee on 09 May 2022.
2. Consistent with the view held by the Council, the Commissioner at paragraph 11 acknowledged that the existing curtilage of 21 Moss Brook Road would be significantly reduced to accommodate the proposed development and that the dwelling, despite its small scale, would appear crammed into the site and squeezed into the gap. For these reasons, the Commissioner accepted that the development would fail to respect the existing development pattern along the road frontage and that the test of policy was not met.
3. At paragraph 12, the Commissioner, having regard to the established settlement pattern along Moss Brook Road, also agreed that the dwelling would cause a detrimental change to the character of this rural area as the building would be squeezed onto the site and result in a built-up and suburban appearance when compared to the dispersed dwellings in large curtilages adjacent.
4. The Commission also noted that the other examples of approvals could not be directly compared to this application and that it must be considered on its own merits having regard to the site-specific circumstances.
5. Members will note that the Commission does not make reference to the Plan Strategy despite it being adopted by Council on 26 September 2023 and the

	decision being issued after this date. As the appeal is dismissed however there is no need to pursue this matter further.	
2.0	<p><u>Recommendation</u></p> <p>It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.</p>	
3.0	<p><u>Finance and Resource Implications</u></p> <p>No cost claim was lodged by any party in this instance.</p>	
4.0	<p><u>Equality/Good Relations and Rural Needs Impact Assessments</u></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out</p> <p>This is a report updating the committee on a decision by the PAC and EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out.</p> <p>This is a report updating the committee on a decision by the PAC and RNIA is not required.</p>	

Appendices:

Appendix 3 – Appeal Decision – LA05/2020/0614/O



4th Floor
92 Ann Street
Belfast
BT1 3HH

283

Phone: 02890893923 (ext
81023) (direct line)
Phone: 028 9024 4710 (switchboard)
Email: info@pacni.gov.uk

Website: www.pacni.gov.uk

Lisburn & Castlereagh City Council, Local Planning
Office

Our reference: 2022/A0101
Authority
reference: LA05/2020/0614/O
2 October 2023

Dear Sir/Madam

Re:

Appellant name: Mrs. Ella Ferguson

Description: Site for dwelling, garage and associated site works (infill opportunity as per CTY8 of PPS 21)

Location: Side garden of 21 Moss Brook Road, Carryduff, BT8 8AJ

Please find enclosed Commission decision on the above case.

Yours Sincerely,

Padraig Dawson
PACWAC Admin Team



Appeal Decision

4th Floor
92 Ann Street
BELFAST
BT1 3HH
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

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Appeal Reference:	2022/A0101
Appeal by:	Mrs E Ferguson
Appeal against:	The refusal of outline planning permission
Proposed Development:	Site for dwelling and associated site works (infill opportunity as per Policy CTY 8 of PPS 21)
Location:	Side garden of 21 Moss Brook Road, Carryduff, BT8 8AJ
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2020/0614/O
Procedure:	Written representations and Commissioner's site visit on 14 August 2023
Decision by:	Commissioner McShane, dated 2 October 2023.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Planning permission was sought for a dwelling and garage on a site demarcated by the red line shown on the Site Location / Context Maps (LPA Drwg No.01 and Drwg No.02/1), dated November 2020. In June 2021, an email from the Agent requested that amended drawings be considered (APP Drwg Nos. 001B and 002B). The site, which is within the original red line, is smaller and the proposed development is for a dwelling only. The amended proposal was discussed at the Planning Committee meeting held on 9 May 2022. My assessment is based upon the amended proposal.

Reasons

3. The main issues in this appeal are:
 - whether the appeal proposal is acceptable in principle; and
 - its impact on rural character.
4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. As the Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal in May 2017, the Belfast Urban Area Plan 2001 (BUAP) operates as the LDP for the area. The draft Belfast Metropolitan Area Plan (dBMAP) remains a material consideration. The appeal site is located outside any designated settlement development limit identified in the plans. There are no plan policies pertinent to this proposal.

5. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to decisions on individual planning applications and appeals. Paragraph 6.73 of the SPPS sets out the strategic policy for residential development in the countryside that should be considered in the determination of planning applications. The SPPS identifies Planning Policy Statement 21 (PPS 21) as a retained policy document. PPS 21 is applicable to all planning applications for development located in the countryside.
6. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Planning permission will be granted for residential development in the countryside in specific circumstances. The Appellant argues that the appeal proposal comprises the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8.
7. Policy CTY 8 entitled 'Ribbon Development' states that planning permission will be refused for a dwelling that creates or adds to a ribbon of development. Such development is regarded as detrimental to the character, appearance and amenity of the countryside. Notwithstanding that this form of development has been consistently opposed, policy goes on to state that an exception will be permitted for the development of a gap site providing four elements are met. Namely, the gap site must be within an otherwise substantial and continuously built-up frontage; the gap site must be small; the existing development pattern along the frontage must be respected; and other planning and environmental requirements must be met.
8. The first step in determining whether an infill opportunity exists is to identify whether there is a substantial and continuously built-up frontage present. For the purpose of policy this "includes a line of three or more buildings along a road frontage". There is no dispute that the hen house / green house, the dwelling (No.21), its garage and outbuilding comprise a substantial and continuously built-up frontage. The first element of the policy is met.
9. Policy CTY 8 relates to gaps between buildings and the gap site is required to be small. For the purpose of policy that is "sufficient only to accommodate up to a maximum of two houses". There is no dispute that the 34m gap between the henhouse / green house and the dwelling is small. The second element of the policy is met.
10. The parties dispute the third element of the policy, which requires that the existing development pattern along the frontage must be respected. An historic estate agent's brochure for No.21 referred to an "adjacent site (133 x 62ft), being ideal for further dwelling, *subject to planning permission*" (my emphasis). Nonetheless, the appeal site comprises part of the curtilage of No.21 and is currently a vegetable garden.
11. The existing curtilage of No.21 would be reduced significantly to accommodate the appeal site and allow for the balance of the gap in the vicinity of the hen house / green house. The existing 75m frontage would be reduced to 45m to accommodate the 18m wide appeal site. The proposed dwelling, notwithstanding its small scale, would appear crammed onto the appeal site and squeezed into the gap between

the hen house / green house and No.21. As such, it would fail to respect the existing development pattern along the frontage. The third element of the policy is not met.

12. The fourth step requires that other planning and environmental requirements must be met. In this respect, the Council raised objections based upon Policy CTY 14. It states that planning permission will be granted for development in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The settlement pattern along Moss Brook Road is dispersed and comprises large, detached, road frontage dwellings standing in extensive curtilages as well as dwellings and outbuildings set back from the road along laneways. The proposed dwelling, which would be squeezed onto the site, would result in a built-up and suburban appearance. Such an incident of development would cause a detrimental change to the character of this rural area and would be contrary to Policy CTY 14. The fourth element of the policy is not met.
13. The Appellant referenced two other decisions by the Council, which it is claimed set a precedent for approving the appeal proposal (S/2014/0297/O and LA05/2021/0626/O and LA05/2023/0111/RM respectively). However, I have not been persuaded that the circumstances of those sites or the issues arising are directly comparable to those in the current appeal. The Council's decisions on those appeals do not justify approval of the appeal proposal, which is contrary to policy. Furthermore, each proposal must be assessed on its own merits in its site-specific circumstances.
14. The proposed development fails to meet the four elements within Policy CTY 8; therefore, it fails to qualify as an exception. There is no infill opportunity. The Council has sustained its second and third reasons for refusal based upon Policies CTY 8 and 14 of PPS 21.
15. Policy CTY 1 states that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No evidence was submitted in this respect. The proposal fails to comply with Policy CTY 1 and is unacceptable in the countryside. The Council has sustained its first reason for refusal based upon Policy CTY 1.
16. The Council has sustained its three reasons for refusal based upon Policies CTY 1, 8 and 14. Accordingly, the appeal must fail.

This decision is based on the following drawing:-

- APP Drwg 001B: Site Location Map, dated June 2021 (Scale 1:1250)

COMMISSIONER MCSHANE

List of Documents

- Planning Authority:-
- “LPA 1” Statement of Case and Appendices
 - “LPA 2” Rebuttal Statement and Appendices
(Lisburn and Castlereagh City Council)
- Appellant:-
- “APP 1” Statement of Case
 - “APP 2” Rebuttal Statement and Appendices
(Nigel Coffey, Planning Services)

Committee:	Planning Committee
Date:	06 November 2023
Report from:	Head of Planning and Capital Development

Item for:	Noting
Subject:	Item 4 – Notification by telecommunication operator(s) of intention to utilise permitted development rights

1.0	<p><u>Background</u></p> <ol style="list-style-type: none"> The Council is notified by two operators, Cornerstone and Openreach, of their intention to utilise permitted development rights at seven locations within the Council area to install communications apparatus. , The installations consist of fixed line apparatus, upgrades to existing radio base stations and replacement of headframe and antenna in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (Northern Ireland) 2015. <p><u>Key Issues</u></p> <ol style="list-style-type: none"> The notifications advise the Council of the location of the apparatus where they intend to utilise permitted development rights. Detail is also provided in relation to the nature and scale of the works proposed. Only the schedule of locations where the works are proposed has been appended to the report (see Appendix). However the content of notifications detailed above are provided separately on decision time to assist Members in understanding the scope and nature of the proposed works. No comment is provided on the requirement for planning permission for the equipment listed. This letter is also referred to the enforcement section of the Unit. They will write separately to the operator should it be considered that the requirements of the Regulations cannot be met at any of the locations specified by either operator.
2.0	<p><u>Recommendation</u></p> <p>It is recommended that Members note the detail of the notifications specific to the sites identified.</p>
3.0	<p><u>Finance and Resource Implications</u></p> <p>There are no finance or resource implications.</p>
4.0	<p><u>Equality/Good Relations and Rural Needs Impact Assessments</u></p>

4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out</p> <p>This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. EQIA not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out.</p> <p>This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. RNIA not required.</p>	

Appendices:	Appendix 4 – Notifications from an Operator in respect of intention to utilise permitted development rights
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List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights November 2023 Planning Committee

	Applicant/Agents	Operator	Location	Summary of details	Date received
1	Cornerstone	BT	33 Glenavy Road, Knocknadona, Lisburn	The proposed works comprise the removal of the existing headframe, 3 No. antennas and 6 No. RRUs. Installation of a 5m tower extension and the re-installation of the headframe complete with 6 No. replacement antenn No. replacement RRUs and 2 No. 300mm dishes. All other works within the existing equipment cabin.	14/09/2023
2.	Openreach	BT	2A GORTGRIB DRIVE,Belfast	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	20/09/2023
3.	Openreach	BT	18A Glenavy Road, Lisburn	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	21/09/2023
4.	Cornerstone	O2	Dillons Hill, Ballymote Road, Glenavy	Proposed upgrade works at existing telecommunications installation	25/09/2023
5.	Cornerstone	O2	Lakeview Farm, 10 Lough Road, Upper Ballinderry	Proposed upgrade to existing radio base station installation	03/10/2023
6.	Openreach	BT	26 Ballycreely Road BT23 5PX	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	04/10/2023
7.	WHP Telecoms/ Cornerstone	Virgin/ O2	At Dillons Hill, Ballymote Road, Glenavey, BT29 4NR	Proposed re-location of 3No. existing Antenna & 9No. existing ERS. Proposed installation of 3No. new Antenna on proposed Yoke Brackets fixed to existing mast. Proposed installation of 6No. new ERS on existing steelwork. Proposed installation of 2No. new Equipment Cabinets within existing Cabin. Proposed upgrades to existing Equipment Cabinet within existing Cabin. All other Ancillary Development thereto.	10/10/2023
8	Cornerstone	Virgin/O2	Lake View, Land at Lakeview Farm, 10 Lough Road, Lisburn, BT28 2PQ	Removal of 3 No. antennas and 3 No. RRUs. Installation of 3 No. replacement	18/10/2023

				antennas, 9 No. replacement RRUs, 1 No. 300mm dish and 1 No. 600mm dish on the existing lattice tower. All other works within the existing equipment cabin.	
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Committee:	Planning Committee
Date:	06 November 2023
Report from:	Head of Planning and Capital Development

Item for:	Noting
Subject:	Item 5 - LDP Quarterly Update

1.0	<p><u>Background</u></p> <p>1. The Council's Local Development Plan 2032, Plan Strategy, was adopted following resolution by full Council on 26 September 2023. The policies in the Plan Strategy replace the retained suite of Planning Policy Statements. Members will note from their papers how the policy is being applied in the decision making process.</p> <p><u>Next Steps</u></p> <p>1. Work on the Local Policies Plan has now commenced. This includes:</p> <ul style="list-style-type: none"> • Development of a work programme and updated timetable • Assessment of the evidence base required to support the site specific policies, proposals, zonings and designations in relation to housing, employment, retailing, natural and built environment, and infrastructure • Development of procurement briefs in order to appoint appropriate experts to assist the Council in its site specific policies, proposals, zonings and designations • Implementation of the Plan Strategy Monitoring Framework is required to inform the policies and proposals of the Local Policies Plan <p>2. Details surrounding the procurement process and an amended timetable will be presented to Members in due course. This programme of work accords with the Planning Act (NI) 2011, the Planning (LDP) Regulations (NI) 2015.</p>		
2.0	<p><u>Recommendation</u></p> <p>Members are asked to note the next steps on the preparation of the LDP.</p>		
3.0	<p><u>Finance and Resource Implications</u></p> <p>Members should note owing to business needs of the Planning Unit, the LDP team is now operating at a reduced capacity. This being kept under review quarterly.</p>		
4.0	<p><u>Equality/Good Relations and Rural Needs Impact Assessments</u></p>		
4.1	<table border="1" style="width: 100%;"> <tr> <td style="width: 80%;">Has an equality and good relations screening been carried out?</td> <td style="text-align: center;">No</td> </tr> </table>	Has an equality and good relations screening been carried out?	No
Has an equality and good relations screening been carried out?	No		

4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out</p> <p>This is a report updating the committee on the status of the Plan and EQIA is not required.</p>	
4.3	<p>Has a Rural Needs Impact Assessment (RNIA) been completed?</p>	<p>No</p>
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on the status of the Plan and RNIA is not required.</p>	

Appendices:	N/A
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Committee:	Planning Committee
Date:	06 November 2023
Report from:	Head of Planning and Capital Development

Item for:	Noting
Subject:	Item 6 - Enforcement Quarterly Update

1.0	<p><u>Background</u></p> <ol style="list-style-type: none"> The Council continues to operate its planning enforcement powers under delegated authority in accordance with the Council’s Enforcement Strategy (published on website). It is stated at paragraph 15 of the Protocol for the Operation of the Planning Committee that Planning Officers will prepare a quarterly report on the progress of formal enforcement cases which will be circulated detailing the number of notices issued, and convictions obtained. <p><u>Key Issues</u></p> <ol style="list-style-type: none"> One live prosecution is pending, one conviction is obtained and one formal notice issued in this quarter. The total number of live cases by category is also presented to the Members for completeness and for understanding of the general scope and nature of the work officers are engaged in (see Appendix). 	
2.0	<p><u>Recommendation</u></p> <p>Members are asked to note the Planning Enforcement Update on its caseload.</p>	
3.0	<p><u>Finance and Resource Implications</u></p> <p>Members should note owing to business needs of the Planning Unit, the Enforcement team is now operating at a reduced capacity. This being kept under review quarterly.</p>	
4.0	<p><u>Equality/Good Relations and Rural Needs Impact Assessments</u></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out</p> <p>This is a report updating the committee on its Planning Enforcement caseload and EQIA is not required.</p>	

4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on its Planning Enforcement caseload and RNIA is not required.</p>	

Appendices:	Appendix 6: Enforcement Update - Caseload
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Planning Enforcement Quarterly Update – Planning Committee – 06 November 2023

Item Number	Title	Background and Key Issues
Planning Committee		
1	Cases with Court Proceedings (in this quarter)	<p>LA05/2019/0237/CA - Lands opposite 18 Tansy Road, Lisburn</p> <p>Non-compliance with Enforcement Notice, contest set for 21st November 2023</p> <p>LA05/2022/0276/CA - Multiple locations throughout the LCCC Area</p> <p>Display of multiple unauthorised Advertisements, defendant fined £1,000 on 15th September 2023</p>
2	Current Enforcement Caseload (in this quarter)	<p>Current Planning Enforcement Live Case list: 346 cases</p> <p>Nature of Breach:</p> <p>Unauthorised Advertisements: 42 cases Operational Development: 180 cases Breach of Condition: 47 cases Change of Use: 73 cases Demolition in Conservation Area: 1 cases Unauthorised Works to Protected Trees: 3 cases</p> <p>Notices issued: 1</p>

Committee:	Planning Committee
Date:	06 November 2023
Report from:	Head of Planning and Capital Development

Item for:	Noting
Subject:	Northern Ireland Public Services Ombudsman (NIPSO) – Tree Protection: Strengthening Our Roots

1.0 Background

A report by the Northern Ireland Public Services Ombudsman (NIPSO) with observations and recommendations to the Department for Infrastructure and Local Councils on how to improve Tree Protection was issued to the Chief Executives of all 11 Councils in Northern Ireland, on 29 September 2023.

The report follows from previous investigations undertaken by NIPSO in July 2022, when all Local Councils and the Department for Infrastructure were informed of an 'Own Initiative investigation' under Section 8 of the Public Services Ombudsman (Northern Ireland) Act 2016, into how public bodies effectively promote, administer and enforce the statutory protection of trees.

The Ombudsman indicates in correspondence that she has chosen not to proceed to full investigation at this time, but notes that she may choose to reassess the need for further investigation in the future.

Tree Protection Orders are a legislative provision and made in accordance with the Planning (Trees) Regulations (Northern Ireland) 2015. Authority is delegated in respect of the application of the regulations to officers of the Council. Requests to lop, top or fells trees are processed by request.

On occasion planning applications include proposals that impact on trees protected by a tree preservation order. The grant of planning permission is another form of consent and may be a matter for consideration by the Committee.

The Ombudsman has published an overview report and requests that the Council provide any comments on factual accuracy by 13 October 2023 (an extension of time was sought and agreed until Friday 20 October 2023).

The Ombudsman has further requested that the observations and recommendations be tabled with the Planning Committee and the report and cover letter is attached (**see Appendices**). She offers the Committee the opportunity of further engagement with her office following publication of the report.

The report makes 26 recommendations for improvement the purpose of which is to make a positive contribution to the protection of trees within the Northern Ireland planning system.

	The response on the factual accuracy of the recommendations is attached (see Appendix).	
2.0	<u>Recommendation</u> Members are asked to note the content and recommendations of the overview report by NIPSO with recommendations for improvement and the related response on the factual accuracy of the recommendations.	
3.0	<u>Finance and Resource Implications</u> None	
4.0	<u>Equality/Good Relations and Rural Needs Impact Assessments</u>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out This is a report advising the committee on the NIPSO Report 'Tree Protection: Strengthening our Roots' and EQIA is not required	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	Brief summary of the key issues identified and proposed mitigating actions or rationale why the screening was not carried out. This is a report advising the committee on the NIPSO Report 'Tree Protection: Strengthening our Roots' and RNIA is not required.	

Appendices:	Appendix 7a and 7b: NIPSO correspondence and overview report with recommendations to the Department for Infrastructure and Local Councils for improvement
	Appendix 7c: Response to the factual accuracy of the recommendations

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Our Ref: 202001965

29 September 2023

Mr. David Burns
Chief Executive
Lisburn & Castlereagh City Council
Island Civic Centre
The Island
LISBURN
BT27 4RL

By email

david.burns@lisburncastlereagh.gov.uk
wendy.hughes@lisburncastlereagh.gov.uk

Dear Mr Burns,

THE PUBLIC SERVICES OMBUDSMAN ACT (NORTHERN IRELAND) 2016

In July 2022 I wrote to all local councils and the Department for Infrastructure (the Department) proposing an Own Initiative investigation, under section 8 of the 2016 Act¹, into how public bodies effectively promote, administer and enforce the statutory protection of trees.

In setting out my proposal, I requested considerable information from each council and the Department to help inform my decision making. The proposal stage also involved returning to several councils to seek further clarity on the information provided, and a meeting with Department Officials earlier this year.

After careful consideration and having regard to my published criteria², including whether I consider the issue is the best and most proportionate use of investigative resources, I have chosen not to proceed to full investigation at this time. The information gathered during the proposal stage was however comprehensive and has allowed me to draw out significant observations and recommendations.

I have set out the basis upon which I make these observations and recommendations within the enclosed overview report, '*Tree Protection: Strengthening Our Roots*'. The report has also been shared with the Department, and I am of the view that it can make a positive contribution to ongoing work in this area.

¹ [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(legislation.gov.uk\)](#)

² [Own Initiative Criteria](#)

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The protection of trees within the Northern Ireland planning system continues to be a key issue of concern that is in the public interest, and I encourage all local councils and the Department to utilise this opportunity to make the recommended improvements.

Although I have chosen not to proceed to full investigation at this time, it should be noted that I may choose to reassess this issue in the future. I would therefore be grateful if Lisburn & Castlereagh City Council continues to engage with my Office on this matter and that alongside the other councils and the Department coordinate providing updates of any changes made following my report.

Given the public interest in this area, I have also decided to publish my overview report and **request that you provide any comments you may have on factual accuracy by 13 October**. Should you be unable to respond within the requested timeframe please contact the Own Initiative team at Owninitiative@nipso.org.uk so that a new timeframe can be considered.

My team had noted that in response to a Freedom of Information request dated 21 May 2023 to the Council, that a Tree & Woodland Strategy v.1 Jan 2023 was provided³. No information on this strategy can however be located on the Council's website and I would be grateful if you could advise if it is in place and when it came into operation, and I will amend my report accordingly.

Please also advise as to whether the observations and recommendations in my report is to be tabled with your Planning Committee. Should the Committee consider engagement with my Office on this matter to be helpful, we would be happy to arrange following publication.

Yours sincerely,



MARGARET KELLY
Northern Ireland Public Services Ombudsman

³ [Tree planting data - a Freedom of Information request to Lisburn and Castlereagh City Council - WhatDoTheyKnow](#)

TREE PROTECTION: STRENGTHENING OUR ROOTS

An overview report by the Northern Ireland Public Services Ombudsman with recommendations to the Department for Infrastructure and Local Councils for improvement.

The Role of the Ombudsman

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act) and includes a discretionary power to undertake investigations on her Own Initiative, with or without a prior complaint(s) being made.

Under Section 8 of the 2016 Act the Ombudsman may launch an investigation where she has reasonable suspicion that there is systemic maladministration or that systemic injustice has been sustained (injustice as a result of the exercise of professional judgement in health and social care).

In order to make a determination on reasonable suspicion, the Ombudsman initially gathers information relating to an issue of concern. This may include desktop research, contact with the body concerned, the use of a strategic enquiry, consultation with Section 51 bodies, etc. The Ombudsman assesses this information against her published Own Initiative Criteria in order to decide whether or not to proceed with an investigation.

Where the Ombudsman determines that an issue has not met her published criteria, but she considers that an overview of her actions in considering an investigation could provide learning, she may determine it appropriate to provide any relevant organisations with an overview report.

What is Maladministration and Systemic Maladministration?

Maladministration is not defined in the legislation but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

Systemic maladministration is maladministration which has occurred repeatedly in an area or particular part of the public service. Systemic maladministration does not have to be an establishment that the same failing has occurred in the 'majority of cases', instead it is an identification that an issue/failing has repeatedly occurred and is likely to occur again if left unremedied; or alternatively, an identification that a combination or series of failings have occurred throughout a process which are likely to occur again if left unremedied.

¹ [Own Initiative Criteria](#)

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Executive Summary

Within the planning system in Northern Ireland, the Department for Infrastructure (the Department) and local councils have statutory duties to consider the protection of trees. The effective promotion, administration and enforcement of tree protection is critical to long term strategies to improve the social, environmental and economic well being of our areas and people. Trees have a key role not only in increasing biodiversity and combating climate change but are also increasingly recognised for the value they add to homes and public spaces and for their wide ranging benefits to public health.

Within recent years much attention has been given to the importance of planting more trees, and I welcome the many initiatives that have been undertaken in this area. There is however also a need for a renewed focus on recognising our existing trees as valuable infrastructure assets which need to be carefully managed and protected. The importance of protecting trees within our planning system is even more critical given that it has been established that Northern Ireland ranks amongst the worst in the world for biodiversity loss², is one of the lowest in Europe for woodland cover³ and is likely to fall short of its 2050 net zero emissions target.⁴

In July 2022 I wrote to the Department and all eleven councils to advise that concerns had been raised with my Office indicating potential systemic maladministration in how public bodies fulfil their duties to protect trees within the planning system. I had also noted ongoing and significant public confidence issues, including community distress, consistently reported in the public domain. This included concerns about the extent that works to 'protected' trees (including the removal of) were granted and that adequate enforcement action was not being taken in response to wilful destruction.

I shared with the Department and councils a proposal to investigate using my own initiative powers. I requested information from the Department and each council to help inform my decision making in this matter. Whilst I have chosen not to proceed to full investigation at this time, the information gathered during the proposal stage was comprehensive and has allowed me to draw out significant observations and recommendations.

The [Principles of Good Administration](#) are the standards by which I expect public bodies to deliver good administration. The first principle is **getting it right** and in [Section 1](#) I set out the main strategies, policies and procedures which I have been advised are currently in place to deliver council functions to protect trees. Whilst some councils have developed comprehensive tree strategies to align their actions in this important area of planning this is not yet evident in all council areas. There is

² A 2021 NHM & RSPB study ranks Northern Ireland as 12th lowest, out of 240 countries/territories, for biodiversity intactness. Available from: [biodiversity-intactness-index-summary-report-v5-1-1.pdf](#)

³ 9% Northern Ireland, 19% Scotland, 15% Wales, 10% England, *National Statistics on Woodland* produced by Forest Research, approved by UK Statistics Authority, 16 June 2022. Available from: [Woodland Statistics](#). EU-27 averages at 40%, [Woodland cover targets.pdf \(defra.gov.uk\)](#)

⁴ [Advice-report-The-path-to-a-Net-Zero-Northern-Ireland \(1\).pdf](#), March 2023.

also an absence of procedural guidance to supplement the legislative framework around tree protection, which I consider is necessary to ensure consistency in decision making processes and to promote the application of good practice. I further consider that the Department has a greater role to play in developing regional guidance and in facilitating the sharing of best practice.

In [Section 2](#), I outline how Tree Preservation Orders (TPOs) are administered and the variation in the number of TPOs requested and approved across council areas. A TPO is an order made by a planning authority which provides statutory protection to specific trees, groups of trees or woodlands. Whilst recognising this continues to be an evolving area of expertise, further work is required by both the Department and councils to establish how best to assess the 'amenity' value of a tree when considering the use of TPOs. This should include councils documenting a clear methodology and exploring better use of valuation software in this process. The Department should also issue guidance on the key TPO terms contained within the legislation.

Within this section I also note the potential for greater **openness and transparency** through increased electronic mapping of TPOs and provision of online access to the TPO registers. Council websites should provide clear information about the process that members of the public can follow to request a TPO, and the schemes of delegation should outline where the decision making on making TPOs sits within the council.

Similarly, there is the opportunity for increased transparency about the granting of works to protected trees. Within [Section 3](#), I outline the variation in the volume of applications made and approved across the region. Councils should consider the potential of publishing details of the applications and decision making to increase accountability and public confidence. The introduction of community notification for residents likely to be affected, which is a procedure recommended in England, should also be examined as a way of improving engagement in the planning system.

When considering how application for works are processed, it is important that councils clarify the circumstances in which independent evidence is required to support the applications for work and the parties responsible for obtaining it. **Being customer focused** involves public bodies explaining clearly what they expect of a service user as well as what is expected from the public body. Consistency of approach in processing applications for works could be further supported by all councils having standardised forms available online and signposting the use of the planning portal.

To comply with the principle of **acting fairly and proportionately**, the actions and decisions of public bodies should be free from interests that could prejudice their actions and decisions. Within [Section 4](#), I considered how councils approach cases in which the council wishes to carry out work to a protected tree on land which it owns, and the processes used to investigate where a council is suspected of a breach. The responses highlighted the variation in council awareness and interpretation of the governing legislation and best practice in this area. Department

and councils should agree clear procedural guidance to comply with the legislation and to ensure potential conflicts of interest are being appropriately managed.

The need for adequate oversight and engagement between the Department, councils and statutory undertakers in respect of the removal of protected trees on operational land is discussed in [Section 5](#). Public bodies must work effectively together to mitigate against adverse impact, but also proactively communicate with the public on why, and how, the work is being undertaken.

When taking decisions, public bodies should ensure that the measures taken are proportionate to the objectives pursued. Taking appropriate enforcement action, to prevent or remedy harm, is central to the effectiveness and credibility of the planning system and to meeting the principle of **putting things right**.

Within [Section 6](#), the figures gathered regionally provide insight into the level of enforcement action taken in respect of reported breaches of planning control concerning protected trees. Out of 369 tree protection breaches reported to councils over a three year period, only one resulted in formal enforcement action being taken. No cases were brought to court. I have not carried out an analysis of the individual decision making however the low level of enforcement activity should be a concern for councils as they seek to improve the environmental quality of their area.

The figures further showed that nearly one fifth of the overall number of cases were closed as 'not expedient', indicating that a breach was established but that the council decided not to take further action having applied the 'expediency test'. I have recommended an examination of these cases to establish if the approaches taken are in keeping with enforcement guidance and council priorities, and whether there are repeat issues that can be acted upon to prevent future breaches. Council enforcement strategies should also provide clear information on the 'expediency test' and ensure there is sufficient oversight when enforcement decisions are taken under delegated authority.

I also recommend that the Department collate, monitor and publish enforcement data specific to tree protection enforcement cases to further enhance scrutiny at a regional level.

In adhering to the principle of **seeking continuous improvement**, public bodies should actively seek and welcome all feedback to improve their public service delivery. I was pleased to note that whilst all councils asserted that they meet their obligations to protect trees, several welcomed the proposal as an opportunity to review policies and practice for potential improvements.

Having considered the responses to my investigation proposal I have made 26 recommendations for improvement which I have shared with the Department and councils. I am hopeful this will make a positive contribution to the protection of trees within the Northern Ireland planning system. If required, I may choose to reassess this issue in the future.

The Statutory Duty to Protect Trees

The Planning Act (Northern Ireland) 2011 (the 2011 Act) introduced a new two-tier system for the delivery of planning functions in Northern Ireland. This system, which came into effect in April 2015, resulted in the majority of planning functions passing from the Department for Infrastructure (the Department) to local councils.

The eleven local councils have responsibility for delivering most operational planning functions including the determination of planning applications and the investigation of alleged breaches of planning control. The Department retains responsibility for regional planning policy and legislation as well as monitoring and reporting on the performance of local councils. It also retains certain reserved enforcement powers and continues to make planning decisions in respect of regionally significant and 'called-in' planning applications.

Figure 1: A map of the 11 local councils in Northern Ireland

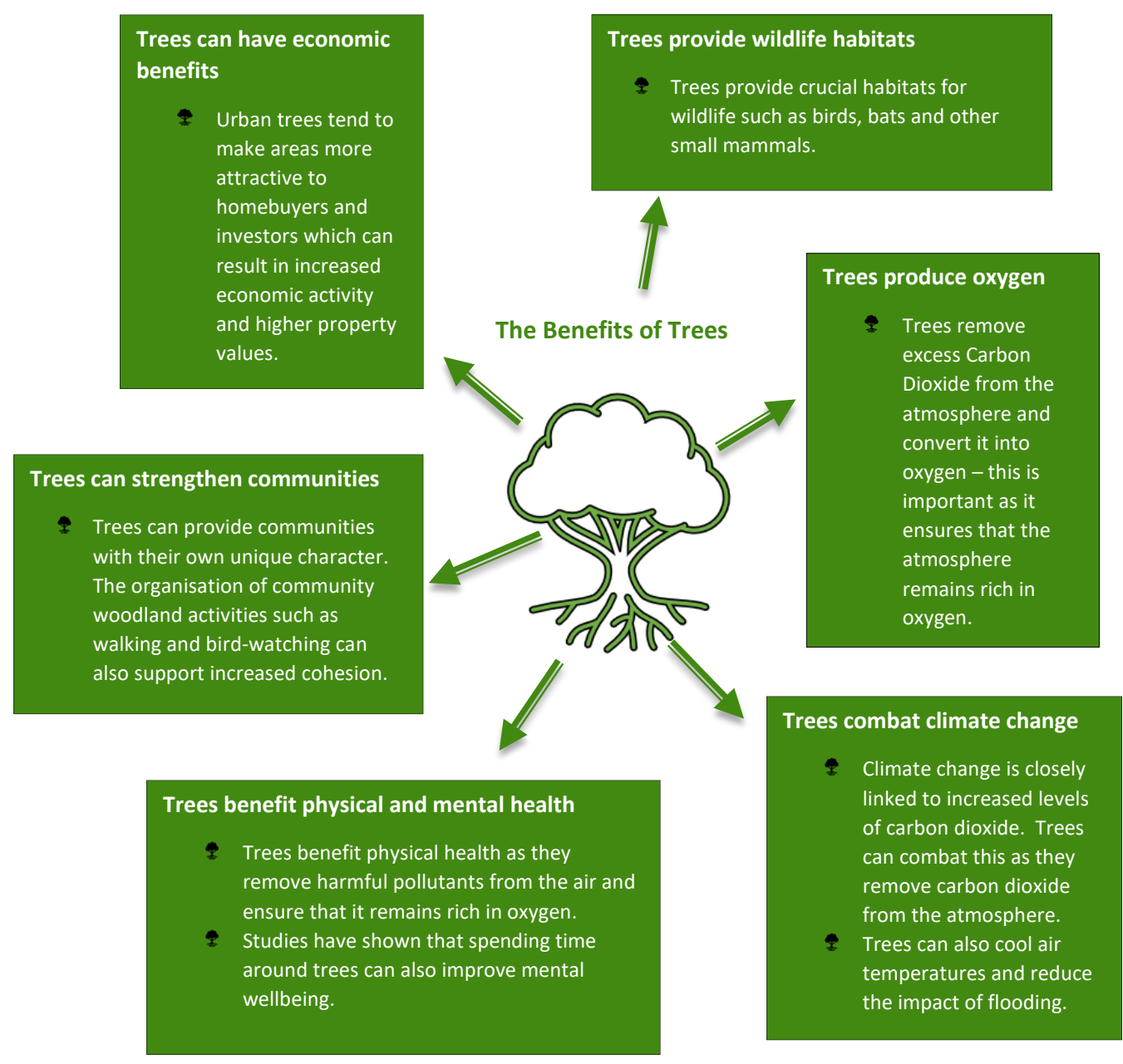


The 2011 Act places statutory duties on councils and the Department to make adequate provision for the protection of trees, where appropriate, within the planning system.⁵ It is vital that these duties are fully understood and implemented. This means that councils should protect existing trees, as well as promoting further planting of trees. Trees provide many important benefits for both members of the public and the natural environment. Key benefits include the fact that they provide

⁵ [Planning Act \(Northern Ireland\) 2011, Chapter 3, s.121-128](#)

habitats for wildlife, play a significant role in combating climate change and bring important advantages for public health.⁶

Figure 2: The Benefits of Trees



⁶ A 2021 study carried out by Forest Research found that trees provide significant benefits for wellbeing & estimated that the mental health benefits associated with visits to UK woodlands save £185 million in mental health treatment costs annually. [Valuing the mental health benefits of woodlands \(forestresearch.gov.uk\)](https://www.forestry.gov.uk/valuing-mental-health-benefits-woodlands)

It is recognised that not all trees are considered as requiring statutory protection and that there is a need to scrutinise and prioritise the protection of trees determined to be of greater value. This continues to be an evolving area of expertise. Native trees, for example, are thought to be more beneficial for biodiversity than non-native trees.⁷ Areas of ancient woodland are also extremely valuable natural assets which are of greater environmental benefit than younger trees.⁸

The importance of public bodies upholding and promoting their responsibilities to protect trees is further reinforced by the growing concerns in relation to the current state of Northern Ireland's trees and woodland areas. Northern Ireland is one of the least wooded areas in Europe⁹ and it has the lowest density of woodland coverage in the United Kingdom.¹⁰ It was also recently ranked the 12th worst out of 240 countries in terms of biodiversity loss.¹¹ Within the last Biodiversity Strategy¹² for Northern Ireland, it was highlighted that land use change and development has a major impact on biodiversity. The important role which planning controls and policy play in mitigating against biodiversity loss was also emphasised. Northern Ireland's comparatively low level of woodland cover and lack of biodiversity therefore reinforces how important it is for planning authorities to take proactive steps to protect the region's existing tree assets.

The planning system in Northern Ireland currently protects trees in three main ways:

1. *Tree Preservation Orders*

Tree Preservation Orders (TPOs) are statutory protections afforded to trees under the 2011 Act.¹³ The 2011 Act gives local councils the 'discretionary' power to make TPOs where they consider that it is 'expedient in the interests of amenity'. Whilst the making of new TPOs primarily sits under the remit of councils, the Department also retains the power to make them in certain circumstances. The 2011 Act is supplemented by The Planning (Trees) Regulations (Northern Ireland) 2015 (the 2015 Regulations) which set out the form which TPOs should take along with the procedures to be followed when making, confirming and revoking TPOs.¹⁴

A TPO can be applied to a single tree or a group of trees. Whilst the issuing of a TPO is discretionary, where one is made the planning authority has a duty to enforce it. If a tree is protected by a TPO it is necessary to apply for consent from the

⁷ [Biodiversity: why native woods are important - Woodland Trust](#)

⁸ [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK \(www.gov.uk\)](#)

⁹ The Woodland Trust reports that Northern Ireland has just over 8.7% woodland cover [Our Work in Northern Ireland - Woodland Trust](#) compared to a European average of 40% - see [Woodland cover targets Detailed evidence report.pdf \(defra.gov.uk\)](#)

¹⁰ [State of the UK's Woods and Trees 2021 \(woodlandtrust.org.uk\)](#), pg.29

¹¹ [48398rspb-biodiversity-intactness-index-summary-report-v5-1-1.pdf](#) (2021)

¹² The former Department of the Environment published a [Biodiversity Strategy for Northern Ireland](#) in July 2015 in compliance with The Wildlife and Natural Environment Act (Northern Ireland) 2011 (WANE). WANE places a duty on all public bodies to conserve biodiversity when exercising their functions ([s.1](#)).

¹³ [Planning Act \(Northern Ireland\) 2011, s.122 -124](#)

¹⁴ [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015](#)

council or, in some circumstances, the Department before carrying out any felling or pruning work. Breach of a TPO is a criminal offence which can result in a fine of up to £100,000 on summary conviction or an unlimited fine on conviction on indictment.¹⁵

2. Conservation Areas

Conservation Areas are areas designated by planning authorities as having special architectural or historic interest. Trees located in conservation areas receive similar protection to those which are protected by TPOs. It is a criminal offence to carry out works to trees in conservation areas without first serving notice on the council or, in certain circumstances, the Department.¹⁶ If the council or the Department objects to any proposed works, it can make a formal TPO to protect the tree(s).

3. Planning Conditions

Trees can also be protected by planning conditions attached to grants of planning permission.¹⁷ A planning condition may, for example, stipulate that an existing tree or trees must be retained.

Breach of a planning condition protecting trees is not a criminal offence. If a breach is identified a council can take formal enforcement action by issuing a breach of condition notice. Failure to comply with the requirements of a breach of condition notice can however give rise to a criminal offence which is punishable by a fine of up to £1000 on summary conviction.¹⁸

It is notable there is a considerable penalty variation between breaches of TPOs and planning conditions, with the maximum fine for a breach of a TPO significantly higher than a breach of a planning condition notice. Given the differing levels of protection, planning authorities should carefully consider in each case whether a planning condition or TPO or both provides the most effective safeguard. It is not considered reasonable to use planning conditions as the means to secure long term protection of trees, where TPOs are available for this purpose.

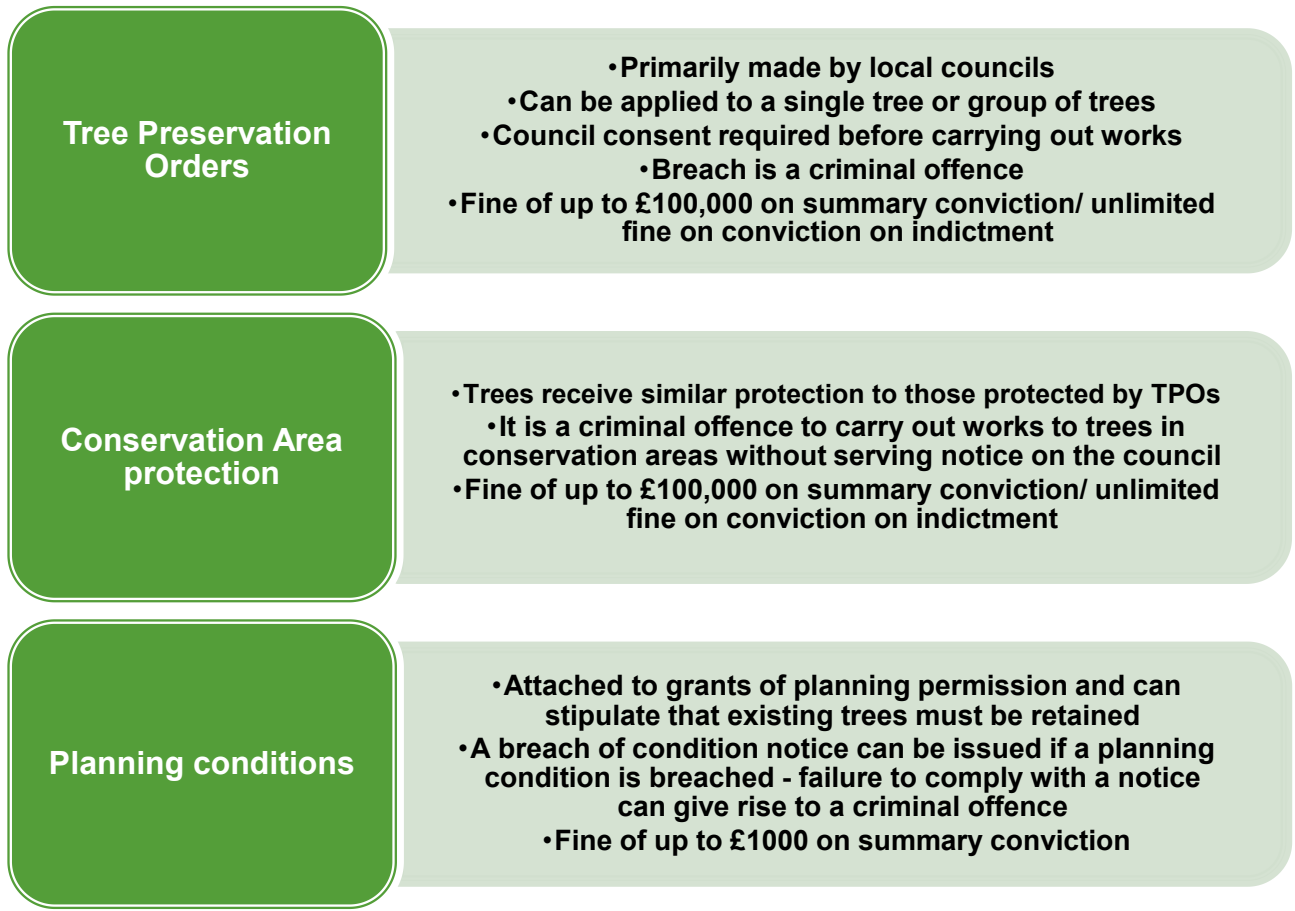
¹⁵ [Planning Act \(Northern Ireland\) 2011, s.126 \(1\)](#)

¹⁶ [Planning Act \(Northern Ireland\) 2011, s. 127 \(1-4\)](#)

¹⁷ [Planning Act \(Northern Ireland\) 2011, s.121](#)

¹⁸ [Planning Act \(Northern Ireland\) 2011, s.152](#)

Figure 3: The three main ways in which the Northern Ireland planning system protects trees



Section 1: Strategies, Policies and Procedures

1.1 The Councils

All eleven councils were asked to provide my Office with copies of the policies and procedures which they have in place to fulfil their duties to effectively promote, administer and enforce the protection of trees.

Whilst recognising the autonomy of each council to develop local policy, the responses highlighted several points of concern including an absence of strategies in some council areas and a lack of procedural guidance to underpin key functions. This section will set out my observations in respect of:

- (i) Local Development Plans;
- (ii) Strategies;
- (iii) Schemes of Delegation; and
- (iv) Procedural Guidance.

(i) Local Development Plans

The 2011 Act requires each council to prepare its own Local Development Plan (LDP).¹⁹ A council's LDP is intended to be a 15-year framework which sets out a vision for how the council area should look in the future in terms of the type and scale of development. The legislation requires each LDP to be made up of a Plan Strategy and a Local Policies Plan. Whilst it was originally anticipated that it would take approximately three years for councils to complete their LDPs, it is concerning to note that none of the LDPs have been completed despite the passage of more than eight years.²⁰ In its recent review of Planning in Northern Ireland, the Northern Ireland Audit Office (NIAO) commented on the lack of progress made in completing LDPs and made a recommendation in relation to reviewing timetables for completion and streamlining the remaining steps of the process.²¹

It is concerning to note that none of the LDPs have been completed despite the passage of more than seven years.

Most of the councils referred to their LDPs when providing copies of their policies and procedures to protect trees. Some of the councils shared copies of their draft Plan Strategies²² and I welcome the fact that most appear to be including information in relation to the protection of trees within these strategies. I consider that the LDPs present a good opportunity for councils to set out a long-term vision for how they will balance development with the need to protect trees and woodland within the council

¹⁹ [Planning Act \(Northern Ireland\) 2011, Part 2](#)

²⁰ The former DOE's *Strategic Planning Policy for NI* (2015) set out an indicative timeframe for the completion of LDPs - [Strategic Planning Policy Statement for Northern Ireland \(SPPS\) \(infrastructure-ni.gov.uk\)](#), pg.30

²¹ [NIAO Report - Planning in NI.pdf \(niauditoffice.gov.uk\)](#) – see LDP recommendation on pg.26

²² Three councils have adopted their Plan Strategies since my initial enquiries – Fermanagh & Omagh Council in March 23, Belfast City Council in May 23 and Lisburn & Castlereagh in June 23.

area. However, it is not possible to comment substantively on the effectiveness of the Plan Strategies as, to date, most have not been adopted by the councils.

It should also be noted that most of the councils also referred to using regional planning guidance to assist them in setting planning conditions to protect trees, which I will discuss further in section 1.2. A number of councils provided my Office with sample planning conditions used to protect trees.

I note and welcome that Belfast City Council has also recently published 'Trees and Development' planning guidance to supplement policies in its LDP, to support its aims to 'protect, promote and preserve' trees.²³

(ii) Strategies

Tree and Woodland Strategies

Alongside local plans, the development of Tree and Woodland Strategies are a way in which councils can set out their long-term approach for managing the trees within their council area. Three councils currently have such strategies, or supporting policies, in place.²⁴ Whilst these strategies do not solely relate to the protection of trees, most contain some information in relation to the approaches which the councils are currently taking in this area. For example, one council stated that it only carries out tree works where necessary whilst another stated that it avoids the unnecessary removal or disfigurement of trees with 'amenity' or high wildlife value.

3 councils currently have tree strategies. 8 councils do not have tree strategies however 3 currently have draft strategies.

The remaining eight councils do not have tree strategies in place however three are currently working on draft strategies.²⁵ I note Belfast City Council's draft strategy was shared for public consultation and welcome the level of detail which it contains as well as its commitment to protecting Belfast's tree population.

I would encourage the councils which do not currently have tree strategies in place to consider the benefits of developing one. I would also encourage councils which do have tree strategies to review their strategies to ensure they are comprehensive.

²³ [Trees and Development \(belfastcity.gov.uk\)](https://www.belfastcity.gov.uk)

²⁴ Ards and North Down Borough Council has published a Tree and Woodland Strategy - [Ards and North Down Tree and Woodland Strategy .pdf \(ardsandnorthdown.gov.uk\)](https://www.ardsandnorthdown.gov.uk)
Armagh Banbridge & Craigavon Borough Council has published a Tree Management Policy - <https://www.armaghbanbridgecraigavon.gov.uk/download/51/policies/37522/tree-managment-policy.pdf>
Lisburn and Castlereagh City Council provided my Office with a copy of its current Tree Policy. This policy is not available online and the council stated within its response that it is currently working on a much wider and more in-depth strategy.

²⁵ Belfast City Council published its [Draft Strategy](#) in January 2023 as part of a public consultation which ran from January until April 2023. Newry Mourne and Down District Council stated that it was preparing a draft tree strategy which would be published for consultation. Causeway Coast and Glens Borough Council also provided me with a copy of its draft Tree Risk Management Plan.

The strategies should include the different functions of the council to ensure priorities in this area are aligned. For example, the role of enforcement activity to remedy and prevent harm should be sufficiently valued in the context of protecting tree stock, biodiversity and public health.

I note that one council included the appointment of a Tree Officer as one of the proposed actions within its tree strategy and within their responses to my investigation proposal, six councils referred to having designated Tree Officers. The appointment of Tree Officers appears to be increasingly common across the councils with the aim to promote the protection of trees.

It is also critical that within their strategies councils consider how effectively they are communicating with the public in this important area. Ten of the eleven councils currently have dedicated tree preservation sections within their websites. Whilst it is encouraging that the majority of councils do provide online information in this area, it is concerning that one council does not and I would urge it to rectify this as soon as possible. Throughout this report I highlight several areas and make recommendations for increased availability of information to the public.

Enforcement strategies

All of the councils have Planning Enforcement Strategies

An effective enforcement strategy is key to remedying, and indeed preventing, harm to trees already subject of protection through planning conditions, TPOs or location within a conservation area. A planning enforcement strategy sets out a council's enforcement objectives as well as how breaches of planning control are investigated. These strategies also outline how the investigation of enforcement complaints are prioritised.

All of the local councils have planning enforcement strategies in place. They are very similar in content and, whilst none are specific to trees, all of the council strategies refer to TPO breaches when outlining enforcement priorities. It is notable that all of the councils give complaints about alleged TPO breaches the highest possible priority for investigation. I will however set out several significant concerns I have identified in respect of 'Enforcement Activity' later in this report within [Section 6](#).

(iii) Schemes of Delegation

Under the 2011 Act, it is a statutory requirement for councils to have schemes of delegation for planning.²⁶ Schemes of delegation outline which decisions are made by the Planning Committee and which are delegated to council officers.

²⁶ 2011 Act – s.31

Whilst all of the local councils have developed their own schemes of delegation, there is some variation in relation to the decision-making mechanisms which councils are employing around TPOs. Some councils delegate all decision-making in this area to council officers whereas others require their Planning Committees to play a role in certain aspects of TPO decision-making.

There is variation across the councils in relation to how decisions around TPOs are made.

The wording of some of the schemes of delegation has however the potential to cause confusion. Of the three councils whose Planning Committees retain decision making functions for making TPOs, it is not clear from the schemes if the Planning Committees review **all** requests for TPOs or only those which council officers recommend are made.²⁷ It is also not clear how they would operate where there is a need to act quickly to protect trees. Open and transparent information about the process is necessary not only for Committee and council officers to ensure procedural compliance, but also to instill public confidence in the process.

It is also notable that, within their schemes of delegation, two councils refer to delegating functions which they do not possess. Both of these councils state that they delegate the revocation of TPOs to council officers however this runs contrary to the 2011 Act which does not extend this power to local councils. Whilst I note that the Department, in its 2022 Review of the Implementation of the 2011 Act, indicated that it intended to bring forward proposals to permit councils to vary or revoke TPOs, this is not currently enacted in law.²⁸

I would encourage all councils to review their schemes of delegation to ensure that they are satisfied that decision making processes on TPOs are given the appropriate priority. Councils should also ensure that their schemes are clear and accurate.

(iv) Procedural Guidance

The responses to my investigation proposal indicate that there is variation regarding the extent to which councils have developed procedural guidance to supplement the legislative framework around trees subject to TPOs and conservation area protection. Whilst it is correct that the governing statutory instruments set out the legal obligations the planning authorities must comply with, policies and procedures are necessary to outline the practical steps required to fulfil these duties. Procedural guidance helps to provide clarity and consistency in the process and supports good administration to help get decisions right.

²⁷ For example, in response to an individual complaint made against a council to this Office, the council stated that ‘a decision not to place a TPO does not have to go to the Planning Committee.’ The wording of the Council’s Scheme of Delegation could however be interpreted that *all* requests for TPOs are considered and determined by the Committee.

²⁸ [Review of the Implementation of the Planning Act \(NI\) 2011 - Report - January 2022 \(infrastructure-ni.gov.uk\)](https://www.ni.gov.uk) – P.66.

Although some of the councils provided copies of procedural guidance documents, it is of concern that other councils do not appear to have developed any of their own procedural guidance. It is also worth highlighting that some of the guidance documents provided are outdated and contain inaccuracies. For example, a procedural document in place within one of the councils dates back to 2010 and contains incorrect references to the Department being the primary decision maker in relation to applications for works to protected trees. In another council, guidance which purports to demonstrate their procedures for dealing with applications for works to protected trees on council owned land fails to refer to the Department's decision-making role in these cases.

I consider this further evidence of why it is important that councils supplement the legislative framework in this area with up to date guidance and I strongly encourage all councils to take steps to implement detailed and accurate written procedures.

1.2 The Department

It is notable that in response to my queries some councils referred to a lack of regional support from the Department. One council referred to a lack of support in relation to tree preservation work, and another stated that there was a 'significant gap' in regional advice and guidance. Reference was also made to a loss of expertise and resource following the transfer of planning powers to local councils.

In response to my investigation proposal, the Department was asked to provide details of the guidance which it provides to support local councils in relation to the protection of trees. Some of the guidance relied upon by the Department as being available for councils is significantly outdated and does not reflect the transfer of planning powers to the councils.

This section will outline my observations in respect of the Department's:

- Guidance specific to the protection of trees;
- Regional planning guidance and policies; and
- Enforcement Practice Notes.

(i) Guidance specific to the protection of trees

In response to asking what guidance is provided to councils, the Department provided two pieces of guidance which focus on the protection of trees. Both of these documents were issued by its predecessor department, the Department of the Environment (DOE):

- *Tree Preservation Orders: A Guide to Protected Trees*²⁹ (the 2011 guidance)
- *Trees and Development: A Guide to Best Practice*³⁰ (the 2003 guidance)

The 2011 guidance is specific to TPOs and covers a number of areas including the criteria used to assess a potential TPO and how TPOs are processed. The 2003

²⁹ [Tree Preservation Orders - A Guide to Protecting Trees \(infrastructure-ni.gov.uk\)](http://infrastructure-ni.gov.uk)

³⁰ [Trees and Development - A Guide to Best Practice \(infrastructure-ni.gov.uk\)](http://infrastructure-ni.gov.uk)

guidance focuses on the value of trees and how they can be accommodated in the construction process. The following areas of concern have been identified in relation to these documents:

1. The guidance is outdated – neither of the documents have been updated to reflect the legislative and departmental changes which have occurred since their original publication. The 2011 guidance, for example, contains several inaccurate references to the now non-existent DOE having primary responsibility for making TPOs and processing applications for works to protected trees. It has not been updated to reflect the fact that these powers now sit primarily with the local councils.
2. The guides are aimed at members of the public rather than the councils – although the Department highlighted these documents as being guidance which they provide to support local councils, it is clear the guides are primarily written for members of the public³¹ and developers rather than councils. Given the intended reader is the general public, it is even more concerning that the information presented is inaccurate.

The Department's failure to provide an updated guide, providing clear information on the current roles and duties of the Department and councils, has the potential to cause confusion. It may further risk creating a perception that it does not view the protection of trees as an area of priority within the planning system.

I note that both guides contain explanatory notes (dated 2019) that existing guidance within the documents will cease to have effect once the councils have adopted their Plan Strategies, only three councils have adopted their strategies to date. Adoption across the remaining councils is likely to take some time yet. Notwithstanding that the current guides may cease to have effect, I am of the view that given its oversight and monitoring remit, the Department should have a continued role to develop best practice guidance in this area to support councils.

I also note that the Department has not developed any internal procedural guidance specific to its own responsibilities and duties within the regime to supplement the legislative framework, for e.g., should the Department be asked to revoke or amend a TPO. Nor did it issue procedures by which a council must seek consent from the Department for works, an area of concern which I discuss further within [Section 4](#).

I encourage the Department to consider how it could work more closely with the councils to provide a greater level of support and establish mechanisms for sharing good practice and expertise. The establishment of a Tree Forum with representatives from both the Department and the councils may be beneficial in strengthening relationships and knowledge sharing.

³¹ The 2011 guidance opens with the statement, *'This leaflet is intended to provide advice for tree owners, conservation groups and the general public on protected trees.'*

(ii) Regional planning guidance and policies

In addition to the 2003 and 2011 guides outlined, the Department also provided my Office with a number of wider regional guidance documents and policies in respect of land use and planning development. Most of the councils referred to using these guidance and policy statements to assist them in setting planning conditions to protect trees. It is worth noting that some of these documents will also cease to have effect once the councils adopt their Plan Strategies whereas others will remain in force.³²

In responding to my investigation proposal, the Department also referred to the Strategic Planning Policy Statement³³ (SPPS) for Northern Ireland which aims to consolidate existing planning policies and provides further information in relation to the transitional arrangements which are in place pending councils adopting their Plan Strategies.

Whilst the wider regional guidance documents do refer to the need to protect trees and woodland areas, they are very broad in scope and do not go into the specifics of how trees can be protected. Similarly to the 2003 and 2011 guidance referred to above, the wider regional guidance documents are dated and, when read in isolation from the SPPS, they do not reflect the transfer of planning powers to the local councils.

(iii) Enforcement Practice Notes

The Department has also published four enforcement practice notes which are designed to guide planning officers through the enforcement process.³⁴ These practice notes deal primarily with procedural matters whilst also setting out good practice. They are not specific to the protection of trees but they do provide councils with general guidance which can be applied to the investigation of alleged tree protection breaches. Enforcement Practice Note 3 is particularly useful as it provides guidance in relation to the stages which councils should follow when carrying out enforcement investigations.³⁵ The guidance was developed in 2016 and I note there are no enforcement practice notes, or guidance issued, which outlines the procedural steps that should be taken when the planning authority (council or the Department) is suspected of the breach. I will discuss this issue further in [Section 4](#).

³² Guidance which will cease to have effect:-

- [PPS 2: Natural Heritage \(infrastructure-ni.gov.uk\)](#) (2013)
- [Planning Policy Statement 6 \(PPS 6\): Planning, Archaeology and the Built Heritage \(infrastructure-ni.gov.uk\)](#) (1999)
- [PPS 6 Addendum: Areas of Townscape Character \(infrastructure-ni.gov.uk\)](#) (2005)

Guidance which will remain in force:-

- [best practice guidance pps23.pdf \(infrastructure-ni.gov.uk\)](#) (2014)
- [Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside \(infrastructure-ni.gov.uk\)](#) (2012)
- [Creating Places - Achieving Quality in Residential Environments \(infrastructure-ni.gov.uk\)](#) (2000)

³³ [Strategic Planning Policy Statement for Northern Ireland \(SPPS\) \(infrastructure-ni.gov.uk\) \(2015\)](#)

³⁴ [Enforcement Practice Notes | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#)

³⁵ [Enforcement Practice Note 3 Investigative Approaches \(infrastructure-ni.gov.uk\)](#)

Section 1 Strategies, Policies and Procedures- recommendations

Recommendation 1: All councils should develop and implement tree strategies which ensure the relevant functions across the council are aligned to the agreed objectives. Councils which already have tree strategies in place should review their strategies to ensure that they are comprehensive.

Recommendation 2: Councils should review their schemes of delegation for planning to ensure that decision making processes in respect of TPOs are being given the appropriate level of priority and are in line with the objectives set out within tree strategies. Councils should also ensure that their Schemes of Delegation are clear and accurate, including specifying exactly what matters are presented to, and decided by, Committee in this area.

Recommendation 3: Councils should ensure that they have their own procedural guidance in place to supplement the legislative framework around trees which are subject to TPOs and conservation area protection. Given the difference in the level of protection afforded, the guidance should also set out clearly the circumstances TPOs should be used instead of, or alongside, planning conditions to best secure the long term protection of trees.

Recommendation 4: The Department should update and issue guides regarding the protection of trees, to reflect the current roles and responsibilities of the Department and the councils. The Department should also develop its own procedural guidance on areas in which it has retained responsibilities.

Recommendation 5: The Department should consider how it could work more closely with the councils to provide a greater level of support and establish mechanisms for sharing good practice and expertise. This could include issuing best practice guidance for councils in relation to developing effective Tree Strategies and setting up a regional Tree Forum. The Department and councils should also utilise the agreed mechanism to consider my report and recommendations, and collectively develop an action plan.

Section 2: Tree Preservation Orders

The 2011 Act provides a discretionary power for councils to make a TPO to protect a specific tree or woodland from deliberate or willful damage. Members of the public can submit requests for TPOs to their local councils. TPOs can also be initiated by the councils themselves and the Department has the power to make TPOs in consultation with the appropriate council.³⁶

From my enquiries I have established that across the region there are variations in how TPO records are maintained by councils, and the level of information is made available to the public. There are also variations in the processes to request a TPO and in the rates of requests received.

This section will set out my observations in respect of:

- TPO records (The Orders, Registers and Mapping);
- TPO requests and approval rates across the councils; and
- Criteria for making TPOs.

2.1 TPO records

The Orders

It is imperative that councils make and maintain accurate TPO records so that they can easily identify protected trees to process applications for works, investigate potential breaches and monitor their overall approach to tree preservation.

The 2015 Regulations³⁷ set out the form that an Order must take. When a TPO is made it should include the following information:

- The total number of tree(s) protected by an order; and
- A map showing the precise location of the protected tree(s).

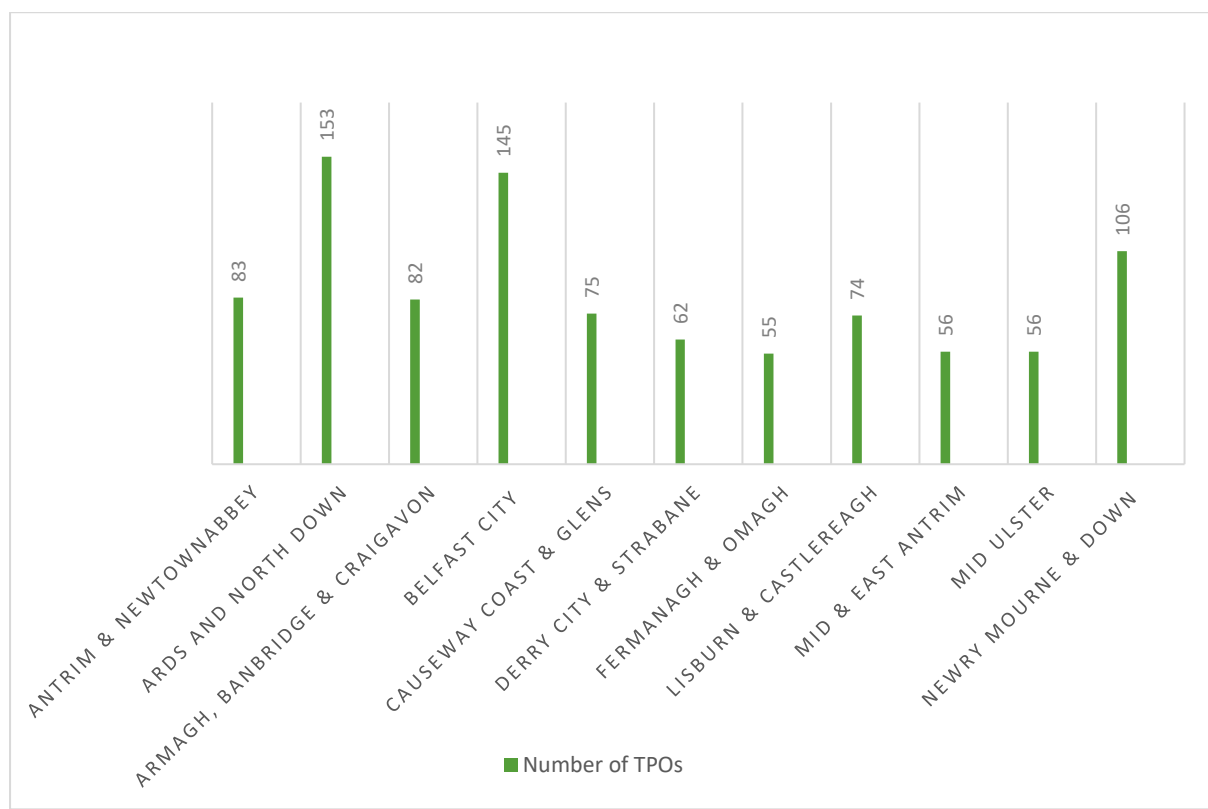
It is also good practice to regularly review the TPOs in place and evidence that the tree(s) still requires protection, for example, with an up-to-date health and condition survey.

I established from my enquiries that there were 947 TPOs in place throughout Northern Ireland in July 2022. The numbers varied across the councils, ranging from 55 in one council area to 153 in another.

³⁶ Department's power - 2011 Act – s.124(1)

³⁷ [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015, S.2.](#)

Figure 4: The number of TPOs in place across the council areas in July 2022



As part of my investigation proposal, I also asked each of the councils to clarify how they maintain their TPO records. Most of the councils indicated that they maintain their records on their TPO registers. It is a requirement under the 2011 Act for all councils to keep registers containing information in relation to the TPOs within their council areas.

The councils were also asked to confirm how often they review their TPO records. There was variation in the responses received with some councils appearing to be more proactive in their reviews than others.

- **One council did not refer to carrying out any reviews** of its TPO records.
- **Two councils** stated that they **only review individual TPO records upon receipt of specific requests** such as applications to carry out works.
- **Eight councils** indicated that they have **carried out wider, proactive reviews** of all of their TPO records however the majority of these reviews appear to have been one-off exercises rather than part of a rolling review programme.

Within their responses to my investigation proposal, two councils raised concerns in relation to whether some of the TPOs which they inherited from the former DOE were legally sound. It has been suggested that some inherited TPOs had not been confirmed by the DOE. One of the two councils advised it has now rectified the issues it identified, and the other council remains in the process of doing so. This highlights the importance of ensuring there is clear procedural guidance to follow in respect of making TPOs and that records are subject to regular review.

I am concerned that the issues identified by the two councils around inherited TPOs may be a wider problem and I am not satisfied this matter has been adequately addressed at a regional level. A failure to tackle this issue has the potential to negatively impact on the regulation of works to protected trees and taking enforcement action against breaches.

I would strongly encourage all councils to carry out detailed reviews of their TPO records to ensure that all TPOs in place remain valid. Councils should also ensure that their reviews of TPO records are not stand-alone exercises and that they form part of an ongoing programme of review and monitoring of their approach to tree preservation. Councils should support the regular review of records, and adequacy of information available, by carrying out site visits to check on the health of the protected trees, or indeed whether they have been subject of harm since the order was put in place.

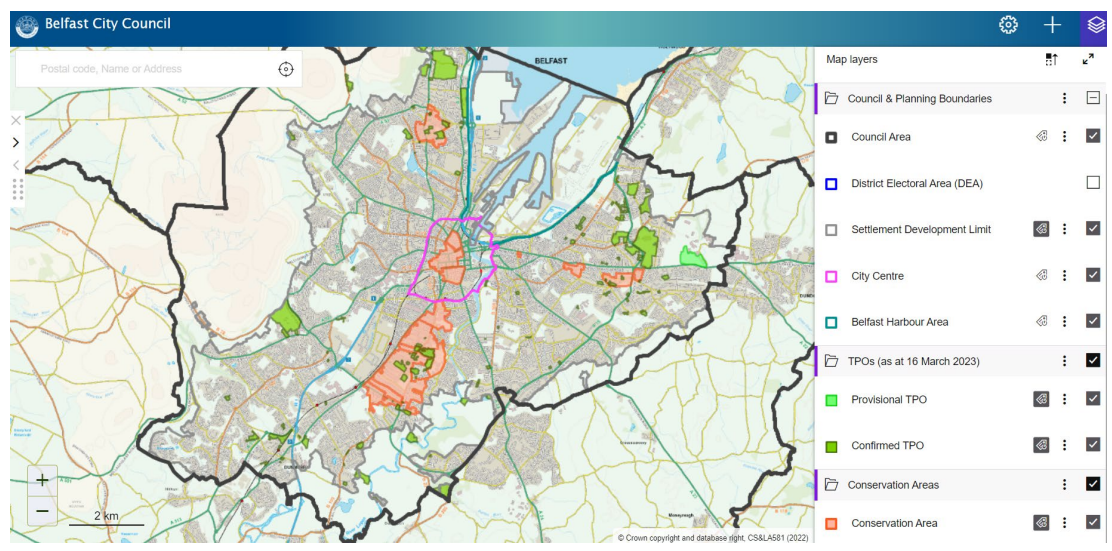
TPO Registers and Mapping

It is a requirement under the 2011 Act for all councils to keep registers containing information in relation to the TPOs within their council areas. A council’s TPO register must also be available for inspection by the public at all reasonable hours.³⁸ When responding to my investigation proposal, the majority of councils confirmed that they have physical TPO registers which can be made available for public inspection at their offices.

I also made enquiries to establish if councils had mapped the TPOs within their area and what information they make available online. It should be noted that the 2004 Environmental Information Regulations made it a statutory requirement for public authorities to progressively make environmental information that they hold available by electronic means which are easily accessible.³⁹ Accessibility of this information to the public is critical in making sure they are alert to the protections that are in place, both to ensure that they do not carry out unauthorised works and to support the reporting of breaches.

Nine out of the eleven councils have created interactive Geographic Information System (GIS) maps which display the locations of TPOs within their council areas. Six of these nine councils signpost to their maps within the tree preservation sections of their websites however the other three councils do not. Two out of these three councils advised my Office that they do not make their maps available to the public as they are for internal use only. Of the two councils which do not currently have GIS maps, one has advised that it hopes to develop one at some stage this year.

Figure 5: Belfast City Council’s GIS map (accessed 23/5/23)



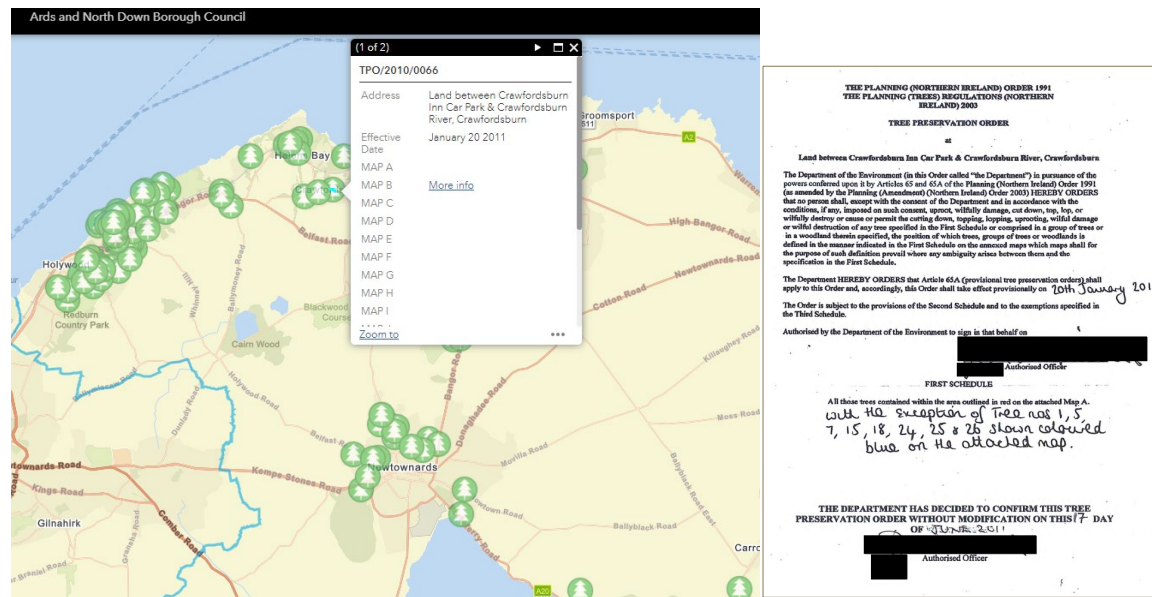
There is also some variation across the councils in the information which they include within their interactive maps. Whilst all of the maps display the locations of TPOs within the council area, only three also highlight conservation areas.

³⁸ 2011 Act, s.242

³⁹ [The Environmental Information Regulations 2004, s.4 \(1\)](#)

I note however that only one council’s map includes the facility to review the original documentation and maps associated with each TPO. The provision of this documentation online is an example of good practice. I am of the view that it would be beneficial for all councils to electronically map the TPOs within their area and provide online access to the TPO register and associated documentation.

Figure 6: Ards and North Down Borough Council’s GIS map (accessed 20/07/23)

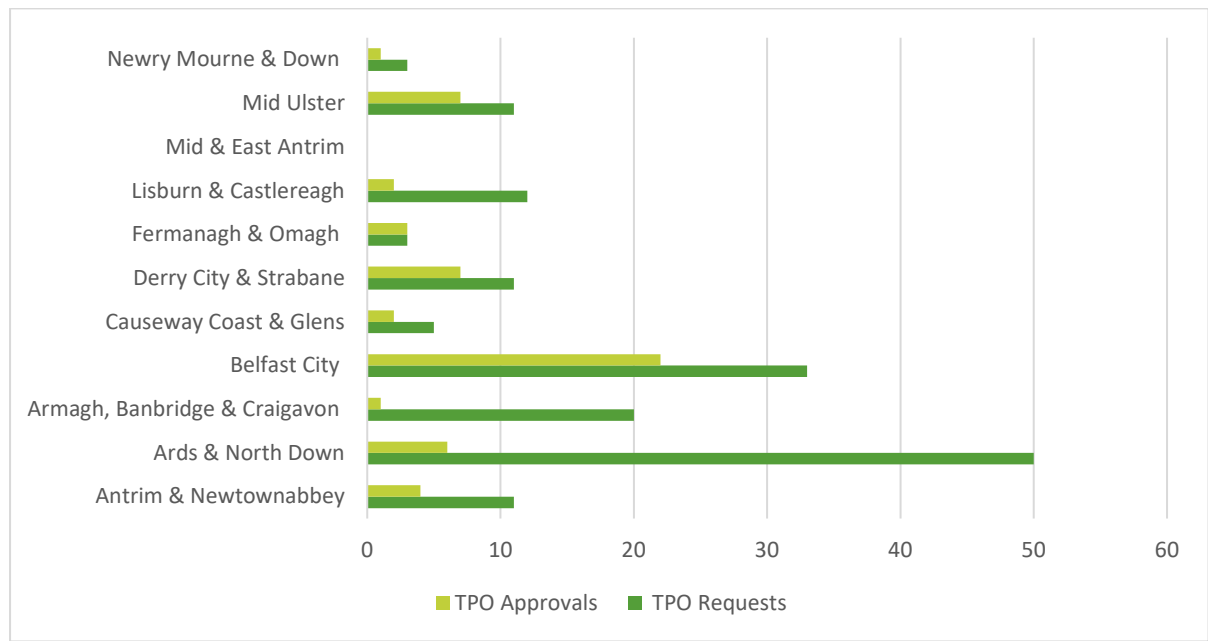


I am further of the view that a regional map may also be beneficial. I have been advised by the Department that it has engaged with the Woodland Trust on this matter. Working with interested parties, the Department as the duty bearer should take the lead in developing a regional map which displays the locations of all TPOs in Northern Ireland. The regional map should be regularly updated and easily accessible to the public in an online format.

2.2 TPO requests and approval rates across the councils

There is variation across the councils regarding the number of TPO requests which are received; one council reported receiving 50 requests within the last three years whilst another council did not receive any. Differences have also been identified in relation to council approval rates for TPO requests ranging from 10% to 88%. Although variation across the councils is to be expected and not in itself a cause for concern, the level of variation may benefit from having increased scrutiny and guidance at regional level.

Figure 7: Council TPO requests and approvals over a 3-year period during 2019-2022

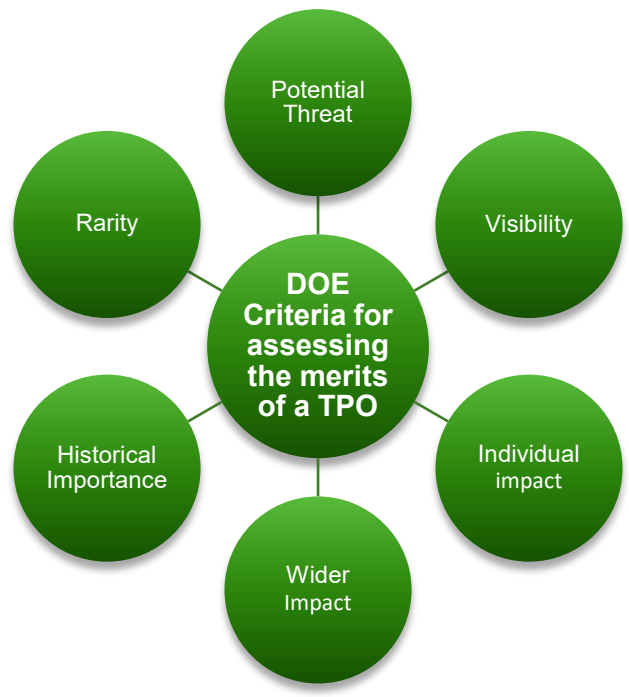


2.3 Criteria for making TPOs

The 2011 Act provides councils with the power to make TPOs where they feel it is ‘in the interests of amenity’. The term ‘amenity’ is not defined in the legislation and the Department has not provided any recent guidance in relation to how it should be interpreted. The former DOE did however publish a list of criteria for assessing the merits of imposing TPOs as part of its 2011 guidance.⁴⁰

⁴⁰ See [Tree Preservation Orders - A Guide to Protecting Trees \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk), pg.4

Figure 8: Criteria published by the DOE in 2011 for assessing the merits of imposing TPOs



Within their responses to my investigation proposal, most of the councils referred to using this criterion when assessing whether or not to impose TPOs. Whilst the criteria remains valid, I note there is limited guidance provided about the factors to consider under each criteria. It may therefore be beneficial for councils to work together to further develop and document the methodology (including the potential use of valuation software⁴¹) that they use to assist in assessing the ‘amenity’ value of trees.

I consider that the Department also has an important role to play in providing further guidance for councils in relation to the definition of the term ‘amenity’ so that an appropriate methodology to assess trees is developed and applied by councils. When responding to the Department’s Call for Evidence regarding its Review of the Implementation of the 2011 Planning Act, a number of councils highlighted the need for further guidance from the Department in relation to the term ‘amenity’. In its response, the Department committed to considering whether there is a need for it to provide further guidance in relation to ‘certain TPO terms’.⁴² The Department has not published any further guidance or provided an update in relation to its progress.

Processes for Requesting TPOs

Some of the councils do not provide any information on their websites detailing the processes which should be followed by members of the public who wish to submit

⁴¹ Some of the councils are already familiar with this type of software and methodology. In its 2022 study of Belfast’s Urban Forest Belfast City Council, for example, made use of i-tree software & the CAVAT methodology – see [Belfast Technical Report \(treeconomics.co.uk\)](https://www.treeconomics.co.uk/)

⁴² [Review of the Implementation of the Planning Act \(NI\) 2011 - Report - January 2022 \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk/), pg,65-66

requests for TPOs. It is notable that the councils with no information on their websites about how to request a TPO are those which received the lowest number. Other councils do provide information however, in some cases, the detail provided is limited and does not outline the type of evidence which is required to support a request for a TPO. Only one of the councils has the facility for online submission of TPO requests via its own website and it is worth noting that this facility was only recently introduced.

None of the councils currently include any information within the TPO sections of their websites on the use of Northern Ireland's new planning portal for the online submission of TPO requests'.⁴³ The new planning portal was launched by the Department in December 2022 and is currently being used by all of the councils apart from Mid Ulster. It has the functionality to accept online requests for TPOs. This development should help to standardise the TPO request process across the councils however it is disappointing that none of the councils have updated their websites to include information in relation to this new process. I would encourage all of the councils to review the content of their websites to ensure that clear and accurate information is being provided in relation to the processes which members of the public can follow when requesting TPOs. All methods for requesting TPOs, including the new online process, should be highlighted.

Councils should also ensure that, as well as dealing with requests from members of the public for TPOs, appropriate consideration is given to the initiation of TPO requests by council officers with responsibilities in this area. A proactive approach should be taken by councils to identifying trees which could benefit from protection and a strategy for identifying appropriate trees could be set out within a council's wider tree strategy.

⁴³ Northern Ireland's new planning portal launched on 5 December 2022. It replaces the old planning portal and is currently being used by 10 out of the 11 councils. Mid Ulster launched its own separate portal in June 2022.

Section 2 Tree Preservation Orders - recommendations

Recommendation 6: Councils should carry out detailed reviews of their TPO records to ensure that all of the TPOs which are in place remain valid. Councils should also ensure that they develop and implement processes for the regular review of their TPO records which should also be supported by carrying out site visits.

Recommendation 7: All councils should electronically map TPOs and conservation areas within their area and provide the public with online access to the TPO register and associated documentation.

Recommendation 8: The Department should take the lead in developing a regional GIS map showing the locations of all TPOs and conservation areas in Northern Ireland. The regional map should be regularly updated and easily accessible to the public in an online format.

Recommendation 9: Councils should develop and document the methodology (including the potential use of valuation software) used to assess the 'amenity' value of trees.

Recommendation 10: In its 2022 Review of the Implementation of the 2011 Act, the Department committed to considering whether there is a need for it to provide further guidance for councils in relation to certain TPO terms. My report also supports the need for further guidance on key terms, and I recommend the Department proceeds to issue this.

Recommendation 11: All councils should review the content of their websites to ensure that they provide clear and accurate information in relation to the processes which members of the public can follow when requesting TPOs. In addition to ensuring the process to request TPOs is accessible to the public, councils should also consider what mechanisms are in place internally to initiate TPO requests effectively.

Section 3: Applications for Works to Protected Trees

If a tree is protected by a TPO it is necessary to apply to the relevant council or, in certain circumstances, the Department for consent to carry out any felling or pruning work. The council or the Department has a range of options which are:

- grant full permission for the works;
- grant permission subject to conditions; or
- refuse consent.

There are however some exemptions to seeking consent, for example, it is not necessary to seek permission for works to trees which are dead or have become dangerous.⁴⁴ The owner must however ensure they have proof that the tree is dead or dangerous, and it is recommended that they make the relevant planning authority aware of the proposed works prior to them being carried out.

The process is also slightly different for trees located in conservation areas as notice of any proposed works must be served on the council or, in some cases, the Department; if the council or the Department objects to the proposed works, a TPO can be made to protect the tree(s).

I have identified examples of both good practice and concern in this area. This section will set out my observations in respect of:

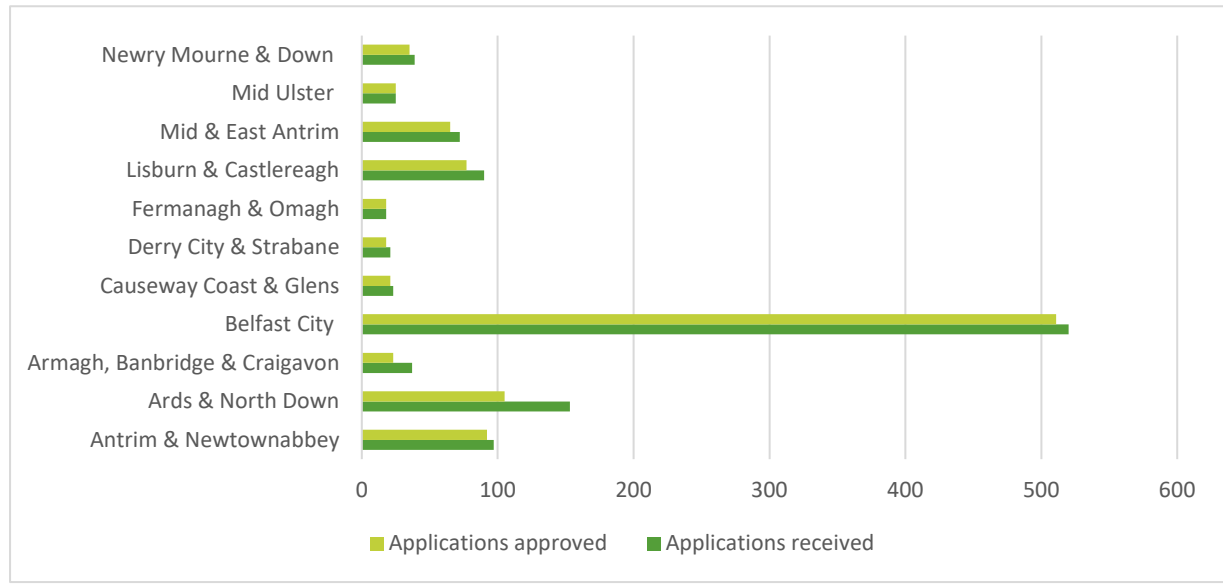
- Level of applications and approval rates across the councils;
- Processes for applying for works to protected trees;
- The use of independent evidence to support applications for works to protected trees; and
- Publication and notification procedures.

3.1 Level of applications and approval rates across the councils

There is variation across the councils in relation to the number of applications for works to protected trees which they are receiving with some councils receiving far greater numbers than others. One council reported receiving 520 applications within the last three years whereas another council received just 18. There is less disparity in relation to approval rates for these applications as these are high across the majority of the councils, ranging from 73% to 100%.

⁴⁴ 2011 Act, s.122 (5)

Figure 9: Applications for works to protected trees which were received and approved by councils over a three-year period during 2019-2022



The following key trends have been identified from the figures reported by the councils over a three year period during 2019-22:

- **Four councils** reported **approval of all** of their decided applications.
- **Five councils** reported **approval of 90% and over** of their decided applications.
- The remaining **two councils** reported **approval of more than 70%** of their decided applications.
- The **average approval rate** across the councils during this time period was **93%**.

3.2 Processes for applying for works to protected trees

Decision making on works to protected trees is a delegated function⁴⁵ which means that for the most part council officers, and not the planning committee, will grant or refuse the applications. Within the responses to my investigation proposal, the councils provided information in relation to how they process applications for works

⁴⁵ 8 councils clearly state within their Schemes of Delegations that this is a delegated function. The other 3 councils don't directly comment within their schemes of delegation.

to protected trees. Further information was also obtained from the council websites. I have identified some concerns about the variation of the level of information made available to the public on the need to apply for works to protected trees and the accessibility of the process.

Whilst most of the councils provide information on their websites detailing the processes which members of the public should follow when submitting applications for works to protected trees⁴⁶ some councils provide more detail than others. For example, some provide information in relation to the different procedures which apply dependent upon whether a tree is protected by a TPO or located within a conservation area whereas others do not highlight any differences. It is disappointing to note that two councils do not publish any information on their websites in respect of this matter.

Nine of the councils have developed their own application forms which applicants are required to complete when applying to carry out works to protected trees, however only seven councils make these forms available online. Furthermore, only two councils currently have facilities on their websites for online submission. Whilst it is encouraging that these councils have this facility, it is surprising that none of the other councils provide this as an option. It is also notable that none of the council websites direct applicants to the new planning portal which has the functionality to accept online applications for works to protected trees.

3.3 The use of independent evidence to support applications for works to protected trees

Concerns have also been raised with my office in relation to councils approving applications for works to protected trees (including the felling of trees) without independent evidence to support the need for the works. Evidence to support an application could include for example, an arboricultural report assessing the health and condition of a tree, if reported to be of risk to the public or surrounding property.

The responses to my investigation proposal indicate that there is variation in the approaches being taken by the councils in this area.

- **Two councils** indicated that they **always require independent evidence** in support of applications for works to protected trees.
- **Two councils** stated that they **require independent evidence in the majority of cases**.
- The remaining **seven councils did not address this** within their responses to my investigation proposal.

⁴⁶ 9 of the 11 councils provide information on their websites in relation to submitting applications for works to protected trees.

A review of the different application forms for works which are currently being used by the councils provides some further insight into the varied approaches being taken.

- **Five** of the application forms list the circumstances in which independent evidence **‘must be provided’**.
- **One** application form lists the circumstances in which independent evidence should **‘usually’** be provided.
- **One** application form states that independent evidence **‘may be requested’**.
- **One** application form states that independent evidence is **‘strongly encouraged’**.
- **One** application form **does not make any reference** to independent evidence.

Whilst the information available indicates that there may be some variation in the approaches councils are taking to the use of independent evidence, it has not been possible to reach any firm conclusions in relation to how the councils are acting in practice. It is my view that the councils need to review and provide clarity in relation to the circumstances in which they require independent evidence to be provided in support of applications for work to protected trees. Councils should also clarify whether the onus to provide independent evidence is always placed on the applicant or whether there are situations in which the councils themselves will obtain their own independent evidence whilst assessing applications.

Given the lack of clarity about the gathering and use of independent evidence to support applications, the high approval rates for works are a matter of concern. In my view, works to protected trees should be fully supported by independent evidence to ensure it is in the wider public interest.

3.4 Publication and notification procedures

Publication

Whilst I note that there is no statutory requirement to publish pending or concluded applications for works, I would encourage councils to explore the potential of making this information publicly available in an accessible format. It is common practice for local authorities in England to publish applications for works to protected trees via their online planning registers.⁴⁷ This enables members of the public to view copies

⁴⁷ Of a sample of 10 local authorities in England, 9 published applications for works on their online planning registers. It is worth noting that s.12 of the Town and Country Planning (Tree Preservation) (England) Regulations places a duty on local authorities to keep planning registers which include ‘details of every

of application forms, supporting evidence and details of decisions. If local councils published similar information, it might serve to increase transparency around decision making in this area.

I welcome the recent motion⁴⁸ passed by Ards and North Down Council *‘for transparency and in response to growing public interest’* for regular reports to be made to the Planning Committee to include:

- The number of applications for works to protected trees;
- Whether granted or refused; and
- The basis for the decision making.

Consideration was also to be given by the Council to uploading these details to the planning portal or its website to ensure public access. I note reports have since been submitted to the Planning Committee and are available on the website⁴⁹, however navigating access is difficult. The details do not appear to have been uploaded on the planning portal. The reports also do not outline the basis for the decision made.

I note that none of the other councils publish any details of pending or concluded applications for works to protected trees.

Notification

It is also notable that none of the councils have processes in place for notifying local residents of pending applications for works to protected trees. Whilst it is a statutory requirement to notify any affected persons of the making of a TPO, there is no statutory requirement to notify affected persons of proposed works to protected trees.⁵⁰ Councils should explore whether it would be possible to introduce community notification procedures for residents likely to be affected by proposed works to protected trees. In England, whilst there is no statutory notification procedure for proposed works to protected trees, the government has issued guidance which recommends that local authorities consider displaying site notices or notifying affected residents where they are likely to be affected by an application or where there is likely to be significant public interest.⁵¹

Notifying local residents of proposed works which are likely to impact upon them could increase transparency and bolster community engagement in the application process. There has been considerable criticism of the lack of community

application under an order and of the authority’s decision’. See - [The Town and Country Planning \(Tree Preservation\)\(England\) Regulations 2012 \(legislation.gov.uk\)](#). The former Ministry of Housing, Communities and Local Government published guidance in 2014 which encouraged local authorities to make their registers available online. [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](#) (para 77).

⁴⁸ [Ards & North Down Planning Committee Minutes, 1 March 2022](#)

⁴⁹ [Planning Committee \(06/12/2022\) \(ardsandnorthdown.gov.uk\)](#), p77-78. [Planning Committee \(07/03/2023\) \(ardsandnorthdown.gov.uk\)](#), p52-53.

⁵⁰ [s.3 of the 2015 Regulations](#) places an obligation on councils to notify interested persons of the making of a TPO and allow a 28 day period during which objections and representations can be submitted.

⁵¹ [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](#), para 77

engagement in Northern Ireland's planning system⁵² and the Department itself has recognised that reform is required.⁵³ The Department potentially has a role to play in producing best practice guidance for councils around notification procedures.

Section 3 Applications for Works to Protected Trees - recommendations

Recommendation 12: Councils which do not currently use application forms for processing applications for works to protected trees should develop standard application for works forms.

Recommendation 13: Councils should review the content of their websites to ensure adequate information is provided to members of the public about the requirement to apply for works to protected trees, how to apply and that the application process is accessible.

Recommendation 14: Councils should provide clarity in relation to the use of independent evidence to support applications for works to protected trees. The circumstances in which independent evidence is required and the parties responsible for obtaining it should be clarified.

Recommendation 15: Councils should explore the potential to publish details of applications for works to protected trees in an accessible format.

Recommendation 16: Councils should explore the potential to introduce community notification procedures for residents likely to be affected by proposed works to protected trees.

Recommendation 17: The Department should consider issuing best practice guidance in relation to publication and notification procedures (this could sit within the wider guidance recommended in Recommendation 5).

⁵² In its 2022 report, the Open Government Network was critical of the NI planning system's lack of meaningful engagement with local communities, describing it as a system which 'has evolved to prioritise efficiency and growth above community needs or environmental sustainability' (pg.5) [NIOGN-OLG-REPORT.pdf](#) (opengovernment.org.uk)

⁵³ In its 2022 report, the DFI's Planning Engagement Partnership set out 8 recommendations to enhance the quality and depth of community engagement in both local and regional planning – see [Planning Your Place: Getting Involved - March 2022](#) (infrastructure-ni.gov.uk)

Section 4: Protected Trees on Council Owned Land

If a protected tree is located on council owned land, this can result in a situation where the council itself is the applicant in a tree works request or suspected of a tree protection breach. It is crucial that cases where the council is in this position are dealt with transparently and that conflicts of interest are avoided or adequately managed. The processes and decision making in these cases must also be perceived as fair to ensure that public confidence is not negatively impacted.

I have identified a number of concerns in respect of:

- Cases in which the council is the applicant in a tree works request; and
- Cases in which the council is suspected of a breach of tree protection.

4.1 Cases in which the council is the applicant in a tree works request

If a council wishes to carry out work to a protected tree on land which it owns, it must seek consent from the Department rather than approving an application for works itself. This is a statutory requirement under Regulation 10 of the Planning General Regulations (Northern Ireland) 2015 which states that councils cannot seek consent from themselves.⁵⁴

The responses to my investigation proposal highlighted that there is variation across the councils in relation to their awareness and interpretation of Regulation 10. Whilst some councils do appear to be aware of the need to refer, others seem to have been either unaware of or not applying Regulation 10 correctly.

⁵⁴ Regulation 10 states - *Where an interested council is seeking a consent of a council under Parts 3, 4 (except chapters 1 and 2 of that Part) or 5 (except sections 157 to 163) of the 2011 Act other than planning permission to develop land or a consent to display an advertisement pursuant to regulations made under section 130 and that council is itself the council by whom such consent would be given, it shall make an application for such consent to the Department.* [The Planning General Regulations \(Northern Ireland\) 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2015/1000/regulations/10)

- **One council does not appear to be aware of Regulation 10** and advised that it refers applications for works to protected trees on council owned land to its own senior officers or the Planning Committee.
- **Two councils** were aware of Regulation 10 but their responses to my proposal indicate that they are **not applying it correctly in practice**. One of these councils incorrectly referred to the fact that Regulation 10 only applies if a protected tree is located within a conservation area.
- **Six councils** do seem to have **the correct understanding** of the implications of Regulation 10. However, it is notable that one council stated that it only recently became aware of Regulation 10 when the Department highlighted it in connection with a high-profile case in which the council was seeking to remove a number of trees within a conservation area on council owned land.
- **Two councils did not address the approach** which they take to Regulation 10 within their responses to my investigation proposal.

This variation in council approaches is concerning and supports the need for the Department to provide clarity. It further demonstrates the importance, as outlined in [Section 1](#), of having clear procedural guidance that underpins the legislative framework. The Department should work with the councils on developing clear procedural guidance in relation to the processes which councils should follow when they wish to carry out works to protected trees on their own land.

4.2 Cases in which the council is suspected of a breach of tree protection

The councils were also asked to clarify whether they followed any different processes if the council itself was suspected of involvement in a tree protection breach. Whilst a number of the councils did not clearly address this within their responses to my investigation proposal, amongst those that did, the majority referred to following the same processes regardless of who was suspected of the breach. Only two of the councils made reference to referring enforcement cases involving the council to the Department.

- **Six councils** stated that they **follow the same processes** regardless of who is suspected of the breach.
- **Two councils** made reference to **referring these cases to the Department** however it was notable that only one of these councils indicated that this was common practice; the other council suggested that referral to the Department was optional.
- **Three councils did not clearly address this issue** within their responses.

Whilst there is no statutory requirement for enforcement cases involving the councils to be referred to the Department, I recognise and support the introduction of a mechanism to investigate these cases to manage potential conflicts of interest, whether real or perceived. I consider that there is a need for the Department to explore with the councils how best independent investigation of a reported or suspected breach by councils of tree preservation could be achieved. There is also the need for the Department to consider and set out the procedures to be followed where the Department is suspected of a breach, and how to introduce a mechanism to manage conflict of interests in such circumstances.

Section 4 Protected Trees on Council Owned Land - recommendations

Recommendation 18: The Department and councils should agree and issue clear procedural guidance in relation to the processes which councils should follow when they seek to carry out works to protected trees on their own land.

Recommendation 19: The Department should develop a best practice approach on the independent investigation of reported breaches of tree protection by councils. It should update its enforcement practice notes to include the procedural steps that should be taken when the planning authority (council or the Department) is suspected of the breach. The Department should also consider whether further legislation is required in this matter to provide the necessary clarity and independence in the decision making process.

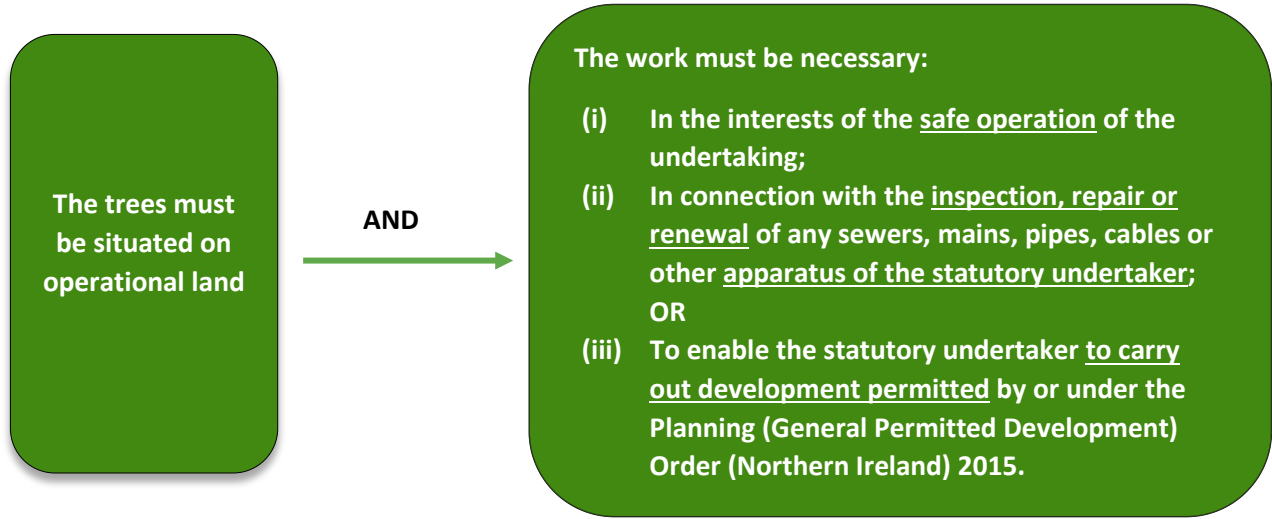
Section 5: Statutory Undertakers

Statutory undertakers are bodies and organisations which have been given statutory powers to carry out certain public functions. Examples include transport providers and utility companies.⁵⁵ Concerns have been raised with my office in relation to statutory undertakers removing protected trees and the oversight of their actions.

5.1 Statutory undertakers: the legislation

There are legislative provisions which enable statutory undertakers to remove protected trees without consent in certain circumstances. Schedule 3 of the 2015 Regulations enables statutory undertakers to carry out works to protected trees without council consent in specific circumstances. The trees must be situated on operational land and the work must be necessary for either safety reasons, in connection with the inspection, repair or renewal of apparatus or to enable a statutory undertaker to carry out permitted development.⁵⁶

Figure 10: The circumstances in which statutory undertakers can carry out work to protected trees without consent



⁵⁵ s.250 of the 2011 Planning Act provides a definition of a statutory undertaker - [Planning Act \(Northern Ireland\) 2011 \(legislation.gov.uk\)](#)

⁵⁶ [2015 Regulations – Sch 3, s.2\(b\) \(i\)-\(iii\)](#)

Whilst the legislative framework sets out the circumstances in which statutory bodies can act, I am concerned there may be a lack of guidance between statutory undertakers and planning authorities to underpin this important area. I consider that effective engagement in this matter is critical as the work carried out by statutory undertakers is often significant in scale with the potential to adversely impact on the biodiversity of an area and public confidence. For example, it was reported that Translink proposed to remove 141 trees, including some protected trees, at Carnalea train station, Bangor for safety reasons.⁵⁷ There is therefore an onus on public bodies to examine and consult on how they can best carry out work which may necessitate the removal of trees and how any harmful impact may be mitigated.

5.2 Guidance and monitoring

I note that the Department has not issued any guidance for statutory undertakers in relation to how the Schedule 3 exemptions should be interpreted. Whilst I recognise that there are situations in which statutory undertakers are justified in removing protected trees, I consider that there is a need for direction from the Department in relation to best practice in this area. It is notable that guidance has been issued in other jurisdictions. In England, the former Ministry of Housing, Communities and Local Government included guidance on exceptions for tree works carried out by statutory undertakers within its 2014 guidance document on tree protection. This guidance is fairly brief but it does advise statutory undertakers to liaise with local authorities prior to carrying out any work to protected trees.⁵⁸

The Department should also consider whether it could play a role in the oversight and monitoring of the activities of statutory undertakers in relation to the removal of protected trees across the region.

5.3 Engagement and co-operation

Councils also have a role to play in ensuring that they engage with statutory undertakers in relation to tree protection issues. It is unclear to what extent engagement and co-operation takes place, in particular where a statutory undertaker considers consent is not required for works, and I would encourage the councils and statutory undertakers to consider how it can be better facilitated. I welcome the fact that Belfast City Council has set out a number of actions aimed at increasing co-operation with utilities providers within its draft tree strategy. The actions put forward include the setting up of engagement workshops, the provision of training and the implementation of a tree charter.⁵⁹ This type of co-operation is to be encouraged as it provides councils with a good opportunity to promote the importance of tree protection to statutory undertakers.

⁵⁷ [Reaction to the removal of 141 trees in Carnalea \(greenparty.org\)](https://www.greenparty.org.uk/news/2019/05/16/141-trees-to-be-removed-in-bangor)

⁵⁸ [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411431/tree_preservation_orders_and_trees_in_conservation_areas.pdf) – para 85

⁵⁹ [Draft Belfast Tree Strategy \(belfastcity.gov.uk\)](https://www.belfastcity.gov.uk/media/attachments/2019/05/16/draft-tree-strategy.pdf) – see section C3.

Section 5 Statutory Undertakers- recommendations

Recommendation 20: The Department should issue best practice guidance on the exemptions for statutory undertakers which are contained within Schedule 3 of the 2015 Regulations.

Guidance should include that statutory undertakers liaise with the relevant planning authorities prior to carrying out work to a protected tree and comply with best arboricultural practice in undertaking the work. Statutory undertakers should also report when work has been carried out without notification and review whether the work carried out was necessary and undertaken in a way that was least damaging.

Recommendation 21: Councils should introduce mechanisms to facilitate increased levels of engagement and co-operation with statutory undertakers in relation to the protection of trees.

Section 6: Enforcement Activity

Planning authorities have a duty to investigate reports of alleged breaches of planning control and take formal enforcement action where it is appropriate to do so. Under the 2011 Act, local councils have primary responsibility for planning enforcement within their council areas. The Department retains certain reserve enforcement powers and is also responsible for monitoring the performance of the councils.

It is important to note that the powers available to planning authorities to take enforcement action are discretionary, and where a breach is established, the authority must consider whether it is 'expedient' to take formal action. Whilst 'expediency' in planning is not defined, the concept is described within departmental guidance as a test of whether the activity is '*causing unacceptable harm to the environment and/or public amenity, having regards to the provisions of the local development plan and to any other material considerations*'.⁶⁰

Taking enforcement action which is proportionate to the seriousness of the breach, including the extent of the harm caused, is central to the effectiveness and credibility of the planning system. Whilst planning enforcement is intended to be remedial rather than punitive, it is critical that it is robust in its response and that the interests of the environment and the public are not marginalised. It is also important to highlight that unlike some other breaches of planning control, where unauthorised works to protected trees are carried out, including removal, it is not possible for the breach to be fully rectified.

It is of note that over recent years, a number of local authorities in Great Britain, have pursued significant prosecutorial action in respect of breaches of tree protection. This has included considering how the offenders (landowners and contractors) benefited from the proceeds of the crime, as well as the harm caused by the planning breach.⁶¹ In contrast if enforcement is not taken seriously by local councils, or is perceived as not being taken seriously, both the effectiveness and public confidence in the planning system is undermined.

Concerns were raised with my Office that local councils appear to be reluctant to take enforcement action where tree protection breaches have been identified. I requested that all eleven councils provide relevant data on the action taken over a three year period in respect of reported tree protection breaches. This section will set out my observations and recommendations in respect of:

- Council enforcement powers in tree protection cases;
- Recent trends in tree protection enforcement cases;
- Cases closed as 'Not Expedient';
- Council enforcement strategies and procedures; and
- Monitoring of Tree Protection Enforcement Activity by the Department.

⁶⁰ [Enforcement Practice Note 1 Introduction to Planning Enforcement \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk/enforcement-practice-note-1-introduction-to-planning-enforcement)

⁶¹ See [Landowner and contractor fined £255,000 for tree destruction | Enfield Council](#) and [Homeowner Fined Under Proceeds Of Crime Act For Cutting Back Tree - Timms Solicitors \(timms-law.com\)](#)

6.1 Council enforcement powers in tree protection cases

The councils have various strong enforcement powers available to them under the 2011 Act and this section will briefly outline the main enforcement powers which can be used in tree protection cases.⁶²

TPOs

Councils can pursue prosecutions against individuals found to be in breach of TPOs. Contravention of a TPO by undertaking works likely to destroy a protected tree is identified within planning enforcement guidance as a 'direct offence'. It is a criminal offence which is punishable by a fine of up to £100,000 on summary conviction or an unlimited fine on indictment.

Councils also have the responsibility to enforce measures, subject to a TPO, for the landowner to replace trees by planting a tree or trees of a specified size and species. Where this is not complied with within the specified period, councils have the power to enter onto land to replant trees subject of the TPO and recover costs.

Conservation area protection

Councils can also pursue prosecutions for breaches of conservation area protections. Breach of a conservation area protection by undertaking works likely to destroy a protected tree(s) is also identified within planning enforcement guidance as a 'direct offence'. It is a criminal offence punishable by the same penalties which apply to TPO breaches.

Councils also have the responsibility to serve a notice on a landowner to replant a tree or trees of an appropriate size and species in the same space in a conservation area.

Planning conditions

Breach of a planning condition which protects trees is not a criminal offence in itself. If a breach has been identified, a council can take formal enforcement action by issuing a breach of condition notice. Failure to comply with the requirements of a breach of condition notice is a criminal offence which is punishable by a fine of up to £1000 on summary conviction.

6.2 Recent trends in tree protection enforcement cases

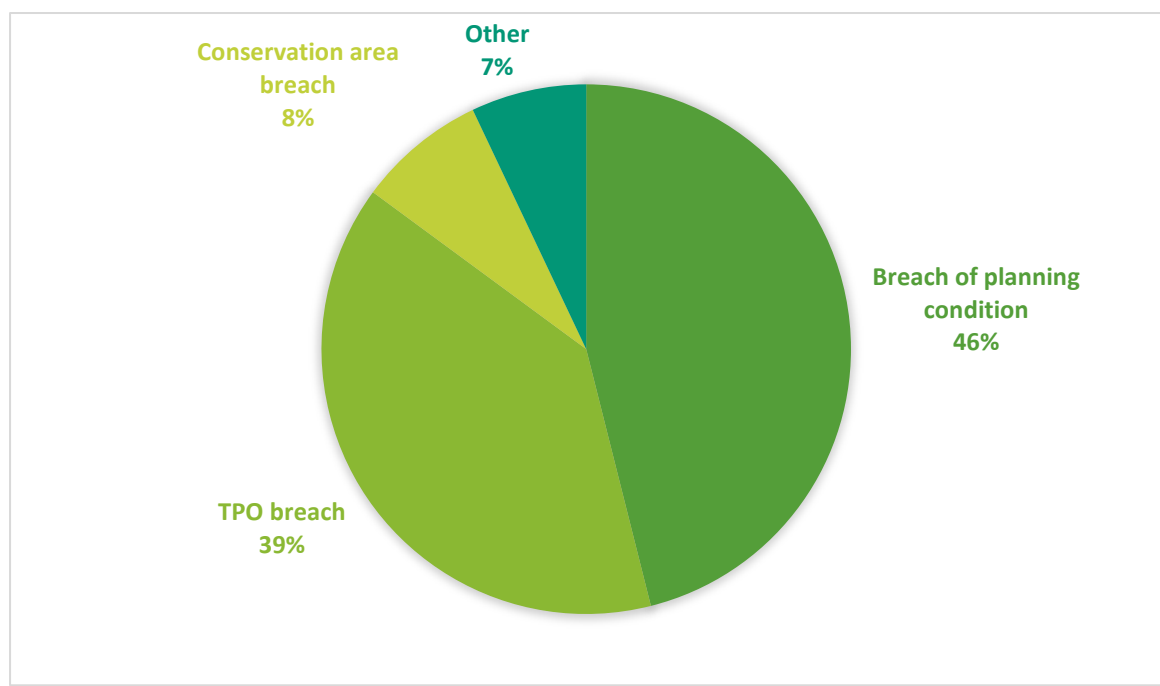
The responses to my investigation proposal highlighted a number of trends in relation to the type and outcome of tree protection enforcement cases which were reported to the councils over a three year period, during 2019-2022. It should be noted that this data is not available centrally and had to be collated from each of the councils individually.

⁶² [Planning Act \(Northern Ireland\) 2011, s.126, 127, 152, 164, 166 & 167](#)

Types of case

From the data provided to my Office, it was identified that 369 tree protection breaches were reported to the councils over the three year period. The most commonly reported breaches were in relation to alleged contraventions of planning conditions with 170 reported in total. 144 of the cases which were reported related to alleged breaches of TPOs and 29 were in relation to alleged breaches of conservation area protections.

Figure 11: Breakdown of type of tree protection cases opened by councils over the three year period during 2019-2022



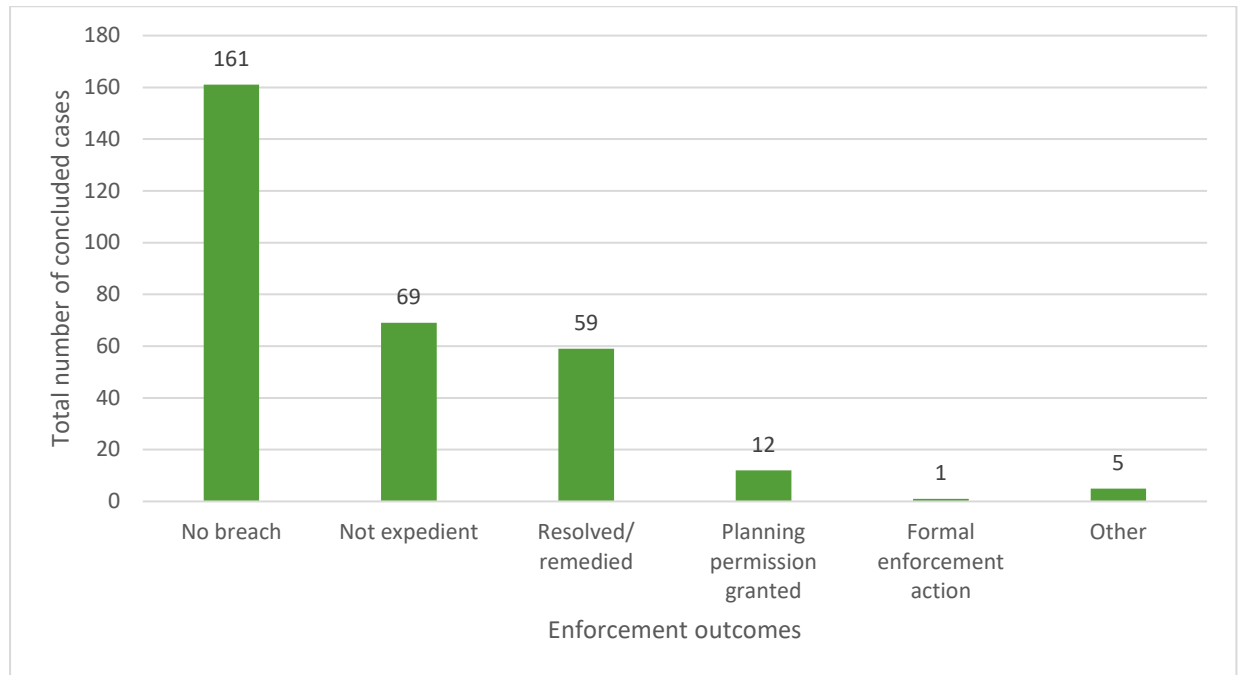
Outcomes

The most frequently reported outcome in tree protection enforcement cases was a finding of no breach which was reported in 52% of cases. The second most common outcome which was reported in 22% of cases was a conclusion that it would not be 'expedient' to investigate the alleged breach any further. This was followed closely by 18% of cases which were classified as remedied or resolved.

Formal enforcement action⁶³ was only reported to have been taken in one case (a breach of condition notice was issued) and none of the councils have pursued any prosecutions within a three year period. The fact that only one council has taken formal enforcement action has the potential to support concerns about the approach of councils in this area, however this cannot be determined without review of the casework.

⁶³ The issuing of an Enforcement Notice or the service of a Breach of Conditions Notice. Failure to comply with either constitutes an offence.

Figure 12: Breakdown of council enforcement outcomes in tree protection cases over a three year period during 2019-2022



6.3 Cases closed as ‘Not Expedient’

When considering the overall outcome trends, it is worth noting that nearly one fifth of the overall number of tree protection cases were closed as ‘not expedient’, with percentage variation between the type of breaches reported.

Over a three year period:

- 15% of reported planning conditions breaches;
- 22% of reported TPO breaches; and
- 42% of reported conservation area breaches resulted in a ‘not expedient’ outcome.

This area is of particular interest, as having determined this category of outcome, it is indicative the council has established a breach but having applied the expediency test has decided not to take further action. The level of tree protection cases determined as ‘not expedient’ appears to sit somewhat at odds with the priority outwardly stated by councils to be given to the protection of trees. I consider that it would be valuable for the Department and councils to examine the recorded considerations and develop an analysis of whether the reasoning is in keeping with best practice in enforcement guidance and council priorities.

Furthermore, given the ‘direct offence’ nature of TPO and conservation area breaches, it would be useful to establish the extent to which ‘expediency’ should be

applied and whether there are repeat issues that could be identified and acted upon. For example, whether the maintenance of records including identifying that orders had not been confirmed by the DOE (as outlined in [Section 2](#)), or a potential lack of public knowledge about the processes to apply for works to trees (as outlined in [Section 3](#)) are repeat factors.

I also consider that it would be valuable to include analysis of the small number of 'other' outcomes, in which various descriptions of outcomes were presented. It was concerning that in one reported TPO breach, the closure category of 'immune' was used when this is not an outcome that is applicable to a 'direct offence'.

There is also a notable variation across the councils in relation to the proportion of cases with the outcome 'not expedient'. One council reached this outcome in 38% of its cases whereas 3 others reported a significantly smaller proportion of 'not expedient' outcomes at just 12%. Given this level of variation I recommend that when examining the recorded reasoning and overall analysis for 'not expedient' outcomes, that the Department and councils consider whether there are differences in council approaches to apply the expediency test.

The analysis of 'not expedient' and 'other' outcomes in reported breaches of tree protection cases may also contribute to work recommended by the NIAO in the area of planning enforcement. Within its 2022 review of planning in Northern Ireland, the NIAO examined overall trends in all enforcement cases across Northern Ireland between 2015-2020.⁶⁴ It noted a substantial variation in percentages of outcome type across councils (including non-expedient cases) and recommended that the Department and the councils carry out further investigations to ensure that enforcement cases are being processed consistently in Northern Ireland.

6.4 Council enforcement strategies and procedures

As outlined in [Section 1](#), all councils have planning enforcement strategies in place and have the autonomy to set local priorities. In addition to identifying areas of concern from the data provided on enforcement activity, I note several issues that require further consideration in respect of council enforcement strategies and procedures, specific to tree protection and wider enforcement policy and practice.

Factors to be taken into account when assessing expediency

Expediency is a key concept within planning enforcement as councils only take enforcement action when they consider that it is expedient to do so. Within the enforcement strategies reviewed by my Office, it is noted that some of the councils refer to factors taken into account when assessing expediency, whereas others do not. I would encourage all councils to review their strategies to ensure clear information is provided on the expediency test, including the range of factors taken into account when assessing whether or not to take enforcement action.

⁶⁴ [NIAO Report - Planning in NI.pdf \(niauditoffice.gov.uk\), p.32-34](#)

Sign off procedures for 'not expedient' decisions

None of the councils include any detail within their enforcement strategies in relation to their sign off procedures for 'not expedient' decisions. It is not clear if senior or other verifying council officers are involved in signing off or reviewing these decisions. Given the level of discretion in this area, I would encourage all councils to consider whether there is sufficient oversight of 'not expedient' decisions within their strategies and procedures.

Although not specific to breaches of tree protection, it is of note that I reported earlier this year on an enforcement planning case in which I found that the council did not document full and accurate reasons on why it did not consider it expedient to take enforcement action which I considered was maladministration.⁶⁵

Tree specific enforcement policies

The local council enforcement strategies are broad in scope and cover all areas of planning enforcement. I note that some local authorities in England have implemented enforcement policies specific to tree protection to supplement the main council planning enforcement strategy and I would encourage local councils to consider whether it may be beneficial to implement similar policies.

Reporting Tree Protection Breaches

Despite having these significant enforcement powers to protect trees, I note that only five of the councils reference within their tree preservation sections that it is a criminal offence to carry out works to protected trees without consent, whereas others do not make any reference to the consequences of breaches. Furthermore, none of the councils publish any information within the tree preservation sections of their websites regarding the processes which members of the public should follow when reporting suspected tree protection breaches. Whilst most of the councils do publish information in relation to the reporting of general planning breaches within the planning enforcement sections of their websites, I consider that it is important to also include or signpost this information within the tree preservation sections of their websites.

I also note that the new planning portal has the functionality to accept online planning enforcement complaints⁶⁶ and some councils do refer to this within the planning enforcement sections of their websites. I would encourage all of the councils to ensure that they highlight or signpost this functionality within the tree preservation sections of their websites.

⁶⁵ [NIPSO s44 Investigation Report ref202002188 - 30 March 2023](#)

⁶⁶ [Northern Ireland Public Register \(planningsystemni.gov.uk\)](#)

6.5 Monitoring of Tree Protection Enforcement Activity by the Department

As part of its oversight and monitoring role, the Department currently publishes quarterly and annual statistical bulletins which contain data in relation to a number of aspects of planning including the following data on enforcement cases⁶⁷:

- The number of enforcement cases opened by councils;
- The number of enforcement cases closed by councils;
- The number of enforcement cases concluded by councils;
- Enforcement case conclusion times;
- The percentage of enforcement cases closed by councils within 39 weeks; and
- The number of court actions taken by councils (including a breakdown of prosecutions and convictions).

This data is broken down by council area and, whilst it is useful for identifying broad overall trends, it is limited by the fact that it is not broken down by types of enforcement case. The Department do not collate or publish enforcement data which is specific to tree protection cases. I note that an Assembly Question seeking to establish regional enforcement figures on reported tree protection breaches was not answered, as the figures were available only at council level.⁶⁸

The Department should consider routinely collating and publishing enforcement data which is specific to tree protection cases. As well as making it easier for the Department to carry out its monitoring role, the availability of this data may also serve to increase public confidence that enforcement in this area is being taken seriously.

⁶⁷ [Planning activity statistics | Department for Infrastructure \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk/planning-activity-statistics)

⁶⁸ See AQW6798/12-22 - [Written Questions Search Results \(niassembly.gov.uk\)](https://www.niassembly.gov.uk/written-questions-search-results)

Section 6 Enforcement Activity- recommendations

Recommendation 22: The Department and councils should examine the reported tree protection breaches closed as 'not expedient' and 'other', to establish if factors relied upon within the recorded reasoning are in keeping with enforcement guidance and council priorities, and whether there are repeat issues that can be acted upon to prevent future breaches. This should include examining the rigour of the investigation and whether sufficient effort was made to establish a breach.

Recommendation 23: Councils should review their enforcement strategies to ensure clear information is provided on the expediency test and that oversight procedures for 'not expedient' decisions are robust.

Recommendation 24: Councils should consider developing specific Tree enforcement policy to supplement the overall council planning enforcement strategy.

Recommendation 25: Councils should update the tree preservation sections of their websites to highlight that it is a criminal offence to carry out works to protected trees without consent. The websites should also contain clear information on how members of the public can report suspected tree protection breaches.

Recommendation 26: The Department should collate, monitor and publish enforcement data which is specific to tree protection enforcement cases.



Date: 20 October 2023

Owninitiative@nipso.org.uk

By email only

Your Ref: 202001965
Our Ref: NIPSO Report Trees

Dear Sir/Madam,

The Chief Executive has requested that I respond on his behalf to your letter of 29 September 2023. Please see the below response from Lisburn & Castlereagh City Council in relation to your overview report 'Tree Protection: Strengthening our Roots'.

The report and Council comments on the factual accuracy of the recommendations are being tabled to our Planning Committee (for noting) on 06 November 2023.

I can also confirm that the Tree and Woodland Strategy was approved at a meeting of the Leisure and Community Services Committee on 07 February 2023 and is in operation from that date. It can also be found from 02 October 2023 on the Council website at:

<https://www.lisburncastlereagh.gov.uk/things-to-do/parks-and-open-spaces/the-big-tree-project>

Yours faithfully

Conor Hughes
Head of Planning and Capital Development

(Enc)

Section 1 Strategies, Policies and Procedures - recommendations

Recommendation 1

All councils should develop and implement tree strategies which ensure the relevant functions across the council are aligned to the agreed objectives. Councils which already have tree strategies in place should review their strategies to ensure that they are comprehensive.

Lisburn & Castlereagh City Council has a 'Tree and Woodland Strategy' which outlines the Council's approach to managing and preserving the existing trees on its land. The Strategy sets objectives for ten years and will be subject to annual and bi-annual monitoring. As the Strategy is only in operation from February 2023 it is considered to be current and comprehensive and that a review is not required at this time.

The Strategy refers to trees protected through Tree Preservation Orders. The Council's Planning Unit is committed to conserving and retaining existing trees and other features where it is considered that they have landscape or amenity value and uses its powers to protect trees where necessary. This is in line with its duties as set out under the Planning Act (Northern Ireland) 2011.

Recommendation 2

Councils should review their schemes of delegation for planning to ensure that decision making processes in respect of TPOs are being given the appropriate level of priority and are in line with the objectives set out within tree strategies. Councils should also ensure that their Schemes of Delegation are clear and accurate, including specifying exactly what matters are presented to, and decided by, Committee in this area.

The Council's Scheme of Delegation sets out clearly which functions under the Planning Act are delegated to an authorised officer (Senior Planner or above) in relation to trees as follows:

- The making of a Tree Preservation Order
- Confirmation of a provisional Tree Preservation Order
- The serving of a provisional Tree Preservation Order
- The investigation of breaches of planning control proceedings through the issuing of planning contravention notices, temporary stop notices, enforcement notices, stop notices, breach of condition notices, fixed penalty notices, Replacement of Trees Notice and all other powers under Part 5 of the Planning Act (Northern Ireland) 2011 including powers of entry, commencement of proceedings in a Magistrates Court and application to the High Court for an injunction.

Although the tree function is fully delegated, the Planning Committee is briefed on request, or where there has been public interest for example the reporting of on-going enforcement investigations/proceedings. The scheme of delegation has been recently reviewed and subject to consultation with Members. No issues were raised in respect of trees.

Recommendation 3

Councils should ensure that they have their own procedural guidance in place to supplement the legislative framework around trees which are subject to TPOs and conservation area protection. Given the difference in the level of protection afforded, the guidance should also set out clearly the circumstances TPOs should be used instead of, or alongside, planning conditions to best secure the long term protection of trees.

This Council provides guidance on the planning pages of its website to advise on its Tree Preservation Orders, Trees in Conservation Areas and Trees protected by planning conditions.

The legislation provides a basis for planning approvals on a site protected by a TPO to supersede the TPO protection, where considered appropriate. This applies in respect of full planning permissions and approvals of reserved matters.

It should also be noted that it is not lawful (in respect of the six legal tests for planning conditions) to protect trees on a site by virtue of both a planning condition and a TPO, as this would be duplication of protection already afforded by a TPO.

Schedule 3 2(c) of the Planning (Trees) Regulations (NI) 2015 advises that the Order does not apply where a planning application has been approved and therefore there is no need to submit a consent for works.

Should a planning application be received and it is brought to our attention that there are trees that may be worthy of protection on the site, the Council will apply its six criteria as outlined in the Plan Strategy Supplementary Planning Guidance to decide whether or not to impose a TPO.

If the TPO is confirmed, the planning application will be required to be considered in the context of the trees that have been identified for protection. Should the trees not meet the six criteria to be considered worthy of TPO protection, the case officer may decide to protect the trees through planning conditions instead.

Recommendation 4

The Department should update and issue guides regarding the protection of trees, to reflect the current roles and responsibilities of the Department and the councils. The Department should also develop its own procedural guidance on areas in which it has retained responsibilities.

No guidance has issued from the Department nor is the Working Group (see below) supported or attended by the Department.

Recommendation 5

The Department should consider how it could work more closely with the councils to provide a greater level of support and establish mechanisms for sharing good practice and expertise. This could include issuing best practice guidance for councils in relation to developing effective Tree Strategies and the agreed mechanism to consider my report and recommendations, and collectively develop an action plan.

The Council participated in a Council-wide Tree 'Working Group' which was established early in 2017 and which met quarterly. The Working Group continued to meet up until late 2019 but as a result of the response to the COVID 19 pandemic and resources having to be focused into other areas, it was postponed. A meeting has been convened for October 2023 to continue this important forum for discussion in respect of consistency of approach to meet our duties as appropriate.

Councils will continue to feedback to the Department on good practice identified by this group through the Strategic Planning Group forum. This Council will participate in any working group convened by the Department arising out of this recommendation.

Section 2 Tree Preservation Orders – recommendations

Recommendation 6

Councils should carry out detailed reviews of their TPO records to ensure that all of the TPOs which are in place remain valid. Councils should also ensure that they develop and implement processes for the regular review of their TPO records which should also be supported by carrying out site visits.

On transfer of planning powers to Councils, approximately 60 TPOs transferred to the Council, none of which had been reviewed by the Department since their implementation.

Given the age of a large number of these TPOs, it is inevitable that the situation on site has changed considerably. Some have planning approvals and are built on. Others have submitted consents over the years which may have included felling and naturally the health and condition of certain trees will have deteriorated significantly.

No monies transferred in respect of this area of work and this presents an additional cost burden to Councils in terms of assessing existing TPOs, including undertaking health and condition surveys by a qualified arboriculturist, the administrative resource required in serving and publicising provisional TPOs, assessing consent for works applications, tree enforcement investigations, and responding to consultations on planning applications where there are TPO trees on site or which may be affected by the proposal.

This Council only has one dedicated Tree Officer, who is a chartered Town Planner within the Local Development Plan team, and therefore the Council must allocate it work priorities as appropriate.

Consideration will be given to a programme of work but this is subject to Member agreement and dependant on whether additional resource becomes available. In the interim a sample of 5 will be reviewed to better understand the scope and nature of the work required.

This comment is framed however in the context that the process of review is complicated further by the lack of legislation to enable councils to revoke any Order

served by the previous planning authority. It would have been useful if such an exercise in relation to monitoring of Orders had been carried out prior to transfer in 2015'

Recommendation 7

All councils should electronically map TPOs and conservation areas within their area and provide the public with online access to the TPO register and associated documentation.

This Council has in place an interactive map which shows the location of sites protected by a TPO. It includes an address which is linked to a reference number should a member of the public require any further information on the detail of the record. Additionally the interactive map also shows the boundary of the Council's three conservation areas.

Recommendation 8

The Department should take the lead in developing a regional GIS map showing the locations of all TPOs and conservation areas in Northern Ireland. The regional map should be regularly updated and easily accessible to the public in an online format.

The Council would have no objection in principle to sharing data for a regional dataset subject to the appropriate governance and sharing agreements being put in place.

Recommendation 9

Councils should develop and document the methodology (including the potential use of valuation software) used to assess the 'amenity' value of trees.

The Council assesses the suitability of a TPO for a site using the six criteria outlined in its Plan Strategy – Supplementary Planning Guidance. This guidance is developed consistent with established good practice and learned evaluation judgement. This recommendation may not be necessary if most Councils follow similar methodologies.

Recommendation 10

In its 2022 Review of the Implementation of the 2011 Act, the Department committed to considering whether there is a need for it to provide further guidance for councils in relation to certain TPO terms. My report also supports the need for further guidance on key terms, and I recommend the Department proceeds to issue this.

There is no advantage in Councils devising their own TPO terms. This is a duplication of resources. The legislation applies to all Council Areas and the Department has the authority to issue regional guidance.

Recommendation 11

All councils should review the content of their websites to ensure that they provide clear and accurate information in relation to the processes which members of the public can follow when requesting TPOs. In addition to ensuring the process to request TPOs is accessible to the public, councils should also consider what mechanisms are in place internally to initiate TPO requests effectively.

Lisburn & Castlereagh City Council is currently reviewing the content of its website and this includes the information in relation to TPOs. The Planning Unit has provided an update which links to the recently updated Planning Portal which allows online submission of a request for consent for works or request for a TPO. This is likely to be the shared experience of at least 10 Councils and this recommendation may no longer be required.

Section 3 Applications for Works to Protected Trees – recommendations

Recommendation 12

Councils which do not currently use application forms for processing applications for works to protected trees should develop standard application for works forms.

Lisburn & Castlereagh City Council has developed its own application form for consent for works to protected trees however as advised above, this should be replaced by the Planning Portal as the main tool for ensuring applications are made.

Recommendation 13

Councils should review the content of their websites to ensure adequate information is provided to members of the public about the requirement to apply for works to protected trees, how to apply and that the application process is accessible.

The content of the planning pages on the website relating to this matter contain adequate information, and as referenced above, we have provided the link to the Planning Portal system for such requests.

Recommendation 14

Councils should provide clarity in relation to the use of independent evidence to support applications for works to protected trees. The circumstances in which independent evidence is required and the parties responsible for obtaining it should be clarified.

Applicants proposing to undertake work to protected trees are advised that they may wish to seek advice from a qualified tree surgeon who can make appropriate recommendations for work. However there is no legislative requirement for the Council to insist on the use of qualified arboriculturists/tree surgeons in this regard,

but where it appears to the Council to be advisable, we will request as appropriate on a case-by-case basis.

Recommendation 15

Councils should explore the potential to publish details of applications for works to protected trees in an accessible format

The Council will consider this recommendation further in respect of applications for works to protected trees. For future consent applications, the new Planning Portal (referred to previously) will capture such consents, which is why it is considered important for this to be the sole vehicle for submitting consents.

The Council already has a requirement to hold a register in relation to TPOs which includes requests for consent to carry out works (under Section 242 of the Planning Act (NI) 2011).

Recommendation 16

Councils should explore the potential to introduce community notification procedures for residents likely to be affected by proposed works to protected trees.

There is no legislative basis for the Council to make these applications public and no ability in legislation to consider representations in the context of consent for works to protected trees.

The Council in implementing a full or provisional TPO serves notice on the owner, a copy of the order is attached to the tree(s) in an obvious location, and neighbours are also be notified by letter.

Whilst it is acknowledged there may be a wider public amenity issue in certain circumstances, it considers that to introduce such procedures would raise expectations that neighbouring properties can object to the works and in terms of the legislation they are not material for the Council's decision making.

The Council considers that this would require an amendment to legislation. It should also be noted that there is no legislative basis for a neighbour/objector to partake in any appeal brought by an applicant who has had an application for consent for works to protected trees refused by the Council.

The Council considers that this would impose another significant burden on the Planning Unit in terms of administrative and Tree Officer resources, where there is no legislative basis. This recommendation may need to be redrafted or withdrawn.

Recommendation 17

The Department should consider issuing best practice guidance in relation to publication and notification procedures (this could sit within the wider guidance recommended in Recommendation 5).

The Council refers you to its comments on Recommendation 16 above.

Section 4 Protected Trees on Council Owned Land - recommendations

Recommendation 18

The Department and councils should agree and issue clear procedural guidance in relation to the processes which councils should follow when they seek to carry out works to protected trees on their own land.

See comment under Recommendation 10.

Recommendation 19

The Department should develop a best practice approach on the independent investigation of reported breaches of tree protection by councils. It should update its enforcement practice notes to include the procedural steps that should be taken when the planning authority (council or the Department) is suspected of the breach. The Department should also consider whether further legislation is required in this matter to provide the necessary clarity and independence in the decision-making process.

As above

Section 5 Statutory Undertakers- recommendations

Recommendation 20

The Department should issue best practice guidance on the exemptions for statutory undertakers which are contained within Schedule 3 of the 2015 Regulations. Guidance should include that statutory undertakers liaise with the relevant planning authorities prior to carrying out work to a protected tree and comply with best arboricultural practice in undertaking the work. Statutory undertakers should also report when work has been carried out without notification and review whether the work carried out was necessary and undertaken in a way that was least damaging.

This approach for Departmental guidance in respect of exemptions for statutory undertakers would require a legislative basis to be meaningful. This recommendation may need to be withdrawn or redrafted.

Recommendation 21

Councils should introduce mechanisms to facilitate increased levels of engagement and co-operation with statutory undertakers in relation to the protection of trees.

Linked to the comments above this may need to be redrafted.

Section 6 Enforcement Activity- recommendations

Recommendation 22

The Department and councils should examine the reported tree protection breaches closed as 'not expedient' and 'other', to establish if factors relied upon within the recorded reasoning are in keeping with enforcement guidance and council priorities, and whether there are repeat issues that can be acted upon to prevent future breaches. This should include examining the rigour of the investigation and whether sufficient effort was made to establish a breach.

Lisburn & Castlereagh City Council takes its planning enforcement duties very seriously and prioritises breaches regarding protected trees as outlined within its published Enforcement Strategy.

It should be noted that in terms of having sufficient evidence to establish a direct offence through prosecution, it is highly unlikely that a member of the public will admit to such an offence, unless there is specific evidence which attaches them directly to the crime (eg video footage etc).

Each case is likely to be different and to undertake an historical review is impractical and unlikely to objectively achieve better practice.

Reference is made to shared experience through the tree working group. There is also the opportunity for information sharing on best practice through the enforcement working group. This forum may be best placed to assist the Department in drafting regional guidance that would assist in informing periodic reviews of enforcement strategies.

Recommendation 23

Councils should review their enforcement strategies to ensure clear information is provided on the expediency test and that oversight procedures for 'not expedient' decisions are robust.

As above.

Recommendation 24

Councils should consider developing specific Tree enforcement policy to supplement the overall council planning enforcement strategy.

This is already provided for within legislation and the Council's existing Enforcement Strategy.

Recommendation 25

Councils should update the tree preservation sections of their websites to highlight that it is a criminal offence to carry out works to protected trees without consent. The websites should also contain clear information on how members of the public can report suspected tree protection breaches.

The Council will update this website reference in respect of directing the public to how to report a suspected breach in relation to protected trees.

Recommendation 26

The Department should collate, monitor and publish enforcement data which is specific to tree protection enforcement cases.

The Council will engage with the Department on this matter if this recommendation is taken forward.

It should however be noted that in certain planning enforcement cases regarding protected trees the Council cannot evidence who committed the offence and whether it was a deliberate act, in which case a prosecution cannot be brought.

In these cases the remedy is to seek replanting through a replanting notice and then enforcing its compliance as appropriate (see Comment provided under Recommendation 22).