



August 2nd, 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, 7th August 2023** at **10:00 am**, in the **Council Chamber and Remote Locations** for the transaction of business on the undernoted Agenda.

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

# Agenda

## 1.0 Apologies

## 2.0 Declaration of Interests

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

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

## 3.0 Minutes of the Planning Committee Meeting held on 17 July, 2023

▢ *PC 17.07.2023 - 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 - Amended.pdf*

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- (i) **LA05/2022/0830/F - Demolition of existing buildings/structures and erection of mixed use development comprising 38 dwelling houses and 53 apartments (91 units in total), 6 Class B2 industrial/employment units (total 1,098 sq. metres) with service yard; 3 flexible work spaces/ Wi-Fi hubs (total 300 sq. metres); 2 take away coffee pod units; private, communal and public space, landscaping, cycle and car parking, ramped access and stairs to proposed rail halt, NIE substations, associated site works and infrast**

▢ *Appendix 1.1 - DM Officer Report - LA0520220830F - FINAL.pdf*

Page 9

- (ii) **LA05/2022/0272/F - Proposed two detached dwellings with provision for future garage at gap between 42 Halfpenny Gate Road, Moira and Broomhedge Gospel Hall, 40a Halfpenny Gate Road, Moira**

▢ *Appendix 1.2 - DM Officer Report - LA05.2022.0272.F - Halfpenny Gospel H...pdf*

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- (iii) **LA05/2020/0421/O - Site for a dwelling, garage and associated site works 65 metres due north of 68 Gregorlough Road, Dromore**

▢ *Appendix 1.3 - LA0520210421 - Gregorlough Road Infill Dwelling - FINAL.pdf*

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- (iv) **LA05/2020/0420/O - Site for a dwelling, garage and associated site works 35 metres due north of 68 Gregorlough Road, Dromore**

▢ *Appendix 1.4 - LA0520200420 Gregorlough Road Infill Dwelling - FINAL.pdf*

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- (v) **LA05/2022/1023/O - Site for one detached dwelling with associated site works**

at lands 20 metres south east of 50 Back Road, Drumbo, Lisburn

▢ *Appendix 1.5 - DM Officer Report - LA0520221023O - Back Road Drumbo - Fl...pdf* Page 180

(vi) LA05/2017/0633/O - Proposed two infill dwellings and garages adjacent to 11 Magheraconluce Lane

▢ *Appendix 1.6 - DM Officer Report - 2017 0633 O - Magheraconluce Lane -...pdf* Page 204

**4.2 Submission of Pre-Application Notice (PAN) for proposed cemetery and ancillary works including landscaping, internal access roads and railway underpass. Principal site access from established access point on the Lisburn Road, emergency-only access onto Lisnabilla Road - FOR DECISION**

▢ *Item 2 - LA0520230574PAN.pdf* Page 229

▢ *Appendix 2(a) - Report in relation to LA0520230574PAN - FINAL.pdf* Page 232

▢ *Appendix 2(b) - LA05 2023 0574PAN Application Form.pdf* Page 235

▢ *Appendix 2(c) - LA05 2023 0574PAN - Site Location.pdf* Page 243

**4.3 Submission of Pre-Application Notice (PAN) for a proposed change of house type for circa 88 dwellings previously granted planning permission under application LA05/2017/1153/F and ancillary works including car parking, detached garages, landscaping, access arrangements and associated site works - FOR DECISION**

▢ *Item 3 - LA0520230583PAN.pdf* Page 244

▢ *Appendix 3(a) - Report in relation to LA0520230583PAN - FINAL.pdf* Page 247

▢ *Appendix 3(b) - LA05 2023 0583PAN Form final.pdf* Page 250

▢ *Appendix 3(c) - LA05 2023 0583PAN - Site Location Plan.pdf* Page 253

**4.4 Submission of Pre-Application Notice (PAN) for application under Section 55 of the Planning Act 2011 for retrospective planning permission for the retention of an earthen screening bund and associated woodland planting located along the western extents of Temple Quarry, Ballycarngannon Road, Lisburn - FOR DECISION**

▢ *Item 4 - LA0520230597PAN.pdf* Page 254

▢ *Appendix 4(a) - Report in relation to LA0520230597PAN.pdf* Page 257

▢ *Appendix 4(b) - LA05 2023 0597PAN - Application Form.pdf* Page 260

**4.5 Submission of Pre-Application Notice (PAN) for proposed change of use of existing building from call centre (B1) to general industrial (B3) including alterations to building elevations at Ballyoran Lane, Dundonald - FOR DECISION**

Item 5 - LA0520230602PAN.pdf Page 264

Appendix 5(a) - Report in relation to LA0520230602PAN.pdf Page 267

Appendix 5(b) - LA05 2023 0602 PAN Form.pdf Page 270

Appendix 5(c) - LA05 2023 0602PAN - Site location.pdf Page 275

**4.6 Appeal Decision - LA05/2020/0862/O - FOR NOTING**

Item 6 - Appeal Decision - LA0520200862O.pdf Page 276

Appendix 6 - Appeal Decision - LA05 2020 0862 O.PDF Page 279

**4.7 Notification by telecommunication operator(s) of intention to utilise permitted development rights - FOR NOTING**

Item 7 - Notifications from an Operator in respect of intention.pdf Page 287

Appendix 7 - List of Notifications from Telecommunication Operators in r...pdf Page 290

## **5.0 Confidential Business**

**5.1 Legal Advice in respect of a decision of the Planning Appeals Commission to approve planning permission for housing at Wallace High School (Appeal Ref: 2021/A0230) - FOR DECISION**

Confidential due to containing information in relation to which a claim to legal professional privilege could be maintained in legal proceedings

## **6.0 Any Other Business**

PC 17.07.2023

**LISBURN & CASTLEREAGH CITY COUNCIL**

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**Minutes of Planning Committee Meeting held in the Council Chamber and in Remote Locations on Monday, 17 July, 2023 at 10.07 am****PRESENT IN CHAMBER:**

Alderman M Gregg (Chairman)

Aldermen O Gawith and J Tinsley

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

**OTHER MEMBERS:**

Councillor J Lavery (Chairman of Regeneration and Growth Committee)

Councillor S Skillen

**IN ATTENDANCE:**Director of Regeneration and Growth  
Head of Planning & Capital Development  
Principal Officers (RH & LJ)  
Member Services Officers

Ms K Blair (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** (00:01:48)

There were no apologies.

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

2. **Declarations of Interest** (00:02:55)

There were no declarations of interest.

3. **Minutes of Meeting of Planning Committee held on 19 June, 2023** (00:03:05)

It proposed by Alderman J Tinsley, seconded by Councillor D Bassett and agreed that the minutes of the meeting of Committee held on 19 June, 2023 be confirmed and signed.

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#### 4. Report from the Head of Planning & Capital Development (00:03:34)

##### 4.1 Schedule of Applications (00:03:38)

The Chairman, Alderman M Gregg, advised that that it was necessary to go 'into committee' at this stage.

##### "In Committee"

It was proposed by Alderman J Tinsley, seconded by Alderman O Gawith and agreed to go "into committee" (10.12 am).

Councillor S Skillen joined and left the meeting during this discussion (11.02 am and 11.10 am).

The Head of Planning & Capital Development provided an explanation as to why the schedule of applications had been withdrawn and provided an update in relation to the process for making a Local Development Plan, the legal implications arising from the Direction recently issued by the DfI in relation to the Draft Plan Strategy and the legal advice received subsequently. The Head of Planning & Capital Development, the Director of Regeneration and Growth and the Council's Legal Advisor responded to a number of queries raised by Members.

##### Resumption of Normal Business

It was proposed by Alderman O Gawith, seconded by Councillor N Trimble and agreed to come out of committee and normal business was resumed (11.10 am).

##### 4.2 Review of Scheme of Delegation (00:03:54)

It was proposed by Alderman O Gawith, seconded by Councillor U Mackin and agreed that:

- (a) comments on proposed changes to the Scheme of Delegation be provided to the Head of Planning & Capital Development by 21 July, 2023; and
- (b) the Scheme be amended and presented to the Committee for consideration and agreement in advance of being submitted to the Department for Infrastructure for approval.

##### 4.3 Appeal Decision – LA05/2021/0341/O (00:07:26)

It was proposed by Councillor G Thompson, seconded by Councillor P Catney and agreed to note the information set out the report in respect of the decision of the Planning Appeals Commission regarding the above planning application.

##### 4.4 Appeal Decision – LA05/2020/0785/O (00:10:08)

Members were provided with information in respect of the decision of the Planning Appeals Commission regarding the above planning application.

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#### 4.4 Appeal Decision – LA05/2020/0785/O (Contd)

##### “In Committee”

It was proposed by Councillor D J Craig, seconded by Alderman O Gawith and agreed to go “into committee”, in order that legal advice could be sought in relation to the decision by the Planning Appeals Commission to grant planning permission and the impact of that decision on future decisions (11.22 am).

The Council’s Legal Advisor, as well as the Head of Planning & Capital Development, provided advice to Members.

##### Resumption of Normal Business

It was proposed by Councillor P Catney, seconded by Alderman J Tinsley and agreed to come out of committee and normal business was resumed (11.45 pm).

It was proposed by Councillor D J Craig and seconded by Councillor N Trimble that legal advice be sought on the application of policy and guidance in this instance and that a report be brought back to Committee in August to enable Members to consider the options available to the Council. At the request of Councillor P Catney, a recorded vote was taken. The proposal in the name of Councillor D J Craig was declared ‘carried’, the voting being as follows:

In favour: Councillor D Bassett, Councillor S Burns, Councillor D J Craig, Alderman O Gawith, Councillor U Mackin, Councillor A Martin, Alderman J Tinsley, Councillor G Thompson, Councillor N Trimble, Alderman M Gregg (10)

Against: Councillor P Catney (1)

#### 4.5 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights (00:20:08)

It was proposed by Councillor P Catney, seconded by Councillor D Bassett and agreed to note from the report, information regarding notification by telecommunication operators to utilise Permitted Development Rights at locations specified in the appendix to the report.

#### 4.6 Live Applications (00:20:59)

Members were provided with a report providing a breakdown of the live applications (by duration) still under consideration by the Unit and information on how these were being managed to reduce the backlog. A number of Members’ queries were responded to by Officers. It was proposed by Alderman O Gawith, seconded by Councillor N Trimble and agreed that the report be noted and that similar reports be brought to the Committee at six month intervals.

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4.7 Number of Appeals Decided in Previous Financial Year (00:51:05)

Members having been provided with an update report in respect of the number of planning appeals received and the outcome of appeal decisions in the previous year, it was proposed by Councillor P Catney, seconded by Councillor G Thompson and agreed that this information be noted.

Adjournment of Meeting

The Chairman, Alderman M Gregg, declared the meeting adjourned for lunch (12.21 pm).

Resumption of Meeting

The Chairman, Alderman M Gregg, declared the meeting resumed (1.01 pm).

5. Confidential Business5.1 Draft Plan Strategy Update“In Committee”

It was proposed by Alderman J Tinsley, seconded by Councillor N Trimble and agreed to go “into committee” (1.02 pm).

Officers provided a verbal update in respect of the content of Direction and the issues for adopting the Draft Plan Strategy and, together with the Council’s Legal Advisor, responded to a number of queries raised by Members. It was noted that a presentation on this matter would be made to each political party in the coming weeks.

Members paid tribute to the work of Officers involved in the preparation of the Draft Plan Strategy.

Resumption of Normal Business

It was proposed by Councillor G Thompson, seconded by Councillor D J Craig and agreed to come out of committee and normal business was resumed (2.01 pm).

6. Any Other Business (00:53:19)

There was no other business.

There being no further business, the meeting was terminated at 2.01 pm.

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Chairman/Mayor





## Planning Committee

7 August 2023

Report from:

Head of Planning and Capital Development

### Item for Decision

**TITLE:** Item 1 – Schedule of Planning Applications to be Determined

**Background and Key Issues:**

#### 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 one major application and five local applications, four of which have been Called In and one which is referred by exception:-

- (a) LA05/2022/0830/F - Demolition of existing buildings/structures and erection of mixed use development comprising mixed tenure residential development comprised of 38 dwelling houses and 53 apartments (91 units in total), 6 Class B2 industrial/employment units with service yard; 3 flexible work spaces/ Wi-Fi hubs; 2 take away coffee pod units; private, communal and public space, landscaping, cycle and car parking, ramped access and stairs, NIE substations, associated site works and infrastructure and access arrangements on lands at 160 Moira Road, Lisburn.  
Recommendation – Approval
- (b) LA05/2022/0272/F – Two detached dwellings between 42 Halfpenny Gate Road, Moira and Broomhedge Gospel Hall, 40a Halfpenny Gate Road, Moira.  
Recommendation – Refusal
- (c) LA05/2020/0421/O - Site for a dwelling, garage and associated site works 65m due north of 68 Gregorlough Road, Dromore  
Recommendation – Approval
- (d) LA05/2020/0420/O - Site for a dwelling, garage and associated site works 35m due north of 68 Gregorlough Road Dromore  
Recommendation – Approval
- (e) LA05/2022/1023/O - Proposed erection of a detached dwelling with associated site works on lands approximately 20m south east of 50 Back Road Drumbo, Lisburn.  
Recommendation - Refusal
- (f) LA05/2017/0633/O - Proposed two infill dwellings and garages adjacent to 11 Magheraconluce Lane, Lisburn.  
Recommendation - Refusal

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

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.

#### **Finance and Resource Implications:**

Decisions may be subject to:

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

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

costs against the Council. This must be made at the time of the appeal. The Protocol for the Operation of the Planning Committee provides options for how appeals should be resourced.

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

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy? No

**If no, please provide explanation/rationale**

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.

If yes, what was the outcome?:

<b>Option 1</b> Screen out without mitigation	N/A	<b>Option 2</b> Screen out with mitigation	N/A	<b>Option 3</b> Screen in for a full EQIA	N/A
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**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	No	Has a Rural Needs Impact Assessment (RNIA) template been completed?	No
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**If no, please given explanation/rationale for why it was not considered necessary:**

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.

If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

APPENDIX 1.1 – LA05/2022/0830/F  
APPENDIX 1.2 – LA05/2022/0272/F  
APPENDIX 1.3 – LA05/2020/0421/O  
APPENDIX 1.4 – LA05/2020/0420/O  
APPENDIX 1.5 – LA05/2022/1023/O  
APPENDIX 1.6 – LA05/2017/0633/O

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	07 August 2023
Committee Interest	Major
Application Reference	LA05/2022/0830/F
Date of Application	26 August 2022
District Electoral Area	Lisburn South
Proposal Description	Demolition of existing buildings/structures and erection of mixed use development comprising 38 dwelling houses and 53 apartments (91 units in total), 6 Class B2 industrial/employment units (total 1,098 sq. metres) with service yard; 3 flexible work spaces/ Wi-Fi hubs (total 300 sq. metres); 2 take away coffee pod units; private, communal and public space, landscaping, cycle and car parking, ramped access and stairs to proposed rail halt, NIE substations, associated site works and infrastructure and access arrangements from Moira Road
Location	Lands at 160 Moira Road, Lisburn
Representations	Three
Case Officer	Mark Burns
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This is a major application. It is presented to the Planning Committee with a recommendation to approve as it is accepted that significant material weight is afforded to the regeneration benefits of the proposed mixed use development that outweighs the loss of part of the existing employment zoning that is afforded protection by policy in the SPPS and policy ED7 of draft Plan Strategy (as modified by a Direction of the Department).
2. The benefits afforded significant material weight include:
  - Redevelopment of an underutilised site which has been vacant for almost nine years to create a mixed use development in which approximately 20% of the land is redeveloped for an employment use.

- Co-location of new residential development with new employment opportunities and enhanced access to public transport will help to support a healthier population, reduce congestion and support social inclusion.
  - Provision of new employment opportunities on site and access to other opportunities in the locality and beyond via public transport will help to deliver economic and social benefits.
  - Provision of direct access to a new sustainable transport hub and access to the proposed Knockmore rail halt from the Moira Road which is closer to Lisburn City Centre.
  - Provision of affordable housing which will help to tackle inequality and deprivation.
3. The economic, social and community benefits of the comprehensive redevelopment of the site outweigh its retention as previously developed employment land.
  4. Securing the delivery of six business units, three flexible work spaces and the creation of 40 construction and 30 net direct jobs in respect of the proposed employment use is a significant material consideration.
  5. It is considered that the proposal is also in accordance with the requirements of policy ED8 of the draft Plan Strategy (as modified by the Direction of the Department) in that the residential part of the proposed development has been designed and laid out to ensure that the existing employment use on the neighbouring land can continue to operate without prejudice.
  6. It is also considered that the proposal is in accordance with policy ED9 of the draft Plan Strategy (as modified by the Direction of the Department) in that the assessment demonstrates how the general criteria for the economic development part of the mixed use development have been met.
  7. The detailed layout and design of the residential part of the proposal creates a quality residential environment in accordance with the requirements of Policies HOU1, HOU3 and HOU4 of the draft Plan Strategy (as modified by the Direction of the Department) and when the buildings are constructed, they will not adversely impact on the character of the area not have a detrimental impact on the amenity of existing residents in properties adjoining the site.
  8. The proposal is considered to comply with policy HOU5 of the draft Plan Strategy (as modified by the Direction of the Department) in that the detail demonstrates that public open space is provided as an integral part of the development and that arrangements will be put in place for the future management and maintenance of this space in perpetuity consistent with policy.
  9. It is considered that the proposal is also in accordance with the requirements of policy HOU6 of the draft Plan Strategy (as modified by the Direction of the Department) in that adequate provision is made for affordable housing as an integral part of the development.

10. The proposal complies with policy TRA2 of the draft Plan Strategy (as modified by the Direction of the Department) in that it is considered that adequate detail has been provided to demonstrate that the creation of a new access onto a public road will assist with the movement of traffic into and out of the site without compromising standards of road safety or resulting in an unacceptable proliferation of access points.
11. The proposal also complies with the requirements of policy TRA3 of the draft Plan Strategy (as modified by the Direction of the Department) in that the Moira Road is a protected route in a settlement and it is demonstrated the proposed access arrangements cannot be taken from a minor road.
12. The proposal complies with policy TRA7 of the draft Plan Strategy (as modified by the Direction of the Department) in that the detail demonstrates that an acceptable level of car parking is provided as part of the sustainable transport hub adjacent to the proposed Knockmore rail halt. Adequate servicing arrangements associated with the operation of the proposed business units have also been provided.
13. The proposal complies with policies TRA8 and TRA9 of draft Plan Strategy (as modified by the Direction of the Department) in that provision has been made for the needs of cyclists and a high standard of design layout and landscaping accompanies the proposals for car parking with appropriate provision made for security, access and movement of pedestrians and cyclists.
14. The proposal also complies with policy NH5 of draft Plan Strategy (as modified by the Direction of the Department) in that the ecology report submitted in support of the application demonstrates that the proposed development in that appropriate mitigation and/or compensatory measures have been proposed to outweigh the impact on priority habitats and priority species.
15. The proposal also complies with policies FLD 2 and FLD3 of draft Plan Strategy (as modified by the Direction of the Department) in that drainage assessment indicates that foul and surface water can be appropriately managed without impacting on existing surface water drainage infrastructure and causing flooding in the drainage network.
16. For the reasons outlined in the report, is considered that the proposed development complies with paragraph 4.11 of the SPPS in that it will not present any significant impacts in respect of Noise and Air Quality.

## Description of Site and Surroundings

### Site Context

17. The site is located at 160 Moira Road Lisburn and comprised the former buildings and curtilage of an animal feed mill which ceased operation in or around 2013.
18. The site measures approximately 3.5 hectares in size. It is irregular in shape and the topography of the site is relatively flat throughout.

19. The area to the north of the site is mainly scrubland and the boundary with the Belfast to Dublin railway line is defined by metal fencing and mature vegetation.
20. The boundaries to the west and east are defined by fencing and vegetation which separates the site from the existing residential properties and industrial units respectively.
21. The southern boundary of the site is formed by the Moira Road and the existing site entrance which is defined by a two-metre metal fence.

#### Surrounding Context

22. The surrounding area is a mix of residential, business and industrial uses. The Knockmore Business Centre lies to the west of the site as does Flush Park Industrial Estate which are both assessed from Knockmore Road.
23. The land to the east, south and south west of the site are mainly residential in character along Tirowen Drive, Rosevale Meadows and Beechfield Mews.

#### **Proposed Development**

24. The proposed development comprises the demolition of existing buildings/structures and erection of mixed use development comprising 38 dwelling houses and 53 apartments (91 units in total), 6 Class B2 industrial/employment units (total 1,098 sq. metres) with service yard; 3 flexible work spaces/ Wi-Fi hubs (total 300 sq. metres); 2 take away coffee pod units; private, communal and public space, landscaping, cycle and car parking, ramped access and stairs to proposed rail halt, NIE substations, associated site works and infrastructure and access arrangements from Moira Road.
25. The application is supported with the following documents:
  - Pre-Application Community Consultation Report
  - Planning Statement (Updated)
  - Generic Quantitative Risk Assessment Report
  - Remediation Strategy, Implementation and Verification Plan
  - Residential Travel Plan
  - Service Management Plan
  - Car Parking Statement
  - Addendum to Transport Assessment Form and Transport Assessment
  - Drainage Assessment
  - Ecological Impact Assessment
  - Outline Construction Environmental Management Plan
  - Air Quality Impact Assessment
  - Noise Impact Assessment



## Relevant Planning History

26. There is no relevant planning history associated with this site.

## Consultations

27. The following consultations were carried out:

Consultee	Response
Dfl Roads	No Objection
LCCC Environmental Health	No Objection
NI Water	No Objection
Drinking Water Inspectorate	No Objection
Natural Heritage	No Objection
Water Management Unit and Inland Fisheries Regulation Unit	No Objection
HED Historic Monuments	No Objection
Dfl River Agency	No Objection
Shared Environmental Services	No Objection
NIE	No Objection
Translink	No Objection

## Representations

28. Three representations have been received in respect of the application. One is from a solicitor on behalf of the owners of neighbouring business park; the second from a planning consultant again on behalf of the owners of the neighbouring business park and the third from the occupier of a property in the adjacent residential development of Rosevale Meadows.

29. The following issues were raised:

- Binding Covenant on Land
- House Types

- Impact on Light and Privacy
- Mobile Phone Mast
- Inconsistencies in approach
- Existing Industrial/Economic Use
- Regional Development Strategy
- Local Development Plan
- Lisburn Area Plan
- Emerging Local Development Plan
- Strategic Planning Policy Statement
- Planning Advice Note – Implementation of Planning Policy for the retention of Zoned Land and Economic Development Uses
- Planning Policy Statement 4 – Industry and Business
- Access, Movement and Parking
- The Planning (Notification of Applications) Direction 2017

### Environmental Impact Assessment (EIA)

30. 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.
31. An EIA determination was carried out and it was concluded that this is previously developed land within the settlement of the Lisburn and the proposed mix of uses are compatible with the established mix of uses adjacent to and opposite the site.
32. It was considered that there was not likely to be any unacceptable adverse environmental impacts created by the proposed development and as such, an Environmental Statement was not required to inform the assessment of the application.

### Pre- Community Consultation

33. The application exceeds the threshold for major development as set out in the Planning (Development Management) Regulations (Northern Ireland) 2015 in that the site is more than two-hectares in size.
34. As a consequence the applicant was required to engage in pre-application community consultation (PACC).
35. A Pre-Application Community Consultation report [August 2022] submitted in support of the application provides a record of the consultation that had taken place to inform interested parties of the details of the proposed development.
36. In this case the PACC process involved an in person Public Information Event held on Thursday 23 June 2022 from 3pm to 7pm at Laganview Enterprise Centre and the provision of a dedicated consultation website with Live Chat function. The website was launched on 10 June 2022.

37. By the time it closed, the consultation site is reported to have had 536 unique visits and nine live chat sessions were recorded during the consultation period.
38. A dedicated email address was available for those wishing to make comment or seek more information on the proposed development.
39. A public advert notice providing details of the consultation website, online consultation session and how to access hard copies of the papers was published in the Ulster Star on Friday 10 June 2022.
40. An information leaflet was distributed to properties within 500 metres of the proposed development.
41. The format of the report that is submitted with the application in response to the consultation has been prepared in accordance with the Practice Note published by DfI Planning Group and contains the relevant information required. It advises that all feedback received during the consultation period has been recorded and considered as part of the evolution of the design of the proposed scheme.

## Planning Policy Context

### Local Development Plan

42. 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.

### LCCC - Draft Plan Strategy 2032

43. On 28<sup>th</sup> June 2023 the Department for Infrastructure made a Direction that the Council adopt the Lisburn and Castlereagh City draft Plan Strategy subject to modifications.
44. The effect of the Direction is that the final form the Plan Strategy will take is known. For this reason the draft Plan Strategy is now a material consideration in the processing of this planning application.
45. The Department for Infrastructure provide no guidance about how to take account of the draft development plan document before it is adopted. That said, the Joint Ministerial Statement (JMS) prepared by the Department for Regional Development and the Department for the Environment in January 2005 was issued to ensure that the correct weight was given to the provisions of an emerging plan.
46. Although written for the preparation of plans in a different legislative context the JMS was never withdrawn and provides useful guidance on the approach to be taken.

47. At paragraph 22 of the JMS it is stated that:

*Where a plan is at the draft plan stage but no objections have been lodged to relevant proposals then considerable weight should be attached to those proposals because of the strong possibility that they will be adopted and replace those in the existing plan. In circumstances where there have been objections to relevant policies, lesser weight may be attached except for those situations outlined in paragraphs 20 - 21 above. Much will also depend on the nature of those objections and whether there are representations in support of particular policies.*

48. The Lisburn and Castlereagh draft Plan Strategy sets out in clear terms the direction of future policy and has been through a process of public consultation and Independent Examination.
49. Any objections to the policies set out in the draft Plan Strategy have been taken account of and the majority of the modifications directed by the Department for Infrastructure were as a consequence of changes presented by the Council at the Independent Examination to ensure the tests of soundness were met in full.
50. Applying the same principles as those set out at paragraph 22 of the JMS and for the reasons set out above there is more than a strong possibility that the proposed policies in the draft Plan Strategy (as modified) will be adopted.
51. For these reasons the draft Plan Strategy is a material consideration of determining weight in the assessment of this proposal.

#### Transitional Arrangements

52. It is stated at page 16 of Part 1 of the draft 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.*

53. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.

54. The site is within the settlement development limit of Lisburn with the previously developed part of the site adjacent to the Moira Road identified as white land and previously developed as a feed mill. The undeveloped portion of the site behind is zoned for industry as part of Zoning LD 14 – Other Industrial sites.
55. Within draft BMAP 2004, the application site is within the settlement limit of Lisburn zoned as Existing Industry/Employment – Zoning LC 14.
56. Within the 2014 draft revision of BAMP, the lands were designated as Existing Employment land – Zoning LC 13.
57. There is no history of objection to the proposed land use designations in BMAP in the Public Inquiry report prepared by the Planning Appeals Commission. The existing employment designation therefore remains a significant material consideration in the assessment of the application.
58. Both LAP and draft BMAP indicate that proposals for the development of existing employment land be considered against the retained regional planning policy statements.
59. There are equivalent policies in the draft Plan Strategy to the regional policies described in LAP and draft BMAP.
60. As explained above, this application is for the redevelopment of the lands for mixed use development and a number of strategic policies apply.
61. The strategic policy for Sustainable Development is set out at page 42 of the draft Plan Strategy. 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.*
62. The strategic policy for Creating and Enhancing Shared Space and Quality Places is set out at page 43 of the draft Plan Strategy. 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.*
63. The strategic policy for Supporting Sustainable Economic Growth is set out at page 43 of the draft Plan Strategy. Strategic Policy 04 – Supporting Sustainable Economic Growth states that:

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

64. The strategic policy for Good Design and Positive Place Making is set out at page 44 of the draft Plan Strategy. 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.*

65. The strategic policy for Protecting and Enhancing the Environment is set out at page 44 of the draft Plan Strategy. 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.*

66. The strategic policy for Section 76 Agreements is set out at page 45 of the draft Plan Strategy. 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.*

67. The strategic policy for Economic Development in Settlement Limits is set out at page 76 of the draft Plan Strategy. Strategic Policy 11 Economic Development in Settlements states that:

*The Plan will support development proposals that:*

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

68. The strategic policy for Housing in Settlement Limits is set out at page 57 of the draft 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.*

### **Economic Development**

69. As the proposal comprises in part development of the land for economic use Policy ED 1 - Economic Development in Cities and Towns of the draft plan strategy states that:

#### *Class B1 Business*

*A development proposal for Class B1 business (a) office, (b) call centre, (c) research and development will be permitted:*

- (a) *in a designated city or town centre or in other locations identified in the Local Development Plan for such uses such as a district or local centre or business park;*
- (b) *elsewhere in city or towns, where there is a definite proposal and it is demonstrated that no suitable site exists under part*
  - (a) *applicants will be expected to demonstrate that an edge of city/town centre location is not available before a location elsewhere within the settlement limits is considered*
- (c) *on zoned employment land identified in the Local Development Plan, where it is demonstrated that no suitable site exists under parts (a) and (b).*

Class B2, Light Industrial, B3 General Industrial and B4 Storage or distribution

A development proposal for Class B2, B3 and B4 use will be permitted:

- a) on zoned employment land identified in the Local Development Plan where it is demonstrated that the proposed use is compatible with adjacent or nearby uses and is of a scale, nature and form appropriate to the existing area.

Elsewhere in cities and towns such proposals will be determined on their individual merits.

- 70. As part of the employment designation is redevelopment for the mixed uses including housing Policy ED7 - Retention of Zoned Land and Economic Development states that:

Zoned Land in all Locations

Development that would result in the loss of land or buildings zoned for economic development in a Local Development Plan to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses.

An exception will be permitted for the development of a B1 or sui generis employment use within an existing or proposed economic/employment area where it can be demonstrated:

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

A further exception will apply to retailing and commercial leisure development which is ancillary in nature.

Unzoned Land in Settlements

On unzoned land a development proposal that would result in the loss of an existing Class B2, B3 or B4 use, **or land last used for these purposes**, will only be permitted where it is demonstrated that:

- a) redevelopment for a Class B1 business use or other suitable employment use would make a significant contribution to the local economy
- b) the proposal is a specific mixed-use regeneration initiative which contains a significant element of economic development use and may also include residential or community use, and which will bring substantial community benefits that outweigh the loss of land for economic development use
- c) the proposal is for the development of a compatible sui generis employment use of a scale, nature and form appropriate to the location
- d) the present use has a significant adverse impact on the character or amenities of the surrounding area
- e) the site is unsuitable for modern employment/economic, storage or distribution purposes
- f) an alternative use would secure the long-term future of a building or



- buildings of architectural or historical interest or importance, whether statutorily listed or not*
- g) *there is a definite proposal to replicate existing economic benefits on an alternative site in the vicinity.*

*A development proposal for the reuse or redevelopment of an existing Class B1 business use on unzoned land will be determined on its merits.*

71. As the site is located adjacent to existing employment land Policy ED8 - Development Incompatible with Economic Development Uses states that:

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

72. In consideration of the detail of the proposed employment uses policy ED9 - General Criteria for Economic Development states that:

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

- a) *it is compatible with surrounding land uses*
- b) *it does not harm the amenities of nearby residents*
- c) *it does not adversely affect features of the natural or historic environment*
- d) *it is not located in an area of flood risk and will not cause or exacerbate flooding*
- e) *it does **not harm** the water environment*
- f) *it does not create a noise nuisance*
- g) *it is capable of dealing satisfactorily with any emission or effluent*
- h) *the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified*
- i) *adequate access arrangements, parking and manoeuvring areas are provided*
- j) *a movement pattern is provided that meets the needs of people whose mobility is impaired and public transport, walking and cycling provision forms part of the development proposal*
- k) *the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;*
- l) *appropriate boundary treatments and means of enclosure are provided and any areas of outdoor storage proposed are adequately screened from public view;*
- m) *it is designed to deter crime and promote personal safety*
- n) *in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape;*
- o) ***it meets the requirements of Policy NH 1.***

*(text in bold is modified by the Direction)*

## Housing in Settlements

73. A residential development is part of the proposal 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).*

*(text in bold is modified by the Direction)*

74. 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.***

75. 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.*

76. The Justification and Amplification is modified to include the following paragraph:

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

77. The following paragraph is also modified:

*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.*

78. 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.*

79. 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.*

*(text in bold is modified by the Direction)*

80. 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.*

81. The Justification and Amplification is modified to include the following paragraph:

*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.*

82. The Glossary associated with Part 2 of the draft 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**

83. Given this is a large site and demolition is proposed the impact on the natural environment is considered.

84. 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**

85. A new access is proposed to the Moira Road. 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.*

86. The Justification and Amplification paragraph is modified to remove reference to DCAN 11 – Access for People with Disabilities.
87. 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.*

88. The following paragraph in the justification and amplification is modified as follows:

*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.*

89. The Moira Road is a protected route inside a settlement. Policy TRA3 - Access to Protected Routes states that:

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

*Motorways and High Standard Dual Carriageways – All locations*

*Planning permission will not be granted for development proposals involving direct access. An exception may be considered in the case of motorway service areas.*

*Other Dual Carriageways, Ring Roads, Through-Passes and By Passes – All locations*

*Planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance.*

*Other Protected Routes – Outside Settlement Limits*

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

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



- onto the Protected Route; and**
- iii. For other developments which would meet the criteria for development in the countryside where access cannot be reasonably achieved from an adjacent minor road. Where this cannot be achieved, proposals will be required to make use of an existing vehicular access onto the Protected Route.**

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

*(text in bold is modified by the Direction)*

#### Other Protected Routes – Within Settlement Limits

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

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

*Designated protected routes within this Council area are illustrated in Supplementary Planning Guidance, Part F: Protected Routes Map.*

90. Policy TRA6 - Transport Assessment states that

*In order to evaluate the transport implications of a development proposal the Council will, where appropriate, require developers to submit a Transport Assessment.*

91. The J&A is modified to include the following paragraph

***Transport Assessment applies to all forms of development with a significant travel generation impact. A primary aim of the Transport Assessment is to assess accessibility by sustainable modes and to develop measures to maximize use of sustainable modes; only subsequently should the residual traffic be assessed and its impacts ameliorated.***

*(text in bold is modified by the Direction)*

92. A car park is provided to service the employment and housing uses. Parking is also provided for the future use of the rail halt. Policy TRA7 - Car Parking and Servicing Arrangements in New Developments states that

*Development proposals will provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its*

*location having regard to published standards or any reduction provided for in an area of parking restraint designated in the Local Development Plan. Proposals should not prejudice road safety or significantly inconvenience the flow of vehicles.*

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

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

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

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

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

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

93. 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**

94. This is a large site and the drainage must be designed to take account of the impact on flooding elsewhere.

95. Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure states that

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

96. 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.*

*(text in bold is modified by the Direction)*

## The approach to the Development Plan and Regional Policy

97. 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.*

98. It is stated a paragraphs 1.10 and 1.11 of the SPPS that:

*A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.*

*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.*

99. Whilst the Plan Strategy is not yet adopted and the retained suite of regional planning policies (PPS's) continue to apply in accordance with the SPPS in light of the fact that a Direction to adopt the Plan is issued these policies are now considered to be of little weight for the same reasons explained earlier in this report.
100. The operational policies in Part 2 of the draft Plan Strategy are considered to take precedence over the retained suite planning policy statements and of determining weight in the assessment of this planning application.
101. 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.

102. 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*

103. 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.*

104. 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.*

105. 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.
106. As previously outlined this is a mixed use proposal and part of the employment designation will be developed for housing. At paragraph 6.89 of the SPPS it is stated that:

*It is important that economic development land and buildings which are well located and suited to such purposes are retained so as to ensure a sufficient ongoing supply. Accordingly, planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process. While the same principle should also apply generally to unzoned land in settlements in current economic development use (or land last used for these purposes); councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use.*

107. It is further stated at paragraph 6.90 that:

*Some proposed developments may be incompatible with nearby economic development enterprises, either already operating, or approved. For example, activities giving rise to emissions such as dust, odour or micro-organisms may be incompatible with industrial enterprises requiring a particularly clean and contaminant free environment. Examples of the latter include pharmaceuticals, medical products, food products and research and development. Often, an individual enterprise engaged in one of these sectors will offer employment in specialised jobs and of significant importance to the local or regional economy. Accordingly, it is in the public interest to ensure that their operations are not unduly compromised through incompatible development. In other cases, incompatibility could arise when new residential development is approved in proximity to an existing economic development use that would be likely to cause nuisance, for example through noise, pollution or traffic disturbance. Where it is clearly demonstrated that a proposal for new or expanded development would prejudice the future operation of an established or approved economic development use, then it will normally be appropriate to refuse the application. However, it is incumbent on the planning authority to explore all reasonable means of mitigation with the developer and the established enterprise prior to determining the application.*

108. 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.*

109. The site is also proposed to be developed for housing as part of a mixed use 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.*

110. 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 (as modified) have been drafted to be consistent with the SPPS.

### **Regional Policy Context**

111. As the retained regional policies still apply until the Plan Strategy is adopted, they are included in the report for completeness.

### **Planning and Economic Development**

112. There is no distinguishable difference between the policy contained at paragraphs 6.89 to 6.91 of the SPPS and the retained policies in PPS 4 - Planning and Economic Development which set out the planning policies for economic development uses and indicates how growth associated with such uses can be accommodated and promoted in development plans.
113. The PPS seeks to facilitate and accommodate economic growth in ways compatible with social and environmental objectives and sustainable development.
114. Paragraph 3.1 states that the objectives of the PPS are:
- *to promote sustainable economic development in an environmentally sensitive manner;*
  - *to tackle disadvantage and facilitate job creation by ensuring the provision of a generous supply of land suitable for economic development and a choice and range in terms of quality, size and location;*
  - *to sustain a vibrant rural community by supporting rural economic development of an appropriate nature and scale;*
  - *to support the re-use of previously developed economic development sites and buildings where they meet the needs of particular economic sectors;*
  - *to promote mixed-use development and improve integration between transport, economic development and other land uses, including housing; and*
  - *to ensure a high standard of quality and design for new economic development.*
115. As this site is located in a settlement Policy PED 1 – Economic Development in settlements is a consideration and it states:

## Cities and Towns

### *Class B1 Business Use*

*A development proposal for a Class B1 business use will be permitted in a city or town centre (having regard to any specified provisions of a development plan) and in other locations that may be specified for such use in a development plan, such as a district or local centre.*

*In addition, a development proposal for a Class B1(b) use as a call centre or B1(c) use for research and development proposals will be permitted within an existing or proposed industrial/employment area. Class B1(a) office use will only be permitted in an industrial/employment area when specified in a development plan.*

*Elsewhere in cities and towns a development proposal for a Class B1 business use will only be permitted where all the following criteria are met:*

- (a) there is no suitable site within the city or town centre or other location specified for such use in the development plan;*
- (b) it is a firm rather than a speculative development proposal for business use;*  
*and*
- (c) the proposal would make a substantial contribution to the economy of the urban area.*

*Where a development proposal for Class B1 business use satisfies the above criteria, applicants will be expected to demonstrate that an edge of town centre location is not available before a location elsewhere in the urban area is considered.*

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

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

### *Class B4 Storage or Distribution Use*

*A development proposal for a Class B4 storage or distribution use will be permitted in an area specifically allocated for such purposes in a development plan.*

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

116. The site is also existing zoned employment land and policy PED 7 – Retention of Zoned Land and Economic Development uses states that:

Zoned Land in all Locations

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

Unzoned Land in Settlements

*On unzoned land a development proposal that would result in the loss of an existing Class B2, B3 or B4 use, or land last used for these purposes, will only be permitted where it is demonstrated that:*

- (a) redevelopment for a Class B1 business use or other suitable employment use would make a significant contribution to the local economy; or*
- (b) the proposal is a specific mixed-use regeneration initiative which contains a significant element of economic development use and may also include residential or community use, and which will bring substantial community benefits that outweigh the loss of land for economic development use; or*
- (c) the proposal is for the development of a compatible sui generis employment use of a scale, nature and form appropriate to the location; or*
- (d) the present use has a significant adverse impact on the character or amenities of the surrounding area; or*
- (e) the site is unsuitable for modern industrial, storage or distribution purposes; or*
- (f) an alternative use would secure the long-term future of a building or buildings of architectural or historical interest or importance, whether statutorily listed or not; or*
- (g) there is a firm proposal to replicate existing economic benefits on an alternative site in the vicinity.*

*A development proposal for the re- use or redevelopment of an existing Class B1 business use on unzoned land will be determined on its merits.*

117. The site is also adjacent to existing employment land and Policy PED 8 – Development incompatible with Economic Development Uses states that:

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



118. Policy PED 9 - General Criteria for Economic Development is considered and it states that:

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

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

### **Natural Heritage**

119. PPS 2 - Natural Heritage makes provision for ensuring that development does not harm or have a negative impact on any natural heritage or conservation.

120. Paragraph 3.1 of PPS 2 states:

*The objectives of this Planning Policy Statement are:*

- to seek to further the conservation, enhancement and restoration of the abundance, quality, diversity and distinctiveness of the region's natural heritage;*
- to further sustainable development by ensuring that biological and geological diversity are conserved and enhanced as an integral part of social, economic and environmental development;*
- to assist in meeting international (including European), national and local responsibilities and obligations in the protection and enhancement of the natural heritage;*

- *to contribute to rural renewal and urban regeneration by ensuring developments take account of the role and value of biodiversity in supporting economic diversification and contributing to a high quality environment;*
- *to protect and enhance biodiversity, geodiversity and the environment; and*
- *to take actions to reduce our carbon footprint and facilitate adaptation to climate change.*

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

121. Policy NH5 states that:

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

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

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

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

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

123. Paragraph 3.1 of PPS 3 states that:

*The main objectives of this Statement are to:*

- *promote road safety, in particular, for pedestrians, cyclists and other vulnerable road users;*
- *restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes;*
- *make efficient use of road space within the context of promoting modal shift to more sustainable forms of transport;*

- *ensure that new development offers a realistic choice of access by walking, cycling and public transport, recognising that this may be less achievable in some rural areas;*
- *ensure the needs of people with disabilities and others whose mobility is impaired, are taken into account in relation to accessibility to buildings and parking provision;*
- *promote the provision of adequate facilities for cyclists in new development; promote parking policies that will assist in reducing reliance on the private car and help tackle growing congestion; and*
- *protect routes required for new transport schemes including disused transport routes with potential for future reuse.*

### Creating an Accessible Environment

124. Policy AMP 1 – Creating an Accessible Environment states that:

*The Department's aim is to create a more accessible environment for everyone. Accordingly developers should take account of the specific needs of people with disabilities and others whose mobility is impaired in the design of new development. Where appropriate, the external layout of development will be required to incorporate all or some of the following:*

- *facilities to aid accessibility e.g. provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions;*
- *convenient movement along pathways and an unhindered approach to buildings;*
- *pedestrian priority to facilitate pedestrian movement within and between land uses; and*
- *ease of access to reserved car parking, public transport facilities and taxi ranks.*

*The development of a new building open to the public, or to be used for employment or education purposes, will only be permitted where it is designed to provide suitable access for all, whether as customers, visitors or employees. In such cases the Department will operate a presumption in favour of a level approach from the boundary of the site to the building entrance and the use of steps, ramps or mechanical aids will only be permitted where it is demonstrated that these are necessary.*

*The Department will also seek to ensure that access to existing buildings and their surroundings is improved as opportunities arise through alterations, extensions and changes of use.*

*The Department may require the submission of an Access Statement to accompany development proposals.*

### Access to Public Roads

125. Policy AMP 2 - Access to Public Roads states that:

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

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

126. The policy also states that:

*The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors:*

- *the nature and scale of the development;*
- *the character of existing development;*
- *the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;*
- *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.*

127. Policy AMP 3 – Access to Protected Routes states:

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

*Motorways and High Standard Dual Carriageways – All locations*

*Planning permission will not be granted for development proposals involving direct access. An exception may be considered in the case of motorway service areas.*

*Other Dual Carriageways, Ring Roads, Through-Passes and By Passes – All locations*

*Planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance.*

*Other Protected Routes – Outside Settlement Limits*

*Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access in the following cases:*

- (a) *A Replacement Dwelling – where a building to be replaced would meet the criteria for development within a Green Belt or Countryside Policy Area and there is an existing vehicular access onto the Protected Route.*

- (b) *A Farm Dwelling – where a farm dwelling, including a farm retirement dwelling, would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.*
- (c) *A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.*
- (d) *Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.*

#### Other Protected Routes – Within Settlement Limits

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

- (a) *where access cannot reasonably be taken from an adjacent minor road; or*
- (b) *in the case of proposals involving residential development, it is demonstrated to the Department's satisfaction that the nature and level of access onto the Protected Route 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. The distinction between the various categories of Protected Routes is illustrated on the Protected Routes map.*

#### **Access, Movement and Parking Clarification of Policy AMP 3: Access to Protected Routes**

128. This document provides clarification to Policy AMP 3: Access to Protected Routes of PPS 3 'Access, Movement and Parking', published in February 2005, and must be read in conjunction with the policies contained within this PPS.

129. The policy as clarified states:

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

#### Motorways and High Standard Dual Carriageways – All locations

*Planning permission will not be granted for development proposals involving direct access. An exception may be considered in the case of motorway service areas.*

#### Other Dual Carriageways, Ring Roads, Through-Passes and ByPasses – All locations

*Planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance.*

#### Other Protected Routes – Outside Settlement Limits

*Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access in the following cases:*

- (a) A Replacement Dwelling – where a building to be replaced would meet the criteria for development within a Green Belt or Countryside Policy Area and there is an existing vehicular access onto the Protected Route.*
- (b) A Farm Dwelling – where a farm dwelling, including a farm retirement dwelling, would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.*
- (c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.*
- (d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.*

#### Other Protected Routes – Within Settlement Limits

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

- (a) where access cannot reasonably be taken from an adjacent minor road; or*
- (b) in the case of proposals involving residential development, it is demonstrated to the Department's satisfaction that the nature and level of access onto the Protected Route 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.*

*The distinction between the various categories of Protected Routes is illustrated on the Protected Routes map.*

#### Transport Assessment

130. Policy AMP 6 Transport Assessment states that:

*In order to evaluate the transport implications of a development proposal the Department will, where appropriate, require developers to submit a Transport Assessment.*

### Car Parking and Servicing Arrangements

131. Policy AMP 7 - Car Parking and Servicing Arrangements states that:

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

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

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

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

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

### Cycle provision

132. Policy AMP 8 - Cycle Provision states that:

*Planning permission will only be granted for development providing jobs, shopping, leisure and services, including educational and community uses where the needs of cyclists are taken into account. Where appropriate provision of the following may be required:*

- (a) *safe and convenient cycle access;*
- (b) *safe, convenient and secure cycle parking having regard to the Department's published standards; and*
- (c) *safe and convenient cycle links to existing or programmed cycle networks where they adjoin the development site.*

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

### Design of Car Parking

133. Policy AMP 9 Design of Car Parking states:

*The Department will expect a high standard of design, layout and landscaping to accompany all proposals for car parking. Planning permission will only be granted for a proposal where all the following criteria are met:*

- (a) it respects the character of the local townscape / landscape;*
- (b) it will not adversely affect visual amenity; and*
- (c) provision has been made for security, and the direct and safe access and movement of pedestrians and cyclists within the site.*

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

134. The guidance for Vehicular Access Standards are set out in Development Control Advice Note 15 and it stated at paragraph 1.1 that:

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

### Parking Standards

135. The Parking Standards document provides relevant guidance for the parking requirement for the non-residential component of the proposed development sets out the parking standards that the Department will have regard to in assessing proposals for new development.

136. Paragraph 3 of the document states that the:

*The principle objective of the parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of wider government policy aimed at promoting modal shift to more sustainable forms of transport.*

137. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to these standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.



## Quality Residential Environments

138. PPS 7 sets out the Department's planning policies for achieving quality in new residential development and is the proposal is considered against the requirements of this policy document.

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

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

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

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

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

*Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.*

### Creating Places

141. The policy requires the guidance in the 'Creating Places – Achieving Quality in Residential Developments' (May 2000) to also be considered.
142. 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.

143. 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.*

144. 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.*

### **Open Space, Sport and Outdoor Recreation**

145. PPS 8 sets out the Department's planning policies for the protection of open space, the provision of new areas of open space in association with residential development and the use of land for sport and outdoor recreation, and advises on the treatment of these issues in development plans.
146. Policy OS2 set out the requirement for public open space in new residential development and states that:

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

*An exception to the requirement of providing public open space will be permitted in the case of apartment developments or specialised housing where a reasonable level of private communal open space is being provided.*

*An exception will also be considered in cases where residential development is designed to integrate with and make use of adjoining public open space.*

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

- (i) A normal expectation will be at least 10% of the total site area;*
- (ii) For residential development of 300 units or more, or for development sites of 15 hectares or more, a normal expectation will be around 15% of the total site area; and*
- (iii) Provision at a rate less than 10% of the total site area may be acceptable where the residential development:*
  - is located within a town or city centre; or*
  - is close to and would benefit from ease of access to areas of existing public open space; or*
  - provides accommodation for special groups, such as the elderly or people with disabilities; or*
  - incorporates the 'Home Zone' concept.*

*For residential development of 100 units or more, or for development sites of 5 hectares or more, an equipped children's play area will be required as an integral part of the development. The Department will consider an exception to this requirement where an equipped children's play area exists within reasonable walking distance (generally around 400 metres) of the majority of the units within the development scheme.*

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

- it is designed in a comprehensive and linked way as an integral part of the development;*
- it is of demonstrable recreational or amenity value; • it is designed, wherever possible, to be multi-functional;*
- it provides easy and safe access for the residents of the dwellings that it is designed to serve;*
- its design, location and appearance takes into account the amenity of nearby residents and the needs of people with disabilities; and*
- it retains important landscape and heritage features and incorporates and protects these in an appropriate fashion.*

*Planning permission will not be granted until the developer has satisfied the Department 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. Arrangements acceptable to the Department include:*

- (a) a legal agreement transferring ownership of and responsibility for the open space to the local district council; or*
- (b) a legal agreement transferring ownership of and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or*

- (c) *a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements.*

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

### **Planning and Flooding Risk**

147. PPS 15 – Planning and Flood Risk sets out policy to minimise and manage flood risk to people, property and the environment. The susceptibility of all land to flooding is a material consideration in the determination of planning applications.

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

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

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

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

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

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

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

*Such development will be permitted where it is demonstrated through the Drainage Assessment that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere.*

*Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.*

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

## Other Considerations – Supplementary Guidance

150. A Planning Advice Note on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses was published by the Department and last updated in November 2019.
151. The purpose of this advice note was to ensure an effective and consistent approach to implementing regional planning policy when determining planning applications, and to assist with local development plan preparation, in relation to:
- a) *sites zoned for economic development use in a local development plan; and*
  - b) *planning applications on unzoned land that is currently used (or was last used) for economic development purposes 3. This advice note is an amplification of existing planning policy and supplementary planning guidance.*
152. It is stated that the advice note does not add to or change existing policy or guidance that is considered appropriate for assessing applications for economic development proposals and preparing local development plans.
153. Paragraph 21 states that:
- When making balanced judgements on the merits of a particular case or the potential loss of economic development land, planning officers should consider matters such as:*
- *The views expressed by all other interested parties during the public consultation process including those of local enterprise and business representatives;*
  - *Accessibility to the regional transportation network and a variety of transport modes;*
  - *The potential to regenerate existing urban areas through economic development or as part of a mixed use development;*
  - *Accessibility to every member of the community, especially those in socially disadvantaged areas;*
  - *Why a site is no longer required or considered suitable for continued economic development use;*
  - *Evidence of the availability (or not) of alternative sites for economic development use (or the proposed alternative use) in the locality;*
  - *Compatibility with neighbouring land uses;*
  - *The views of relevant statutory and non-statutory consultees; and*
  - *The availability of adequate services and infrastructure such as water and sewerage.*
154. The PAN was drafted not only in the context of the retained regional policy in PPS 4 but with regard to the overarching policy requirements of the RDS and the SPPS. It provides context for the consideration of other material considerations.
155. As the policies in the draft Plan Strategy are written to take account of the regional policies in the RDS and the SPPS the PAN remains a material consideration to be taken account of in the assessment of this proposal.

**Assessment****Economic Development**

156. The application in so far as it comprises a residential component is contrary to the plan zoning and both the SPPS and policy ED 7 of the draft Plan Strategy (as modified by the Direction of the Department) in that it will result in the loss of land zoned for employment use.
157. Whilst contrary to policy the application proposes a mixed use development and the detail indicates that approximately 2.78 hectares of the site will be lost to non-economic development uses [primarily residential use]. This equates to approximately 78% of the application site but less than a third of the overall employment zoning which is 8.47 hectares. Only a relatively small proportion is proposed for redevelopment for housing and other ancillary uses.
158. It is request by the applicant that a number of other material considerations be weighed in the assessment of the application against the loss of the employment land.
159. It is stated by the applicant that:
- significant weight should be afforded to the benefits that the mixed use development of the site will bring;
  - the scheme is a sustainable means of securing an alternative employment use for part of the land adjacent to existing and proposed housing that offers opportunity for future residents to live close to their place of work as part of the comprehensive development and regeneration of the site;
  - it offers enhanced connectivity between the City Centre and the strategic rail network arising from the developer providing a link to the strategic rail halt at Knockmore via a new ramped access and steps.
  - the wider community and social benefits of linking a sustainable transport node to new development has been found elsewhere in the United Kingdom to be a driver for future investment and the mixed use proposal has the potential to leverage further growth at the employment zoning adjacent to this site.
160. Evidence is provided in support of this in the planning statement provided with the application.
161. In terms of the material considerations considered to be weighed as significant in the context of the advice note prepared by the Department these are set out as follows.

*The views expressed by all other interested parties during public consultation process including those of local enterprise and business representatives.*

162. The Agent demonstrates at paragraphs 8.42 – 8.52 the views expressed during the Pre-Application Community Consultation process. The views expressed have been grouped under the following themes:

- Theme 1 - Housing/Social Housing
- Theme 2 – Statement of Support
- Theme 3 – Traffic
- Theme 4 – Access Road
- Theme 5 – Anti Social Behaviour
- Theme 6 – Boundary Fencing
- Theme 7 – Facilities/Amenities
- Theme 8 – Vermin
- Theme 9 – Safety
- Theme 10 – Boundary Separation

163. A Lambert Smith Hampton Marketing brochure and marketing update is also submitted with confirmation provided by the Agent that the site is not suited for employment use as it has been vacant since 2013 and it is not viable to demolish, remediate and bring forward the site for employment use only.

*Accessibility to the regional transportation network and a variety of transport modes*

164. Paragraph 8.53 of the supporting planning statement submitted by the applicant indicates that access will likely be improved with the provision of the M1 – Knockmore Link road close to the site. It is also explained that the application site is well served by a variety of transport modes which will be further enhanced by the delivery of the Lisburn West Knockmore Rail Halt which will be accessible from the application site via the proposed ramp access and stairs.

165. The site being so close to the rail halt is considered to be unique and it is considered more beneficial to deliver a mix of uses including residential which will bring substantial community benefits.

*The potential to regenerate existing urban areas through economic development or as part of a mixed use development*

166. At paragraph 8.56 – 8.58 of the updated planning statement, the view is expressed that the re-development of this under-utilised site will create a truly mixed use development optimising the land use and infrastructure and that this will act as a catalyst, bringing life, jobs and vibrancy to the area. The view is also expressed that it will help to attract new businesses whilst providing a welcoming arrival point.

167. Wider community benefits are identified at paragraph 8.57 whereby the development will act as a gateway to the communities it will serve including the new development and beyond. The view is expressed that the higher footfall

around the new rail halt and along pedestrian routes will create a sense of safety with the benefit of densification of residential accommodation and commercial activity around rail halts creating a greater demand for services in the locality.

168. Co-locating new residential development with new employment opportunities and access to public transport will help to support a healthier population, reduce congestion and support social inclusion.
169. Economic benefits include the creation of an average of 40 Full Time Equivalent (FTE) jobs over the 30 month construction period along with a further 30 net direct jobs per annum FTE in the supply side including 15 for Lisburn residents.
170. The total GVA economic output achieved during construction phase of the project would be approximately £12 million.
171. In addition, £3 million annual resident income, growing local spending power and £2.1 million resident expenditure annually on retail and leisure goods and services.
172. Environmental benefits include a low carbon development in a highly sustainable location with development designed to Lifetime Home standards.

*Accessibility to every member of the community, especially those in socially disadvantaged areas*

173. The Planning supporting statement confirms that the schemes mix of high quality homes, including social rented and wheelchair accessible homes will provide a foundation for well-being and will meet a diverse range of housing need.

*Why a site is no longer required or considered suitable for continued economic development use.*

174. Paragraphs 8.61 – 8.63 of the updated Planning Statement explains that the application site has been inactive since 2013 and that since the manufacturing use ceased, the former industrial buildings have been left in situ. The view is expressed that these buildings have a significant visual impact on the amenity of the area.
175. Reference is also made to the site having been actively marketed by Lambert Smith Hampton for economic development uses and that since this marketing commenced in March 2021, there has been little interest and no viewings.

*Evidence of the availability (or not) of alternative sites for economic development use (or the proposed alternative use) in the locality*

176. The view expressed by the applicant is that the proposed development will have minimal impact on the amount of land allocated for economic development use and the future availability of land. The view is also expressed that the proposed uses will complement the existing uses within the adjacent Knockmore Business Centre and Flush Industrial Estate.



Compatibility with neighbouring land uses and impact on adjoining land uses

177. Detail submitted with the application demonstrates that the majority of the proposed housing is located to the east of the site adjacent to the established residential housing.
178. Apartment Block B is located approximately 30 metres distant of the boundary to the adjacent employment lands and Apartment Block C is located further east and approximately 65 metres distant from the boundary east of the site. The impacts from the adjoining lands uses is considered in the Noise Impact Assessment and this concludes that with mitigation no impact is likely to be caused nor is the apartment element likely to cause prejudice to the businesses operating from this part of the industrial estate.

The views of relevant statutory and non-statutory consultees

179. No objection is received from any of the consultees and the site specific advice is addressed at the relevant parts of the report.

The availability of adequate services and infrastructure such as water and sewerage

180. Paragraphs 8.68 – 8.69 of the updated Planning Statement explains that the site is located within the settlement limit and as such it is already served by services and infrastructure. Advice from NI Water also confirms that there is capacity for the foul and detail of existing and proposed infrastructure is provided for within the Drainage Assessment submitted in support of the application.

Consideration of the Exception

181. The applicant highlights the Council's Employment Land Review as a material consideration and draws attention to paragraph 4.17 where it is noted that in recent years, the majority of job growth in the Council area has been within non B class sectors while the overall share of B class jobs has declined. It also notes that B1 (business) and B4 (storage and distribution) have grown strongly, whilst B2/B3 (light and general industrial) jobs have declined.
182. They further highlight that the document notes at paragraph 8.12 that the total available employment land supply in the Council area is 275.4 hectares and that based on a broad comparison of demand scenarios against the identified supply, LCCC would have more than sufficient employment space in quantitative terms to meet the needs arising from all of the scenarios considered.
183. The document indicates the potential surplus of employment land ranges from 230.6 hectares to 262.8 hectares depending on the scenario.
184. Whilst this empirical evidence is not prepared for the purpose of assessing individual applications it assists in verifying a baseline position for the quantum of employment required and possible locations.

185. It is accepted that this is not the main location for anticipated future growth for employment in Lisburn. This is at Blaris as highlighted in the emerging development plan. This is however a secondary location that offers choice and variety for businesses who may wish to establish at a location where they have good access to transport links.
186. The case advanced by the applicant at paragraph 8.32 of the updated Planning Statement is accepted in that the proposed mixed use development will result in only a very marginal reduction in the overall level of employment land supply.
187. This mixed use scheme is also considered to represent a more sustainable form of development as it will integrate housing and employment uses, promote choice and access to employment consistent with regional policy at 6.89 of the SPPS as there is a direct benefit to the community in terms of employment opportunity and access to employment opportunity elsewhere through the use of public transport.
188. The opportunity also offers choice to the community to live close to your place of work is offered in the mixed use scheme and the choice is broadened to people who might not have access to a car as the site is co-located to affordable housing.
189. In this context and in accordance with the advice note it is accepted that it has been clearly demonstrated how the special circumstances of this particular case outweighs the preferred option of retaining the land or buildings for economic development use.
190. In particular the commitment from the developer to provide a link to the strategic rail network that unlocks the regeneration potential of the land is important and given significant material weight.
191. Translink has advised that the Knockmore Rail Halt is in their programme of capital investment for 2025. The developer indicates a two year construction phase of development for this mixed used scheme beginning in 2024. The principle of linking employment growth to infrastructure delivery is an established practice and exemplified in many regeneration projects of different scales throughout the United Kingdom.
192. There is a clear link in this firm proposal between the employment, housing and infrastructure delivery. The Council is advised that the works to deliver access to the halt are programmed to take place in line with the Translink draft programme of works.
193. Whilst the two projects overlap should one be delayed it is advised that any recommendation to approve be subject to a Section 76 planning agreement linking the requirement for the construction of the link to the halt before the last house is occupied.
194. If the Translink project is delayed then the developer should enter into a separate agreement in relation to the funding of the link and the transfer of the land with

the objective of securing the link to the new rail halt when this becomes operational.

### Other Considerations

195. The justification and Amplification to policy ED8 acknowledges that in some instances new development could prejudice the continued existence of a particular economic use where the particular processes being carried out have a tendency to cause adverse effects of some kind on adjacent land, even when all reasonable remedial measures have been taken by the operator.
196. No employment use is proposed as part of this mixed use scheme that would be incompatible with the existing industrial undertakings adjacent to the site.
197. There are no existing general industrial or storage and distribution uses immediately adjacent to the boundary. Adequate separation distance between the housing and closest employment use is achieved to not cause harm to the amenity of future residents be reason of noise or nuisance.
198. The assessment below further demonstrates how the scheme has been designed to ensure that the residential part of the proposed mixed use development has been laid out to ensure that the existing employment use on the neighbouring land can continue to operate without prejudice consistent with policy ED8.
199. The general criteria for Economic Development set out in Policy ED9 of the draft Plan Strategy (as modified by the Direction of the Department) are also considered to have been met for the following reasons.
200. The scheme has been designed so the employment use is co-located with the established employment use adjacent to the site. Criteria (a) is met. The harm to nearby residents is considered and the proposed employment use will not give rise to noise or nuisance. The proposed use is not noise generating and the buildings act as a buffer between the two uses. Criteria (b) is met. There are no features of the natural of built environment impacted by the proposed development and this is addressed in the consultation process. Criteria (c) is met. This is not in an area of flood risk. Criteria (d) is met.
201. The economic development part of the scheme is designed not to create noise or nuisance for the same reason explained in the preceding paragraphs and there is adequate capacity in the network for trade effluent. Criteria (f) and (g) are met. The access arrangements are designed to the required standard, parking is provided to an adequate standard (as there is an emphasis of living and working in the same place and improving access to public transport so an exception to the full standard is justified) and cycling and walking is encouraged for the reasons set out previously. Criteria (h), (i) and (j) are met in full.
202. The scheme is designed to a high quality to be compatible with the adjacent housing and servicing is located to the rear of the proposed buildings and away from public areas. Appropriate boundary treatments and means of enclosure are provided as necessary. All the spaces are surveilled and overlooked to deter

crime and promote safety. Criteria (k), (l) and (m) are met. Criteria (n) is not relevant as the application site lies within the settlement limits.

203. With regard to the additional criteria associated with ED9, the (e) as demonstrated later in the report within the context of Policy FLD 3 considerations, Water Management Unit has considered the impacts of the proposal on the surface water environment and in a response received on 6 December 2022 advise that they have no objection. It is therefore accepted that the proposed development will not harm the water environment.

## **Housing in Settlements**

### Policy HOU 1 – New Residential Development

204. This application is part of a mixed use proposal. The site associated with the application comprises previously developed land and green field. The site is located within the settlement limit of Lisburn 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

205. The area is in mixed use in character for the reasons outlined in the site description above. The residential dwellings located to the east of the site are comprised predominantly of terrace and semi-detached dwellings set in medium sized plots with in-curtilage and onsite parking.
206. The residential element of this scheme comprises thirty-six detached and semi-detached dwellings, two bungalows and four separate apartment blocks.
207. The form and general arrangement of the buildings is considered to be characteristic of those built in the adjacent Rosevale Meadows and Rosevale Park to the east of the site and Beechfield Park to the south.
208. The plot sizes and general layout proposed is consistent with and comparable with other built development in the vicinity of the site.
209. Based on a review of the information provided, it is considered that the character of the area would not be significantly changed by the proposed residential element of the development and it is considered that the established residential character of the area would not be harmed.
210. The layout of the rooms in each of the units, the position of the windows and 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.
211. Having regard to this detail and the relationship between the buildings in each plot it is considered that the guidance recommended in the SPG published with the draft Plan Strategy equivalent to the Creating Place document. .

212. With regard to criteria (b), No archaeological, historic environment or landscape characteristics/features have been identified that require integration into the overall design and layout of the development.

Policy HOU4 - Design in New Residential Development

213. There are number of different house types proposed with sizes varying from 75 square metres to 95 square metres in size. The fifty three apartments located over four blocks range in size from 61 square metres to 84 square metres.
214. A sample description of the some of the dwellings and apartments is outlined below.
215. House type D1 is a detached two bedroom dwelling measuring approximately 75 square metres in floor area. This dwelling will have a ridge height of approximately 8.3 metres.
216. The materials proposed for the dwelling include facing brick (buff), concrete interlocking roof tiles, composite doors to main front entrance, UPVC doors to side and rear entrances doors, grey double glazed UPVC windows and grey/black powder coated aluminium gutters and UPVC gutters and downpipes.
217. House type C is a semi-detached three bedroom dwelling measuring approximately 94 square metres in floor area and will have a ridge height of 8.5 metres.
218. The materials proposed for this dwelling include facing brick (red), concrete interlocking roof tiles, composite doors to main front entrance, UPVC doors to side and rear entrances doors, grey double glazed UPVC windows and grey/black powder coated aluminium gutters and UPVC gutters and downpipes.
219. The residential dwellings are designed to ensure that the units are as energy efficient as possible.
220. The four blocks of apartments proposed within the site are at either end of the scheme. One block is located at the entrance and the other three units are located towards the rear of the site. The apartments are all approximately 65 square metres in floor area.
221. Apartment block A which is located at the entrance to the site will have a ridge height of approximately 12.5 metres.
222. The materials proposed for this block include facing brick (buff), concrete interlocking roof tiles, composite doors to main front entrance, UPVC double glazed doors, grey double glazed UPVC windows and grey/black powder coated aluminium gutters and UPVC gutters and downpipes.
223. The finishes proposed to the dwellings and apartments are considered to be acceptable and in keeping with the established character of this area and will ensure that the units are as energy efficient as possible.

224. The variety of house types provided are accessible in their design so as to provide an appropriate standard of access for all. The design of dwellings ensures that they are capable of providing accommodation that is wheelchair accessible for those in society who are mobility impaired.
225. Detail submitted with the application demonstrates that the provision of private amenity space varies from plot to plot ranging from a minimum of 40 square metres up to 373 square metres. The average provided across the site is generally consistent with the guidance in the Creating Places document for a medium density housing development made up of two and three bedroom units.
226. The apartment blocks have access to communal open space amenity areas within the of the perimeter of their blocks enclosed by fencing and blocks B, C, and D have access to roof terraces. The total average amenity space per apartment is 43 square metres.
227. For the reasons outlined above, criteria (a), (e) and (f) are considered to be met.
228. A landscape management plan dated 26 August 2022 was submitted in support of the application. It outlines the strategy and approach for the future long term management and maintenance of the external public spaces associated with the proposed development.
229. It details that the objectives are to introduce new tree, shrub and hedge planting of sizes and species to provide both age and species diversity.
230. The landscape plan demonstrates that the boundaries of the site have existing tree and native hedge planting, with various degrees of maturity. These would be complemented by additional tree planting to increase the screening effect of the boundary planting supplemented where necessary.
231. It is considered that this written management plan, in association with the detailed planting plan, is sufficient to ensure integration of and maintenance of external public spaces and that the implementation of planting works should be conditioned to be carried out in the first available planting season prior to prior to the occupation of that phase of the development.
232. For the reasons outlined above, criteria (b) is considered to be met.
233. There is no requirement for the provision of a local community or neighbourhood facility for this scale of development. The site is on the Moira Road and accessible to shops and other neighbourhood facilities.
234. With regard to criteria (d), the density is considered to be met.
235. The internal road layout provides for safe and convenient access through the site and provision is made along the main spine road for walking and cycling infrastructure, providing linkages to existing and planned networks. 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

car and cycle parking along with the provision of electric vehicle charging points. Criteria (g) and (h) are considered to be met.

236. As explained above within the context of Policy ED8, the design will ensure that no conflict with adjacent land uses will arise. Furthermore, and having regard to the layout, design of buildings and separation distances, the buildings are not dominant or overbearing and no loss of light would be caused. Criteria (i) is considered to be met.
237. Appropriate provision is made within the curtilage of individual properties for the storage of household waste. Communal provision is made to serve the apartment developments and sites are accessible to waste service vehicles. Criteria (k) is considered to be met.
238. The properties are designed to have an outward aspect, creating defensible space and well defined urban blocks. Housing is also designed to overlook landscaped open spaces, providing safe play areas with permeability is maximized where possible with the use of landscaped park areas. Criteria (l) is considered to be met.

#### Policy HOU 5 - Public Open Space in New Residential Development

239. Detail submitted with the application indicates that the site exceeds one hectare and that more than twenty-five residential units are proposed. As such open space must be provided as an integral part of this development.
240. The application provides for 91 residential units comprising bungalows, detached, semi-detached and apartments.
241. The detail associated with the site layout demonstrates that a number of public areas of open space are to be provided as part of the proposal. This space equates to approximately 8050 square metres which is 22% of the total site area and well in excess of the 10% expected for applications of this nature.
242. These pockets of amenity areas are designed to include informal pathways and planting providing easy and safe access for residents of the development. Furthermore, detail submitted with the application indicates that arrangements will be put in place for the future management and maintenance in perpetuity consistent with policy.
243. Based on a review of the information it is accepted that the proposal public open space is provided as an integral part of the development consistent with Policy HOU5 and that arrangements will be put in place for the future management and maintenance in perpetuity consistent with policy.

#### Policy HOU10 - Affordable Housing

244. The updated Planning Statement confirms at paragraph 5.11 that this is a mixed tenure scheme that includes 38 social rented houses, 16 private for rent

apartments, 12 private for sale apartments and 25 social CAT 1 apartments. This is a social/affordable housing provision equivalent to approximately 70%.

245. The location of the various accommodation types are shown on the Proposed Site Plan and for this reason, the affordable housing tests associated with Policy HOU10 of the draft plan strategy is considered to be met subject to this provision being secured and agreed through a Section 76 Planning Agreement.

### **Natural Heritage**

246. Paragraph 9.2 of the updated Planning Statement indicates that the proposed site is not located within any statutory or non-statutory designated sites. It also recognises that the site is hydrologically linked to designated sites of international and national importance via the River Lagan.
247. An Ecological Impact Assessment carried out by RPS is submitted in support of the application. The aim of this assessment is to describe the existing ecological environment within and surrounding the proposed project; to identify potential ecological features; to identify the potential impacts associated with the proposed project during construction, operation and decommissioning; to evaluate the likely significance of effects on the ecological impacts and to highlight potential opportunities for ecological enhancements.
248. Section 3.3 of the Assessment explains that an Extended Phase 1 Habitat Survey was conducted in May 2021. At section 3.5, it is explained that a shadow Habitats Regulation Assessment has also been prepared to assist the Council in fulfilling its obligations under the Habitats Regulations.
249. The Ecological Assessment considers Habitats and Species within the site. With regard to Habitats, the habitats identified were considered to be of ecological value at a site level only. Whilst no visible watercourses or drainage ditches are identified onsite, the closest waterbody is identified is Flush Bridgestream. This watercourse is identified as being of regional ecological value.
250. In relation to species, the assessment identified Bats, Otters, Badgers and Birds. With regard to Otters, consultations and surveys identified no historic records of otter within 1 km of the site nor underground Holts above ground couches or any other evidence of otter recorded within the site.
251. Whilst consultations identified two history records of badgers within 1 km of the site, the closest was recorded 740 metres northwest of the site with the second 810 metres North West. There were no badger setts or evidence of badgers recorded within the site.
252. Boundary trees and scrub was considered to have potential to provide suitable nesting and foraging habitat for a range of bird species with a pair of nesting ravens noted on a stairwell ladder of the feed mill.
253. Consultations identified no historical records of bat species within the site. The assessment notes that the site is within an industrial/urban residential setting and that it consists of habitats including buildings, scatter trees, neutral grassland and



- scatter scrub which have potential to be used by a small number of bats for foraging and commuting. This along with the extensive illumination in the area associated with businesses within the industrial estate of Flush Bridge Industrial Estate is considered to make the site unsuitable for bats.
254. The assessment indicates at section 4.4.1.1 and 4.4.1.2 that the buildings and trees within the site were subject to Preliminary Roost Assessments to identify potential entry and exit points and/or features that could provide roosting habitat for bats.
  255. With regard to the structures onsite, the additional surveys confirms that they have a low suitability to provide roosting habitat for bats. Likewise, trees within the boundary of the site have been assessed as providing negligible or low value for roosting bats due to the absence of suitable features.
  256. The Ecological information submitted in support of the application confirms that the development will have no significant effect on habitats of species of local importance or regional importance.
  257. A response from Natural Environment Division dated 06 December 2022 confirmed that it had considered the impacts of the proposal on the site and, on the basis of the information provided, is content with the proposal, subject to condition to ensure compliance with wildlife order.
  258. A response from Shared Environmental Services dated 01 March 2023 confirmed that the application had been considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on the Councils behalf.
  259. Confirmation is also provided that an appropriate assessment in accordance with the Regulations having regard to the nature, scale, timing, duration and location of the project has been carried out and that the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.
  260. There is no reason not to disagree with the appropriate assessment of Shared Environmental Services in this instance and not accept the conclusion reached that the proposed development would not have an adverse effect on the integrity of any European site.
  261. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation. This conclusion is subject to the recommended mitigation measures being made a condition of any approval.
  262. There are no natural heritage features worthy of protection including trees and woodland within the application site and for the reasons set out in the initial DM officer report at paragraphs 181 - 196, the ecology report submitted in support of the application demonstrates that the proposed development in that appropriate mitigation and/or compensatory measures have been proposed to outweigh the impact on priority habitats and priority species.

263. For the reasons outlined, the proposed development will give rise to no significant adverse effects on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby and as Policy NH5 of the draft Plan Strategy (as modified by Direction of the Department) is capable of being met.

### **Access Movement and Parking**

264. The P1 Form indicates that the proposal involves the construction of a new access to the public road for both vehicular and pedestrian use.

265. A Transport Assessment (TA) form prepared by RPS was submitted with the application.

266. The assessment notes that the Moira Road is a two lane carriageway which provides connectivity to Lisburn City Centre and from there further connections to the strategic road network are available.

267. Moira Road also provides connectivity to the North Lisburn Feeder road via Knockmore link and also forms part of the protected road network. It is a protected route within a settlement but there is no alternative access to a minor road.

268. The TA confirms that although the existing vehicular access can serve the proposed development, it is proposed to move the access in an easterly direction to create greater separation from the adjacent industrial/retail employment uses. The existing access will be closed off to the satisfaction of DfI Roads.

269. The proposed development will be accessed via a new site access junction on Moira Road and visibility splays of 4.5 metres x 70 metres are shown on the site layout plan [drawing 02] to be provided in each direction. Dropped kerbs and tactile paving will be provided at the site access consistent with policy.

270. The TA confirms that the predicted proposed development will generate a total of 62 trips in the AM peak hour and 67 trips in the PM peak hour periods based on the 85<sup>th</sup> percentile trip rates.

271. The TA also confirms that it is anticipated that the co-working Wi-Fi hubs will not generate new trips onto the external road network, but will serve the proposed residents of the residential element of the scheme.

272. The report concludes that the additional traffic generated by the proposed development can be accommodated on the surrounding network

273. Provision is made in the scheme for a total of 185 spaces, this includes 71 in-curtilage spaces, 74 communal spaces, 36 spaces associated with the industrial/business units and 4 EV charging spaces.

274. Based on the current parking standards and guidance in creating places the residential element of the development (91 units) would require a total of 172 parking spaces. These guidelines are applicable to both private housing and affordable/social housing.
275. The proposed development provides a total of 145 spaces which equates to 1.59 spaces per dwelling. That said, the agent has demonstrated through a parking statement that the reduction is due to the applicant's experience of other similar developments whereby a lesser provision has been required.
276. The parking statement concluded that the reduction in car parking provision within the proposed residential development is in with current Government Policy and strategy aimed at reducing the reliance on private car use in line with guidance set out in Creating Places and DCAN 8 – Housing in Urban Areas.
277. The statement also demonstrates that the development would qualify for reduced parking as car ownership will be below average for this part of Lisburn. It has been identified that in adjacent wards, Old Warren and Knockmore, there is an average of 1.21 and 0.68 cars per household respectively. Based on the 2 wards together there is an average of 1 car per household.
278. The site is also highly accessible, is located only 2.5 km out of Lisburn City Centre and has bus stops located within 100 metres of the site access.
279. This is one of the exceptions provided for in policy TRA7 and there is no reason to disagree with the findings of the parking assessment.
280. Access to the rail halt from the proposed site is also an important material consideration. This element will unlock the full potential of the Lisburn West Railway Halt and will benefit future residents and workers. A ramp and stairs will be provided within the site providing direct access to the rail network along with a new bridged access to new platform over the ramp.
281. The access to the Rail Halt will deliver added value to the wider area in terms of facilitating enhanced public transport services. The applicant has agreed to provide the new ramped access and steps which will be delivered by Translink.
282. The new development will also provide a continuous footway link through the proposed development to the existing public network on the Moira Road providing a safe and separate route for pedestrians.
283. With regards to the parking for the Employment and Business uses 36 spaces and 4 EV spaces are to be provided. Whilst there is again a shortfall of 22 spaces the same case has been put forward for the deficit as was used above for the justification in the reduction of car parking spaces associated with the residential element of the proposal.
284. Seventy covered cycle stands are also proposed together with an area allocated to the rear of block B for future cycle parking for the rail halt.
285. Having considered the information put forward to demonstrate the reduced level of car parking provision it is considered the development site is well served by

existing pedestrian and public transport services and the proposed connection to the West Lisburn Railway halt further enhances the attractiveness of public transport as a viable mode of transport to the site and that on balance a reduction of car parking provision in relation to this proposal is acceptable.

286. 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.
287. Based on a review of the detail and having regard to the advice from DfI Roads it is considered that the proposed development will not prejudice the safety and convenience of road users and that it complies with the relevant policy tests set out in policies TRA1, TRA2, TRA3, TRA7 and TRA8 of the draft Plan Strategy (as modified by Direction of the Department).

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

288. An updated drainage assessment received in March 2023 takes account of minor changes to the overall layout of the site. Section 2.2 of the drainage assessment identifies existing flood risk associated with Watercourses and Surface Water.
289. Paragraph 2.21 confirms that a designated water course, the Flush Bridge Stream Part 1, flows along the western boundary of the site in a twin 1950 diameter culvert. This watercourse is confirmed as a tributary of the River Lagan.
290. Section 4 of the updated drainage assessment explains that it is proposed to install a new storm drainage system that will eventually discharge to the culverted watercourse at the same location as existing. Detail indicates that discharge will be at a rate of 149.23l/s – equivalent to the existing discharge rate. It also explains that the discharge will be limited by a hydro-brake on the outlet manhole.
291. Runoff from the site is calculated as 439.32/s, and it is therefore required to attenuate a flow of 99.6l/s within the site. It is explained that a total of 377 m<sup>3</sup> is required during a 1 in 100 year event and that attenuation is proposed to be provided in large diameter pipes and manholes.
292. Calculations for the drainage network include:
- A summer and winter event profile;
  - Storm return periods for up to an including seven day duration
  - A 10% allowance for urban expansion
  - A 10% allowance for climate change.
293. The assessment concludes that no new or existing properties are at increased risk of flooding from overland flow in a 1 in 100 year event.
294. With regard to Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure, DfI Rivers advise that the site is bounded at the west by a culverted watercourse which is designated under the terms of the Drainage

(Northern Ireland) Order 1973, and is known to DfI Rivers as: 'Flush Bridge Stream Pt 1' and that the site may be affected by undesignated watercourses of which we have no record.

295. Consistent with paragraph 6.32 of the justification and amplification to Policy FLD 2, the site layout [drawing 02] shows that an adjacent working strip along a watercourse is to be retained along with a working strip to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners.
296. In relation to Policy FLD3 - Development and Surface Water - DfI Rivers acknowledged that the drainage design requires further revisions.
297. Whilst no objection is offered, DfI Rivers recommend that any decision issued includes a condition that prior to the construction of the drainage network, that a final drainage assessment, compliant with FLD 3 and Annex D of PPS 15, is submitted to demonstrate the safe management of any out of sewer flooding emanating from the surface water drainage network. The need for a drainage assessment still is required in accordance with best practice in the new policy and will be dealt with as an informative rather than a condition.
298. Water Management Unit has also considered the impacts of the proposal on the surface water environment and in a response received on 6 December 2022 advise that they have no objection subject to NIW providing confirmation that the WWTW and associated sewer network is able to accept the additional load consistent with their regulations.
299. NI Water in a response received on 28 October 2022 confirmed that there was available capacity at the Waste Water Treatment Works and that there was a public foul sewer within 20 metres of the proposed development boundary which can adequately service these proposals.
300. Based on a review of the information provided and the advice received from both DfI Rivers, Water Management Unit and NI Water, it is considered that the proposed development is being carried out in accordance with the requirements of policies FLD 2 and 3 of the draft Plan Strategy as modified by the Direction of the Department).

### **Contaminated Land Contaminated Land/Human Health**

301. A Generic Quantitative Risk Assessment (GQRA) report, has been provided by RPS in support of this planning application.
302. The report describes the investigations undertaken to characterise the existing ground conditions beneath the proposed site and to quantify the potential risks to the proposed development from soil borne gases, sub-soil contamination and groundwater.
303. The report is informed by site investigations and environmental monitoring data from a total of fifteen boreholes excavated to a depth of 6.0 metres and three boreholes excavated to twenty five metres to reach.

304. The installation of standpipes allowed ground gas and groundwater monitoring to be undertaken as part of the site assessment. A total of 12 further monitoring wells were installed to enable groundwater and ground gas data to be collected.
305. A Remediation Strategy, Implementation and Verification Plan dated February 2023 was submitted in response to comments from DAERA to address the hotspot of hydrocarbon contamination identified at borehole 13 of the Generic Quantitative Risk Assessment (GQRA) report.
306. Paragraph 3.3 identifies the following remedial measures in order to break identified pollutant linkages:
- Excavation works be undertaken at the site to remove or treat the residual sources of ground contamination identified above. Figure 1 within Appendix 2 shows locations of identified sources of contamination requiring treatment;
  - Impacted groundwater will be addressed initially by pumping from installed abstraction sumps. The impacted groundwater will either be removed from site for treatment or disposal, or treated onsite and circulated;
  - The excavation of soils from the site will be verified by validation sampling and testing from the bases and sides of the excavations;
  - The removal of impacted groundwater from the site will be verified by the results of groundwater sampling and testing from sumps installed within the abstraction area;
  - The results of validation tests on soil samples will be compared to the site specific remedial target concentrations derived by RPS following GQRA and presented within Appendix 4. Groundwater flow has been established by MCL to be in a north westerly direction, suggesting the possibility of an off-site source of groundwater contamination, particularly in the area around BH13 given its proximity to the site boundary. Therefore groundwater validation will demonstrate betterment of underlying groundwater conditions during groundwater treatment followed by three rounds of post treatment monitoring to further refine groundwater conditions.
307. Advice received from DAERAs Regulation Unit and Groundwater Team on 06 December 2022 confirmed that the Generic Quantitative Risk Assessment (GQRA) report and remedial strategy and proposed mitigation had been considered that they had no objection to the proposed development. Conditions to ensure the impact of the below ground contamination is mitigated are recommended.
308. The mitigation measures discussed above include the removal of soil from the site that have been contaminated with asbestos fibres.
309. With regards to groundwater a specialist contractor has been appointed to implement a dual phase extraction system which will be used to extract ground water and vapours. Monitoring of groundwater quality will be undertaken during the recovery process.

310. The Council's Environmental Health Unit also provided advice with regards potential impact on amenity and human health.
311. In relation to contamination and in receipt of the reports mentioned above and also commented upon by Regulation Unit, Environmental Health were content subject to the conditions recommended.

### Noise

312. A Noise Impact Assessment dated March 2023 was submitted in support of the application. The objective of the report is to assess the suitability of the site for residential development and to provide mitigation measures where necessary.
313. Noise sources in the area include traffic on the adjacent Moira Road and the Belfast to Dublin railway line which runs along the northern boundary of the site.
314. Baseline noise measurements were conducted at three locations in February 2019 and four locations in July 2022 within the proposed site.
315. The noise monitoring locations were chosen in order to be representative of the existing noise environment.
316. The Noise Impact Assessment Design Statement concluded that the development is deemed to be low risk as the measured noise levels were in accordance with guidance.
317. The building structure along with glazing specifications within the proposed residential element of the scheme will ensure that internal noise levels will not exceed 30dB in bedrooms or 35 dB in living area in accordance with WHO design criteria and British Standards.
318. It has also be concluded that measured noise levels in external amenity areas are less than 50dB externally. Screening effects of buildings and dwellings will reduce ambient daytime noise levels to with WHO guideline values and British Standards.
319. Environmental Health were consulted with the proposal and responded in May 2023 with no objections subject to condition's relating to acoustic barriers and mechanical ventilation.
320. Based on a review of the detail submitted in relation to Noise and the advice received from Environmental Health, it is accepted that the proposal subject to mitigation will not have an adverse impact on the amenity of residents. The requirements of paragraphs 4.11 and 4.12 of the SPPS are considered to be met.

### Air Quality

321. With regards to residential amenity an Air Quality Assessment dated March 2023 was submitted in support of the application. The objective of the report was to assess the impact on air quality during the construction phase. It also include detailed mitigation methods for controlling dust and pollution emissions associated with plant and vehicles.
322. The report concluded that during the construction phase impacts such as dust generation and plant/vehicle emissions are predicated to be of short duration and only relevant during the construction phase.
323. Implementation of the mitigation measures as set out in the Institute of Air Quality Management (IAQM) guidelines should reduce the residual dust effects to a level categorised as not significant/negligible
324. The Air Quality Assessment conclusion states that using professional judgement the resulting air quality effect of the proposed re-development is considered to be not significant overall and therefore there are no constraints to the development in the context of air quality.
325. Environmental Health were consulted with the proposal and responded in May 2023 with no objections subject to condition's stating that a construction and demolition noise assessment shall be submitted to the Council for approval prior to the commencement of development on the site.
326. Based on a review of the detail submitted in relation to Air Quality and the advice received from Environmental Health, it is accepted that the proposal subject to mitigation will not have an adverse impact on the amenity of residents. The requirements of paragraphs 4.11 and 4.12 of the SPPS are considered to be met.

### Consideration of Representations

327. Consideration of the issues raised by way of representation is set out in paragraphs below:
- Binding Covenant on Land
328. Reference is made to a covenant associated with lands to which the application relates whereby it binds the lands as follows:
- Not to use the land herein for any purpose other than industrial and for recreational purposes in connection with the factory on the lands herein.*
329. The view is expressed that the proposed development is in breach of this covenant.
330. Whist the covenant details are not provided to officers in full, the clause as outlined is noted. That said, the onus will be on the applicant to ensure that they have obtained all the necessary permissions prior to any development being carried out. For this reason, only limited weight is attached to the concern expressed in this regard and it is not sufficient to justify a refusal of planning permission.



- House Types
331. As demonstrated in the report, the proposal include a mix of house types. Detail associated with the proposed site plan [drawing 02] shows the gable end of a bungalow approximately four metres off the common boundary with 17 Rossvale Meadows.
332. Detail associated with the proposed site boundary treatment drawing indicates that a 1.8 metre high timber hit and miss fence will extend along the boundary with 17 Rossvale Meadows. The boundary will also be planted in accordance with the Planting Plan.
333. The dwelling proposed closest to number 17 Rossvale Meadows at site number 11 is a bungalow and it will site on a similar level to this property. The relationship between the proposed dwelling and the existing dwelling is side to side at a distance of approximately 10 metres.
334. It is considered that given the existing levels, the dwelling to be constructed is single storey and the proposed boundary treatment that there will be no overlooking, overshadowing or loss of residential amenity to the existing property at 17 Rossvale Meadows
335. Taking into account the proposed boundary treatments and house type proposed to be erected adjacent to 17 Rossvale Meadows, no impact on light or privacy will arise.
- Mobile Phone Mast
336. The detail associated with the application does not include any new additional phone masts.
337. The issues raised in a late representation are considered below:
- Inconsistencies in approach
338. The late representation claims that advice provided as part of Pre-Application Discussions indicates a predisposition and predetermination in approach in advance of the application being submitted.
339. The purpose of the Pre-Application Discussion process is to facilitate effective and meaningful discussions, ensure that opportunities to work collaboratively with applicants are formed and to improve the quality of developments. Any discussions are without prejudice and this application has been subject to a full and proper consultation and assessment as demonstrated above.
340. It also expresses the view that the Council has been inconsistent with its approach applied in this application compared with that of LA05/2021/0033/F (Rolls Royce). A draft report associated with this application was attached.
341. Whilst the argument advanced is not explained each application is considered on its own merits. The characteristic of the established employment use and its location in an area of primary or secondary importance are all material

considerations that might lead the planning authority to different conclusion. The example offered has a different context. It is important to note that this application is not without precedent as a previous approval by the Council for a mixed use scheme at the Comber Road Dundonald was a secondary employment location and a similar scale of put back in terms employment use.

342. The material considerations weighed in this instance identify the Rolls Royce to be of more strategic importance in terms of location.
343. The site associated with the current application is more specifically distinguishable from the Rolls Royce site in that it is adjacent to the rail halt, which will provide a sustainable transportation hub where it is widely recognised will have regenerative impacts by virtue of employment uses and rail connections being linked. The innovation shown through the current application has the potential to boost the wider economy within Lisburn.
- Existing Industrial/Economic Use
344. The late representation accepts that the existing buildings on site remain in situ and that the use has not been abandoned.
345. Whilst the building is still on site, the marketing agent Lambert Smith and Hampton have stated that the building associated with former Mill operations has not been in use since 2013 and that there has been only a few queries but no interest since the application went on the market in 2021.
346. This is only one of a number of determining factors weighed in the decision making process. It is considered that the proposed redevelopment of the site which includes business units and transportation hubs is a more sustainable way to ensure a level of economic activity remains on the site. The provision of residential alongside the employment uses will also bring wider economic, social, community and infrastructure benefits to the area. This is discussed in detail in the report.
- Regional Development Strategy [RDS]
347. The representation makes reference to the aims of the RDS in relation to Economic Growth and Sustainable Economic Infrastructure. It makes reference to it being the overarching framework and to its strategic guidelines in so far as it relates to overgrown, underutilised land and buildings and promoting economic development. The link between the RDS and the Plan policies is identified and the proposal considered to be an exception to policy for the reasons outlined above.
- Local Development Plan
348. The representation makes reference to the plan led system taking primacy in the determination of planning applications. It acknowledges that the Lisburn Area Plan [LAP] is the statutory plan with draft BMAP being a material consideration.

349. The Plan directs officers to the regional policy for the purpose of assessment and this is set out in the planning report. It is clearly stated that the proposal is contrary to policy and then the other material considerations are weighed and reasons are provided why this proposal should be treated as an exception to policy.

- Emerging Local Development Plan

350. The representation states that no weight should be attributed to the emerging plan. As explained above, a Direction issued by the Department for Infrastructure is a material consideration of determining weight in the assessment of this application.

- Strategic Planning Policy Statement

351. The representation states that the SPPS is a material consideration with specific reference made to paragraph 6.89 which states:

*It is important that economic development land and buildings which are well located and suited to such purposes are retained so as to ensure a sufficient ongoing supply. Accordingly, planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process. While the same principle should also apply generally to unzoned land in settlements in current economic development use (or land last used for these purposes); councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use.*

352. Whilst the representation focuses on the line which makes reference to **any decision to reallocate such zoned land to other uses ought to be made through the LDP process** it fails to consider the fuller context of this paragraph which goes on to say that Councils may wish to retain flexibility to consider alternative proposals the offer community, environment or other benefits, that are considered to outweigh the loss of land for economic development use.

353. It also claims that prematurity is engaged as the Council is making a determination outside the LDP process.

354. Prematurity is not engaged. The Direction for adoption of Part One of the Plan is known and the weight to be afforded to the transitional arrangements for Part Two are taken account of in the assessment of this proposal. It is not premature to take account of the emerging draft Plan Strategy for the reasons outlined in the report and the fact that Part Two is not progressed does not mean that this proposal is premature.

355. Reference is made to Noise with specific reference made to the amenity space and roof top amenity space associated with the introduction of residential development Block B.
356. The view is expressed that the advice from Environmental has not considered the external noise levels and that there is no condition in respect of the 2 metre acoustic barrier along the western boundary.
357. Whilst no contrary evidence is provided in the late representation, the evidence before officers by way of a noise assessment concludes that the existing adjacent uses would not be detrimental to the residential amenity of the proposed development and subject to mitigation measures.
358. These mitigation measures include the erection of acoustic barriers and the use specialised glazed windows and frames along with passive and mechanical ventilation.
359. Environmental Health have confirmed that they are content with the advice provided in this regard and that the barrier shown to the western boundary does not serve to mitigate the noise as part of the assessment and as such, it is not required to be erected prior to occupation of the dwellings.
360. In relation to the comments made in the late representation to the proposal development being incompatible the policy context associated with the SPPS and ED8 have been considered as part of the assessment. This is dealt with in the planning report and the impact is not considered to be significant to justify a refusal of planning permission.
361. Officers are not required to explore matters with the established adjacent landowners as has been suggested. Officers assess the application having regard to the local development plan and other material considerations presented in support of and in opposition to the development. No evidence is presented to the Council to demonstrate that nuisance will arise as a result of the proposed development.
- Planning Advice Note – Implementation of Planning Policy for the retention of Zoned Land and Economic Development Uses
362. The view is expressed that the PAN did not go through public consultation and does not add to or change existing policy or guidance. It is published guidance and whilst of lesser weight than policy is a material consideration.
363. Paragraph 16 of the PAN states that:
- In the case of planning applications involving a departure from a development plan zoning, for example from light industrial use to a mixed use development, planning officers should be fully satisfied that it has been clearly demonstrated how the special circumstances of a particular case outweigh the preferred option of retaining the land for economic development use.*

364. Paragraph 17 of the PAN states that:

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

365. For the reasons outlined in the main body of the report, weight is attached to other material considerations with reasons clearly articulated to justify how the special and unique circumstances of this site are considered to outweigh the preferred option of retaining the land or buildings for economic development use.
366. The need for an independent development appraisal and viability report is not considered to be necessary in this instance as it is a well-known fact that the rail halt is in the Translink Capital Works Programme and that it does not have a link to the Moira Road side of the track.
367. This proposal provides that linkage and provides integration through the provision of a sustainable transport hub and connectivity to other means of employment out with the Council area.
368. Consistent with bullet point 3 of paragraph 21 of the PAN, the proposed mixed use development does have the potential to regenerate the existing urban area through the provision of affordable housing, a mix and variety of employment uses and infrastructure which makes the site more attractive as it now has accessibility to the strategic rail network.
- Planning Policy Statement 4 – Industry and Business
369. This policy is now of limited weight in the assessment of this proposal but the representation insofar as it expresses the view that no consideration is given to the material fact that the zoned land has not been substantially developed for alternative uses has been considered. The view is also expressed that there is no evidence provided by the applicant to demonstrate that the site is uneconomical. Reference is again made to the absence of an independent development appraisal and viability report.
370. Whilst this is a view expressed, no evidence is provided to the contrary. That said, evidence associated with an updated Planning Statement provides detail in relation to existing uses across the employment site.
371. Paragraph 58 of the updated planning statement provides a breakdown of uses across the application site as follows
- *Light industrial units – 0.76 hectares*
  - *Flexible workspaces/ Wi-Fi hubs / staff hub – 0.03 hectares*
  - *Residential – 2.78 hectares*
  - *Coffee hubs – 0.01 hectares*

372. Paragraph 8.2 states that

*The application site itself, which for the purposes of the ELR, has been identified as forming part of the Flush Park Industrial Estate, Knockmore Road/Moira Road. The area zoned is 8.47 ha with the application site comprising 3.55 ha, which is the area remaining. Appendix 5 of the ELR provides a breakdown of the existing uses as follows.*

*Class B1 – 0.9 hectares*

*Class B2 – 0.16 hectares*

*Class B3 – 0.00 hectares*

*Class B4 – 0.25 hectares*

*Class B – 1.32 hectares*

*Ancillary outbuildings – 2.26 hectares*

*Non-B use classes – 0.34 hectares*

*Undeveloped area (e.g., roads, parking, floodplain) – 1.00 hectare*

*Vacant greenfield – 1.42 hectares*

*Vacant brownfield – 2.13 hectares*

373. The Non B uses include Tool hire and sales outlets, carpet supplies, bookies, coffee outlets. Medical clinic and indoor recreational facilities to name but a few. This detail demonstrates that the zoning has been substantially developed for alternative uses.

374. The application proposes a mixed use development and the detail indicates that approximately 2.78 hectares of the site will be lost to non-economic development uses [primarily residential use]. This equates to approximately 78 % of the entire application site and less than a third of the overall employment zoning [8.47 hectares] which equates to 33% of the overall zoning.

- Access, Movement and Parking

375. The representation expressed the view that DfI Roads remain unsatisfied as that there will be significant intensification of the access and that third party lands are requested to gain access. No evidence is provided to substantiate the claim in relation to intensification.

376. DfI Roads have confirmed as part of the application process that they have no concerns in principle with the proposed access arrangements. Whilst some minor revisions have been requested to Private Street Determination Drawings to address technical points, this information is provided and is with DfI Roads for endorsement.

377. The report demonstrates that the proposed development provides a total of 145 spaces which equates to 1.59 spaces per dwelling which is a reduction on existing standards.

378. Whilst a reduction in standards is noted, regard is had to the fact that the site is well served by existing pedestrian and public transport services.

379. The proposed connection to the West Lisburn Railway halt further enhances the attractiveness of public transport as a viable mode of transport to the site and as such, a reduction in car parking provision in relation to this proposal is on balance considered to be acceptable.
- The Planning (Notification of Applications) Direction 2017
380. The representation expressed the view that the proposed developments potential conflict with regional planning policies and the potential implications for the implementation of the plan led system are engaged and as such, the Council is required to notify the Department of its decision.
381. In consideration of this point, it is acknowledged that Councils are required by the Planning (Notification of Applications) Direction 2017 to formally notify the Department where they are minded to grant planning permission for certain types of application.
382. Members are advised that the direction restricts the grant of planning permission and requires a council to send information to the Department. The schedule attached to the notification direction sets out the following circumstances when councils should notify the Department:
- (i) A major development application which would significantly prejudice the implementation of the local development plans objectives and policies;
  - (ii) A major development application which would not be in accordance with any appropriate marine plan adopted under the Marine Act (Northern Ireland) 2013; or
  - (iii) A government department or statutory consultee has raised a significant objection to a major development application.
383. Consideration of the circumstances set out in the Notification Direction are set out below:
- (i) **A major development application which would significantly prejudice the implementation of the local development plans objectives and policies;**
384. The report presented to Planning Committee sets out the local development plan context associated with the application site.
385. Taking account of a publication by the Chief Planner for Northern Ireland, which advised that the draft plan along with representations received to the draft plan and the PAC inquiry report, the officer report advised members that significant weight was afforded to employment designation in the draft plan.
386. As explained, 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 other material considerations indicate otherwise.
387. It is for the Members to consider the advice provided in this report. It is their judgement to accept whether that greater material weight should be afforded to a

number of other material considerations specific to this particular part of the employment zoning that offer greater community, environmental or other benefits that are considered to outweigh the loss of land for economic development use.

388. If the recommendation is reached this is informed by a body of evidence presented in support of the application and having regard to the advice published in November 2015 on the implementation of planning policy for the retention of zoned land for economic development uses.
389. If the mixed use scheme is considered to represent a more sustainable use of the land, integrating affordable housing and employment uses, promoting choice and access to employment consistent with the thrust of regional and strategic policy and providing infrastructural benefits that will bring regenerative benefits and help the economic element of the proposal to succeed.
390. For these reasons, the mixed use development would not in this circumstance significantly prejudice the implementation of the local development plans objectives and policies and as such, the threshold for notification on the bases of this criteria would be not met.

**(ii) Major development application which would not be in accordance with any appropriate marine plan adopted under the Marine Act (Northern Ireland) 2013; or**

391. This criteria is not applicable to this assessment.

**(iii) A government department or statutory consultee has raised a significant objection to a major development application**

392. The report provides details on the consultations carried out as part of the application process. No government department or statutory consultee has raised a significant objection to this major development application and as such, the threshold for notification on the basis of this criteria would not be met.
393. For the reasons outlined, Members are advised that should they accept the advice in this report that the test of the Regulations for DfI to be notified of this decision is not met.

## Recommendation

394. The application is presented with a recommendation to approve subject to conditions outlined and a Section 76 Agreement requiring the developer to:
- confirm in writing to the Council when development will be commenced;
  - Provide a link to the proposed Knockmore rail halt as shown on drawing 02 – Proposed Site Plan before the last residential unit is occupied; or
  - Enter into an agreement with Translink before the occupation of the last residential unit to fund the construction of the link to the rail halt in the future up to a value to be agreed with the Council at this time.
  - Provide affordable housing.



## Conditions

395. 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. All hard and soft landscape works shall be carried out in accordance with Drawing 01K bearing the date stamped 16<sup>h</sup> March 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.

4. Prior to the occupation of the first dwelling, a phasing plan for the landscaping works shall be submitted to and agreed in writing with the Council.

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

5. Prior to the occupation of the first dwelling the hard and soft landscaping works shall be carried out in accordance with the agreed phasing plan and maintained and managed thereafter, in accordance with the approved Plan by a suitably constituted management company.

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

6. 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.

7. No retained tree as identified on Drawing 01K bearing the date stamped 16<sup>h</sup> March 2023 shall be cut down, uprooted or destroyed or have its roots damaged nor shall arboriculture work or tree surgery take place on any retained tree without the written consent of the Council. 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

8. No more than 47 dwellings shall be built and occupied until the commercial/industrial units indicated as W1-W6 on the proposed site plan bearing the Council date stamp 16 March 2022 are fully constructed.

**Reason:** To ensure the delivery of the commercial/industrial units and comprehensive development of the site

9. The development hereby permitted shall not commence until a detailed remediation strategy to address the hotspot of hydrocarbon contamination identified at borehole BH13 in the RPS Group Ltd Generic Quantitative Risk Assessment Report, Moira Road, Lisburn, IBR1106, dated August 2022 is completed. This strategy must be submitted in writing and agreed with the Planning Authority and should identify all unacceptable risks on the site, the remedial objectives/criteria and the measures which are proposed to mitigate them (including maps/plans showing the remediation design, implementation plan detailing timetable of works, remedial criteria, monitoring program, etc).

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

10. The development hereby permitted shall not be occupied until the remediation measures as described in the remediation strategy submitted under Condition 9 have been implemented to the satisfaction of the Planning Authority. The Planning Authority must be given 2 weeks written notification prior to the commencement of remediation work.

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

11. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at

<https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

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

12. After completing the remediation works under Conditions 8, 9, and 10 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>.

The verification report should present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

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

13. In the event that piling is required, no development or piling work should commence on this site until a piling risk assessment, undertaken in full accordance with the methodology contained within the Environment Agency document on “Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention”, has been submitted in writing and agreed with the Planning Authority. The methodology is available at:

<http://webarchive.nationalarchives.gov.uk/20140329082415/http://cdn.environment-agency.gov.uk/scho0501bitt-e-e.pdf>.

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

14. Operating hours of the commercial units, industrial units, employment units and take away coffee pod units shall not exceed 0700-2300 hours.

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

15. During the operational phase of the commercial units, industrial units, employment units and take away coffee pod units no activity which is likely to generate excessive noise e.g. delivery, shall be undertaken outside 0800-2100 hours.

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

16. Prior to occupation of the proposed dwellings hereby approved, a window system (glazing and frame) capable of providing a sound reduction index, when the windows are closed, of at least 38dB(A) RTRA, shall be installed to all habitable rooms on the north, east and west facades of blocks C and D all habitable rooms to block B. A window system (glazing and frame) capable of providing a sound reduction index, when the windows are

closed, of at least 33dB(A) RTRA, shall be installed to all other habitable rooms within the development.

**Reason:** To achieve internal noise level in line with BS8233

17. Prior to occupation of the proposed dwellings hereby approved, passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 38dB(A) RTRA when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be installed to all dwellings in blocks B, C and D. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30dB(A), whilst providing a flow rate of at least 15 litres per second.

**Reason:** To achieve internal noise level in line with BS8233

18. Prior to occupancy of the dwellings a 1.8m high acoustic barrier shall be erected along the northern boundary of the site as presented on approved drawing 2646-DR-16-0004. The barrier should be constructed of a suitable material (with no gaps), should have a minimum self-weight of at least 10 kg/m<sup>2</sup> and so retained thereafter.

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

19. The development hereby approved shall be undertaken in strict accordance with the Outline Construction Environmental Management Plan dated March 2023 including the noise and dust mitigation measures contained therein.

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

20. Construction hours for the development shall be limited to 0700-1800 hours Monday to Friday, 0800-1300 hours Saturdays with no construction works on Sundays or Bank Holidays

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

21. During demolition and construction of the development hereby approved if there are any signs of rodent activity on site, or at the request of the Council, a pest control management plan shall be submitted to the Council. The pest control management plan should include details of a survey, treatment and ongoing measures to control pests.

**Reason:** To ensure adequate control of pests

22. Prior to the installation of the combustion system(s) for heating and hot water to any non-residential elements of the development, with a rated thermal input greater than 1MW, the applicant must submit an updated air quality impact assessment. The updated air quality assessment shall

provide specific details of the proposed combustion system including, emission rates and flue termination heights. The updated assessment must demonstrate that there will be no significant adverse air quality impacts associated with the operation of the proposed combustion systems. The combustion systems shall be maintained and operated in accordance with the approved details and retained thereafter.

**Reason:** To protect the amenity of neighbouring dwellings with respect to air quality

23. The rated sound pressure level (LAR, 15mins) of any plant or equipment associated with the commercial units, industrial units, employment units and take away coffee pod units measured at 1m shall not exceed the background noise level of 43dB (0700-2300 hours) or 37dB (2300-0700 hours).

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

24. The development hereby approved shall be undertaken in strict accordance with the Noise Impact Assessment dated March 2023 and specifically the noise mitigation measures contained therein.

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

25. The development hereby approved shall be undertaken in strict accordance with the Dust Management Plan submitted as part of the Air Quality Impact Assessment dated March 2023 and specifically the dust mitigation measures contained therein.

**Reason:** To protect the amenity of neighbouring dwellings with respect to air quality

26. Prior to occupancy of the development hereby approved, a clean cover system shall be installed to the garden areas of site 24, 25 and 26. The clean cover system shall form an encapsulation layer above the contaminated soils.

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

27. Prior to occupancy of the development hereby approved a validation report containing full details of the selected cover system, the sampling methodology and results shall be submitted to the Council for approval. The clean cover system shall be validated in accordance with Liverpool City Council Guidance – Verification Requirements for the remediation of Contaminated Land Cover Systems. Installation of the clean cover system must be overseen and validated by a suitably qualified environmental consultant.

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

28. Prior to the commencement of development hereby approved, an internal vibration assessment in relation to block D shall be submitted to the Council for approval. The assessment shall include details of the proposed design of the foundation and floors.

**Reason:** To ensure development is compliance with BS6472-2:2008

29. Any artificial lighting to the development must minimise obtrusive light and conform to the maximum values of vertical illuminance within the environmental zone for exterior lighting control – E3 (Suburban). These values are contained within Table 3 of the Institution of Lighting Professionals Guidance Note 01/21- The reduction of obtrusive light.

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

30. Prior to the construction of development hereby approved, a construction and demolition noise assessment shall be submitted to the Council for approval. The assessment shall include details of the predicted noise level at adjacent noise sensitive properties and any proposed noise mitigation measures.

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

31. Operating hours of the commercial units, industrial units, employment units and take away coffee pod units shall not exceed 0700-2300 hours.

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

32. During the operational phase of the commercial units, industrial units, employment units and take away coffee pod units no activity which is likely to generate excessive noise e.g. delivery, shall be undertaken outside 0800-2100 hours.

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

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closed, of at least 33dB(A) RTRA, shall be installed to all other habitable rooms within the development.

**Reason:** To achieve internal noise level in line with BS8233

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provide specific details of the proposed combustion system including, emission rates and flue termination heights. The updated assessment must demonstrate that there will be no significant adverse air quality impacts associated with the operation of the proposed combustion systems. The combustion systems shall be maintained and operated in accordance with the approved details and retained thereafter.

**Reason:** To protect the amenity of neighbouring dwellings with respect to air quality

40. The rated sound pressure level (LAR, 15mins) of any plant or equipment associated with the commercial units, industrial units, employment units and take away coffee pod units measured at 1m shall not exceed the background noise level of 43dB (0700-2300 hours) or 37dB (2300-0700 hours).

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

44. Prior to occupancy of the development hereby approved a validation report containing full details of the selected cover system, the sampling methodology and results shall be submitted to the Council for approval. The clean cover system shall be validated in accordance with Liverpool City Council Guidance – Verification Requirements for the remediation of Contaminated Land Cover Systems. Installation of the clean cover system must be overseen and validated by a suitably qualified environmental consultant.



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

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**Reason:** To ensure development is compliance with BS6472-2:2008

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

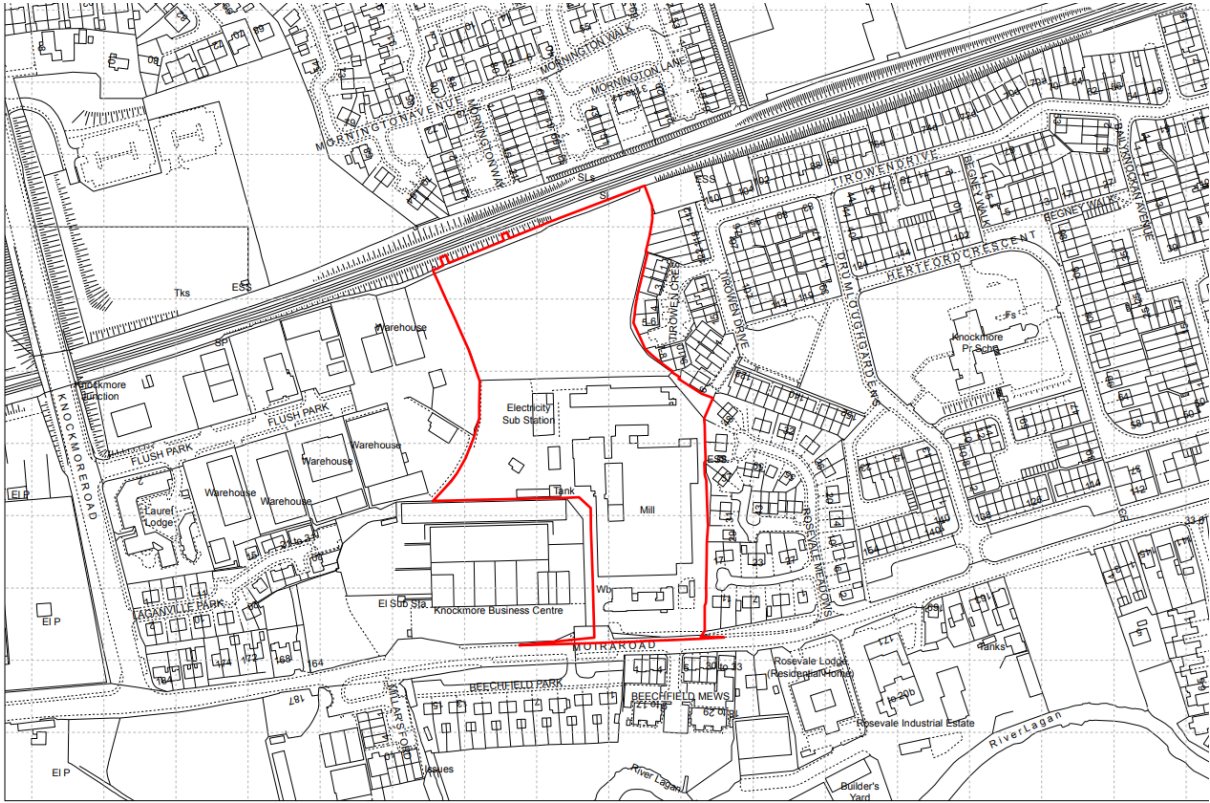
47. Prior to the construction of development hereby approved, a construction and demolition noise assessment shall be submitted to the Council for approval. The assessment shall include details of the predicted noise level at adjacent noise sensitive properties and any proposed noise mitigation measures.

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

48. The appointed contractor must submit a Final Construction Environmental Management Plan (CEMP) for agreement and approval by Lisburn and Castlereagh City Council Planning before commencement of any works on site. This plan should contain all the appropriate environmental mitigation as contained within the Outline CEMP and Shadow HRA both by RPS Consulting August 2022 and as advised by NIEA WMU and NIEA NED in their responses to the consultation dated 06/12/2022. CEMP mitigation to be implemented in full unless agreed in further consultation with Council.

**Reason:** To ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction phase that will negate effects on hydrologically connected European Site features.

Site Location Plan – LA05/2022/0830/F



## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	07 August 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2022/0272/F
Date of Application	10 March 2022
District Electoral Area	Downshire West
Proposal Description	Proposed two detached dwellings with provision for future garages
Location	Gap between 42 Halfpenny Gate Road, Moira and Broomhedge Gospel Hall, 40a Halfpenny Gate Road, Moira
Representations	One
Case Officer	Sinead McCloskey
Recommendation	<b>Refusal</b>

### Summary of Recommendation

1. 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.
2. The application is presented to the Planning Committee with a recommendation to refuse 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 draft Plan Strategy (as modified by the Direction of the Department) in that it is not a type of development which in principle is considered to be acceptable in the countryside.
3. 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 draft Plan Strategy (as modified by the Direction of the Department) in that the site is not considered to be a small gap in substantial and continuously built-up frontage sufficient to accommodate two dwellings and the development would if permitted not respect the existing pattern of development along the frontage of this part of Halfpenny Gate Road.
4. The proposal is contrary to policy COU15 of the draft Plan Strategy (as modified by the Direction of the Department) in that the proposal lacks long established natural boundaries, it relies primarily on the use of new landscaping for integration

and the buildings if approved would be prominent features in the landscape. They would also fail to cluster with an established group of buildings in the rural context.

5. The proposal is contrary to policy COU16 of the draft Plan Strategy (as modified by the Direction of the Department) in that the proposal would, if permitted be prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.
6. The proposal is contrary to policy COU16 of the draft Plan Strategy (as modified by the Direction of the Department) in that the proposal would, if permitted mar the distinction between the defined settlement limit of Halfpenny Gate and the surrounding countryside and result in urban sprawl causing a detrimental change to the rural character of the countryside. It would also fail to respect the traditional pattern of settlement of the area for the same reason.

## Description of Site and Surroundings

### Site

7. The site is located to the northern side of the Halfpenny Gate Road. It is located within part of a larger agricultural field and the land within is relatively flat in nature.
8. There is no defined boundary to the south of the site. The eastern boundary consists of a two-metre hedgerow and a 1.5-metre close board fence. There is a single storey dwelling beyond this boundary at 42 Halfpenny Gate Road.
9. There is no defined boundary to the north of the site. The western boundary consists of a 1.5 metre close board fence, beyond which there is Broomhedge Gospel Hall.

### Surroundings

10. The site is located in the countryside, between the small settlements of Upper Broomhedge to the west and Halfpenny Gate to the east. The housing in these settlements are mainly detached dwellings with medium to large curtilages.
11. Outside these settlements the land surrounding the site is primarily agricultural in use.

## Proposed Development

12. This is a full application for two detached dwellings. Provision is made for garages within the curtilage of the site but no details of the design are provided.

## Relevant Planning History

13. The relevant planning history is set out in the table below.

Application Reference	Site address	Description of Proposal	Decision
S/2015/0008/O	Beside 42 Halfpenny Gate Road Moira	Proposed Gospel hall with off street car park and ancillary facilities	Permission Granted 12/02/2016
LA05/2016/1213/RM	Beside 42 Halfpenny Gate Road, Broomhedge, Moira	Proposed Gospel Hall with off street parking & ancillary facilities	Permission Granted 02/03/2017
LA05/2017/0868/O	Beside and SW of 42 Halfpenny Gate Road, Broomhedge, Moira	Two dwellings	Permission Refused 03/07/2019

14. Planning permission for two dwellings was refused under planning reference LA05/2017/0868/O on the 03 July 2019 on a slightly larger site that included a small portion of the land to the front of the Gospel Hall. This proposal is the same in all other respects.
15. A recommendation to refuse planning permission had been endorsed by Members of the Planning Committee at a meeting held in July 2019.
16. The following refusal reasons were associated with the decision that issued:
- *The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.*
  - *The proposal is contrary to the SPPS and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is not considered to be a small gap in an otherwise substantial and continuously built up frontage and as a result the proposal will create a ribbon of development.*
  - *The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal lacks long established natural boundaries, it relies primarily on the use of new landscaping for integration and is a prominent feature in the landscape.*

- *The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted be prominent in the landscape, create a sub-urban style build-up of development and add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.*
  - *The proposal is contrary to the SPPS and Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined Settlement Limit of Halfpenny Gate and the surrounding countryside.*
17. No appeal was lodged with the Planning Appeals Commission. This is not considered to be a repeat application within the meaning of the legislation as the extent of the application boundary is changed and no appeal was lodged for a similar proposal.

**Consultations**

18. The following consultations were carried out:

<b>Consultee</b>	<b>Response</b>
DfI Roads	No Objection
Environmental Health	No Objection
NI Water	No Objection
Water Management Unit	No Objection
Natural Environment Division	No Objection
DFI Rivers	No Objection

**Representations**

19. One representation is received in opposition to the proposal. In summary, the following issues are raised:
- Planning History
  - Urban Sprawl
  - Rural Character
20. The issues raised in the objection are considered later as part of the assessment of this proposal.

## Planning Policy Context

### Local Development Plan Context

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.

### LCCC - Draft Plan Strategy 2032

22. On 28<sup>th</sup> June 2023 the Department for Infrastructure made a Direction that the Council adopt the Lisburn and Castlereagh City draft Plan Strategy subject to modifications.
23. The effect of the Direction is that the final form the Plan Strategy will take is known. For this reason the draft Plan Strategy is now a material consideration in the processing of this planning application.
24. The Department for Infrastructure provide no guidance about how to take account of the draft development plan document before it is adopted. That said, the Joint Ministerial Statement (JMS) prepared by the Department for Regional Development and the Department for the Environment in January 2005 was issued to ensure that the correct weight was given to the provisions of an emerging plan.
25. Although written for the preparation of plans in a different legislative context the JMS was never withdrawn and provides useful guidance on the approach to be taken.
26. At paragraph 22 of the JMS it is stated that:

*Where a plan is at the draft plan stage but no objections have been lodged to relevant proposals then considerable weight should be attached to those proposals because of the strong possibility that they will be adopted and replace those in the existing plan. In circumstances where there have been objections to relevant policies, lesser weight may be attached except for those situations outlined in paragraphs 20 - 21 above. Much will also depend on the nature of those objections and whether there are representations in support of particular policies.*
27. The Lisburn and Castlereagh draft Plan Strategy sets out in clear terms the direction of future policy and has been through a process of public consultation and Independent Examination.
28. Any objections to the policies set out in the draft Plan Strategy have been taken account of and the majority of the modifications directed by the Department for Infrastructure were as a consequence of changes presented by the Council at the Independent Examination to ensure the tests of soundness were met in full.

29. Applying the same principles as those set out at paragraph 22 of the JMS and for the reasons set out above there is more than a strong possibility that the proposed policies in the draft Plan Strategy (as modified) will be adopted.
30. For these reasons the draft Plan Strategy is a material consideration of determining weight in the assessment of this proposal.

### Transitional Arrangements

31. It is stated at page 16 of Part 1 of the draft 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.*

32. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.
33. 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.*

34. 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.*

35. 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.*

36. 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.*

37. There are equivalent policies in the draft Plan Strategy to the regional policies described in LAP and draft BMAP.
38. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out at page 66 of the draft Plan Strategy.
39. 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**

40. 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.*

41. As explained this is an application to infill a gap with two dwellings 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

42. 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.*

*(text in bold as modified by the Direction)*

43. 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

44. 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.*

45. The justification and amplification of this policy is modified to include the following:

***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.***

*(text in bold as modified by the Direction)*

#### Rural Character and other Criteria

46. Policy COU16 – Rural Character and other Criteria

*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**

47. 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**.*

*(text in bold as modified by the Direction)*

### **Access and Transport**

48. The application proposed a new 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.*

49. 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.*

*(text in bold as modified by the Direction)*

### **The approach to the statutory Development Plan and 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. It is stated a paragraphs 1.10 and 1.11 of the SPPS that:

*A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.*

*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.*

52. Whilst the Plan Strategy is not yet adopted and the retained suite of regional planning policies (PPS's) continue to apply in accordance with the SPPS in light of the fact that a Direction to adopt the Plan is issued these policies are now considered to be of little weight for the same reasons explained earlier in this report.
53. The operational policies in Part 2 of the draft Plan Strategy are considered to take precedence over the retained suite planning policy statements and of determining weight in the assessment of this planning application.

54. 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*

55. 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*

56. 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.*

57. 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 (as modified) have been drafted to be consistent with the SPPS.

### **Regional Policy Context**

58. As the retained regional policies still apply until the Plan Strategy is adopted, they are included in the report for completeness.

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

60. Policy CTY 1 states:

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

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

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

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

61. The policy states:

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

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

62. In terms of the principle of developing this site for two dwellings policy CTY 8 – Ribbon Development states:

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

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

*For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*

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

64. Regard is also had to the Justification and Amplification text associated with CTY 8 which states:

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

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

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

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

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

66. 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.”*
67. Officers have borne in mind that the policy in COU8 of the Lisburn and Castlereagh City Council draft Plan Strategy is similarly restricted as CTY8 and that any infill application is an exception to the prohibition on ribbon development.
68. Policy CTY 13 – Integration and Design of Buildings in the Countryside states that:
- planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*
69. The policy states that:
- a new building will be unacceptable where:*
- (a) *it is a prominent feature in the landscape; or*
  - (b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
  - (c) *it relies primarily on the use of new landscaping for integration; or*
  - (d) *ancillary works do not integrate with their surroundings; or*
  - (e) *the design of the building is inappropriate for the site and its locality; or*
  - (f) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
  - (g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*
70. Policy CTY 14 – Rural Character states:
- that planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*
71. The policy states that:
- A new building will be unacceptable where:*
- (a) *it is unduly prominent in the landscape; or*
  - (b) *it results in a suburban style build-up of development when viewed with existing and approved buildings; or*

- (c) *it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) *it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) *the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

72. Policy CTY 15 – The Setting of Settlements is considered and states:

*Planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl.*

73. Paragraph 5.83 of the justification and amplification states:

*that landscapes around settlements have a special role to play in maintaining the distinction between town and country, in preventing coalescence between adjacent built up areas and in providing a rural setting to the built up areas.*

74. Paragraph 5.84 states that:

*the principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up areas and surrounding countryside*

75. Paragraph 5.85 concludes by stating:

*Proposals that would mar this distinction or create urban sprawl will therefore be unacceptable.*

76. Policy CTY 16 - Development Relying on Non-Mains Sewerage is considered and states

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

77. The policy also states

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

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

78. With regards to Policy CTY 16, Building on Tradition [page 131] states;

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

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

### **Natural Heritage**

79. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
80. Policy NH5 addresses the impact on Habitats, Species or Features of Natural Heritage Importance and states:

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

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

81. The policy also states:

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

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

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

83. Policy AMP 2 – Access to Public Roads states:

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

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

Development Control Advice Note 15 – Vehicular Access Standards

84. The guidance linked to understanding that a safe means of access can be achieved is set out 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.’*

**Building on Tradition**

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

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

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

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

86. The guidance also 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.*

87. It also notes that:

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

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

88. 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.

89. 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*

## Assessment

90. 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.

### Ribbon Development

91. 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.*

92. The justification and amplification of COU8 is less prescriptive than paragraph 5.33 of the justification and amplification of policy CTY 8 but there are more than two buildings along the same road frontage.
93. That said, there is only one building in the rural context. Ribbon development is not therefore engaged and there is no otherwise substantial and continuously built up frontage comprised of a line of four or more buildings within the rural context.
94. Two buildings are shown in the gap but the site is not sufficient to accommodate two dwellings for the reasons outlined in the following paragraphs.
95. The approach of not counting buildings in a different policy context is well established in practice and it has also been confirmed through various appeal decisions. Examples are provided as follows with the relevant paragraphs included in support of the policy position taken.

#### 2012/A0219

96. This application was for a single dwelling 50 metres south east of 6 Church Wynd, Belfast. The appellant argued that the new dwelling was located in a cluster in accordance with policy CTY 2a. The Commission concluded that the appellant could not rely on the dwellings at 1- 4 and 5 Church Wynd as they all lie within the settlement limit of Belfast/Metropolitan Castlereagh.
97. At paragraph 5 the Commission state that:

*The other development does not therefore occupy a rural context in policy terms and cannot be counted when considering development proposals under Policy CTY2a.*

98. Whilst it is noted that the consideration of the development proposals in this appeal were against a different policy, the fundamental principle of accepting adjoining development within a settlement limit in the assessment of applications occupying a different policy context, was still dismissed.

#### 2014/A0112

99. This proposal was for two infill two storey dwellings, access, garages and ancillary works on lands 10m east of 127 Ballykeagh Road, Drumbeg.
100. Paragraph 10 of the Commissioners report stated:

*Whilst Nos 121-127 lie in the countryside, the dwellings to the east on which the appellant relies do not occupy a rural context in policy terms and therefore cannot be included when considering development proposals under Policy CTY8.*

101. The commissioner confirms that despite the site being visually linked with the terrace (121-127 Ballyskeagh Road within the settlement limit), these buildings lie within the urban fabric and settlement limit, occupying a different policy context from the appeal site.
102. The Commissioner explains that as the appeal site relies only on development to the west of the site, it therefore does not sit within a line of three or more buildings in the countryside required to meet the definition of a substantial and continuously built up frontage.

#### 2015/A0243

103. This was an appeal for a dwelling and garage 84 metres west of 13 Bannview Terrace, Portglenone. The applicant applied both the cluster and infill policies under Policy CTY2a and Policy CTY8.
104. In this case the appellant relies solely upon existing buildings within the settlement limits for Portglenone. His view was that the PPS does not explicitly rule out reliance on buildings in the countryside.
105. In relation to this point the Commissioner states at Paragraph 6 that:

*Paragraph 5 of the preamble to PPS 21 states that the PPS sets out planning policies for development in the countryside. It continues that for the purpose of this document the countryside is defined as land lying outside of settlements as defined in development plans. Paragraph 5.84 of Policy CTY 15 of PPS 21 'The Setting of Settlements' says that the principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built up area and surrounding countryside. Although not explicitly expressed all of this suggests to me that buildings within settlements cannot be relied upon in the application of Policies CTY 2a and CTY 8 of PPS 21.*

106. Taking account of the appeal decision and given the fact officers have been consistent in determining a similar application (LA05/2017/0868/O) for two dwellings on land beside and southwest of 42 Halfpenny Gate Road, Broomhedge, Moira which was refused on 03 July 2019 are significant material considerations to be given weight in the assessment of this proposal.
107. A supporting statement from the agent claims that the site is bounded on both sides by developed land.
108. The supporting statement also claims that draft BMAP is only a material consideration and that the new LDP for LCCC has already rejected the development limit at this location.
109. As explained above, draft BMAP is a material consideration and forms an important part of this assessment.
110. The supporting statement also makes reference to the analysis carried out by officers within the context of planning application S/2015/0008/O - The Gospel

Hall), being the same as that associated with the 2017 application for two dwellings. Reference was made to the view taken by officers that the hall would create coalescence and the gap to either side would create Urban Sprawl being overturned by the Planning Committee.

111. It is however important to note that the Gospel Hall had been granted planning permission in 2016 on the basis that it was considered to be an acceptable community facility in this countryside location. There remain gaps either side of the site which have to be taken into account in the assessment of this proposal.

### **The issue of exception**

112. Without prejudice to the view expressed above that Ribbon Development is not engaged, for completeness, consideration is given to the exceptions tests associated with policy COU8.
113. As explained, a substantial and continuously built up frontage 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.
114. Broomhedge Gospel Hall is located to the west of the site and to the east of the site there is a single storey dwelling at 42 Halfpenny Gate Road, and beyond this another dwelling and associated outbuildings at 44 Halfpenny Gate Road.
115. Whilst the application site and the Gospel Hall are within the countryside, the adjacent dwelling at 42 is located within the settlement limit of Halfpenny Gate as identified in draft BMAP. The development limits of this settlement can be seen to form the eastern boundary of the application site.
116. It is also noted that in the LAP 2001, that this dwelling, and indeed the adjacent dwellings at 44 and 44A are outside the development limit of Halfpenny Gate, and in the open countryside. The development limit of this settlement in the LAP is seen extending along the side and rear boundary of the dwelling at 46B.
117. As explained above, the Belfast Metropolitan Area Plan (Draft) 2004 and its later revision in 2014 remain a material consideration in the assessment of this application and as such, the dwellings and outbuildings at 42 and 44 Halfpenny Gate Road are identified as being within the settlement limit of Halfpenny Gate.
118. As these dwellings and buildings do not occupy a rural context in policy terms, they cannot be included as buildings that form part of a substantial and continuously built up frontage for the purposes of assessment under policy COU8.
119. The supporting statement expresses the view that there is no longer a rural open margin between the settlement development limits at the subject site. The view is also expressed that a 30 metre frontage does not constitute open countryside.
120. Regardless of the size of the frontage, the site is outside any defined settlement limit.



121. For the reasons outlined above, the site is not considered to fall within a substantial and continuously built up frontage as there are not four buildings visually linked to one another in the rural context. This part of Policy COU8 is not met.
122. The next step is to consider whether a small gap exists sufficient to accommodate two dwellings. The policy clearly refers to a gap site within an otherwise substantial and continuously built up frontage.
123. In considering whether a small gap site exists, whilst the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, officers have not assumed that any site up to that size is necessarily a small gap site within the meaning of the policy.
124. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
125. In this case, the size of the gap is constrained on one side by the Church Hall [rural context] to the east and the dwelling at 42 Halfpenny Gate to the west [urban context]. Two buildings are shown in the gap but the site is not sufficient in size to accommodate two dwellings.
126. 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 that constitute the frontage of development.
127. With that in mind and without prejudice to the view expressed that there is no substantial and continuously built up frontage, the characteristics of the gap identified have been considered.
128. It is acknowledged that the Building on Tradition guidance states that a gap site can be infilled with one or two houses if the average frontage of the plot equates to the average plot width in the existing ribbon.
129. The application site has a plot frontage of 30 metres. The adjacent Gospel Hall has a frontage of 40 metres and the dwellings at 42 and 44 have frontages measuring 32.8 metres and 27.8 metres respectively.
130. Whilst there is small variation of plot widths along the frontages of the existing properties, plot widths of 15 metres (the application is for two dwellings so the plot width is divided by two), are not considered to be comparable to that of the surrounding developments and for this reason, two dwellings would appear out not to follow the traditional pattern of settlement.
131. An assessment of the plot sizes demonstrates that the proposal is of an acceptable size to those around it within the immediate area. The plots sizes of the adjacent properties are as follows:

- 42 - 0.1 Ha
  - 44 - 0.12 Ha
  - Gospel Hall – 0.21 Ha
132. This creates an average plot size of 0.143Ha. The application plot size is 0.24Ha, which would roughly equate to a plot size of 0.12Ha per dwelling. The proposed site is 0.023Ha is less than the average which is considered to be insignificant when compared to the existing plots identified.
133. For the reasons outlined, it is also considered that the development would not respect the existing pattern of development along the frontage of this part of Halfpenny Gate Road.
134. The Building on Tradition document is written with a different policy in mind and the guidance contained at 4.4.0 and 4.4.1 and the worked examples on page 71 are limited material weight in the assessment of this proposal as the site is not sufficient in size to accommodate two dwellings consistent with the existing pattern of development. The words 'a maximum of' will no longer apply.
135. Excluding the words 'one or' from the guidance at bullet point five on page 71 even if all the other criteria were met the plot frontage of this site is smaller than the average plot width in the ribbon.

The general criteria at 4.5.0 and 4.5.1 still apply and the site is an important visual break in the developed appearance of the local area. Whilst the size of the gap is not significant in itself it is considered that the gap it does constitute an extremely important visual break between the settlements of Broomhedge and Halfpenny Gate, whereby it clearly demarcates that area between the built up edge of each settlement and the open countryside.

136. If developed it would mar the distinction between the edge of the settlement and the open countryside creating the opportunity for an unbroken frontage causing the coalescence of two small settlements. . .
137. Taking all of the above into account, the proposal does not meet any of the exceptions associated with Policy COU8 of the draft Plan Strategy (as modified by the Direction of the Department).

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

138. As explained above, two of the site boundaries are defined on the ground, one with a 1.5 metre close boarded fence and the other with a two- metre hedge. Given the limited vegetation to the boundaries or within the vicinity of the site to assist with integration, it is considered that two dwellings, would be prominent features in the landscape. .
139. Furthermore, it is considered that site would be unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape. Instead, two new dwellings located on this site, would rely primarily on the use of new landscaping for integration.

140. In terms of ancillary works, it is acknowledged that a new shared vehicular access point would be created onto the public road. This access would lead directly onto an area which would accommodate the in-curtilage parking and manoeuvring of private vehicles for both dwellings. The access extends to the rear of the site, running between both dwellings, where it leads to further areas of hard standing to the rear of the dwellings and two garages. No long sweeping driveway nor ornate features have been proposed.
141. Taking the levels of the application site into account, it is not considered that the proposal would require significant cut and fill (excavation) to accommodate the proposed dwellings.
142. No large retaining structures have been proposed. The proposed ancillary works are considered to be in accordance with Building on Tradition guidance and it is not considered that they would damage rural character.
143. The dwellings proposed are mostly single storey, with a storey and a half element to the rear. The single storey element is 5.6 metres in height, and the storey and a half element is 7 metres in height. Both dwellings are of the same design, consisting of a linear design, with two component parts, joined by a flat roofed central area. The roofs on both parts of the dwellings are pitched. The dwelling would be deemed to be quite modern in design, although it has retained a traditional form.
144. The windows are of a vertical emphasis. There are some larger picture windows throughout the design. The rear elevation is entirely glazed, but is not visible from the public road.
145. The dwellings are finished in a smooth render, with aluminium cladding in grey. Mini stone wall concrete tiles are proposed for the roofs and the windows and doors are black uPVC. The rainwater gutters and downpipes are black. The design associated with the application is considered to be acceptable at this location and in keeping with the finishes of dwellings and buildings within the vicinity.
146. It is considered that the proposed dwellings are sufficiently separated from each other and from the existing dwelling at 42 Halfpenny Gate Road so as not to cause concerns in terms of overshadowing or overlooking.
147. There are no amenity concerns regarding the dwelling closest to the Gospel Hall as it is a community building and not a private residential dwelling.
148. The dwelling that is proposed closest to the existing dwelling is set back from the building line, and the south eastern corner is the closest point to the common boundary, but due to the alignment of this boundary the remainder of the house is set further back.
149. Although it is close in some parts, the fact that this part of the dwelling is single storey will prevent any concerns in terms of overlooking or over shadowing. The storey and a half element to the rear of the proposed dwelling is approximately ten

metres from the boundary. There are no first floor windows on the side elevation that would cause concern for potential overlooking.

150. The garages are 4.5 metre in height, with a ground floor area large enough to accommodate one car. There is no first floor accommodation provided in these buildings and as such, it is accepted that the position and size of the garages will not cause any adverse effects to the adjacent dwelling.
151. The only backdrop which is provided within the context of the site is the existing dwelling at 42 Halfpenny Gate Road, and the Gospel Hall. There are no other natural features for a building to blend with.
152. For the reasons outlined above, the requirements of criteria (a), (b), (c), (d) and (e) of Policy COU15 of the draft Plan Strategy (as modified by the Direction of the Department) are not met.

### **Policy COU16 - Rural Character**

153. Consistent with the advice offered above, it is not accepted that the proposal complies with the exceptions test of Policy COU8 as it would by virtue of visual linkage/common frontage result in the creation of a ribbon development along Halfpenny Gate Road.
154. For the reasons outlined above within the context of COU15 considerations, the new buildings would be unduly prominent in the landscape. Criteria (a) and (b) are not met.
155. Furthermore, and for the reasons outlined above, this proposal not respect the traditional pattern of development which is to consolidate new housing inside the two small settlements and maintain a visual break between. The erection of one building is not sufficient to undermine the importance of respecting the pattern of settlement. The proposal is not in accordance with criteria (c) and as a consequence the development will have an adverse impact on the rural character of the area. As a consequence criteria (e) is not met.
156. This site provides clear definition between the two settlements and the intervening countryside and is an important visual break. Infill development between the gospel hall and the dwelling at 42 Halfpenny Gate Road (within the settlement limit) would cause coalescence of both settlements by removing the visual break marring the distinction between the settlement of Halfpenny Gate and the countryside resulting in urban sprawl. Criteria (d) is not met.
157. In respect of criteria (f) a dwelling is capable of being sited and designed to ensure that the proposal does not have an adverse impact on residential amenity. Any new building will front the road and the gable elevation is unlikely to have windows to habitable rooms with the potential to overlook the neighbouring property.
158. In respect of criteria (g) and (h) all of the proposed services are provided underground or from existing overheads 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.

159. In respect of criteria (i) for the reasons set out in the paragraphs below, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

### **Policy TRA 2 - Access and Transport**

160. Halfpenny Gate Road is not a Protected Route. The P1 Form and the Site Access Plan drawing, indicate that the proposed scheme involves the construction of a new access onto a public road. Visibility splays of 2.0 x 71 metres to the east and 2.0 x 84 metres to the west are shown from the new access onto the Halfpenny Gate Road.
161. DfI Roads were consulted as part of the application process. In a response dated 22 June 2022, DfI Roads confirmed that they had no objection to the proposal.
162. 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 draft Plan Strategy (as modified by the Direction of the Department) are met in full.

### **Policy WM2 - Waste Management**

163. 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.
164. LCCC Environmental Health were consulted and offer no objection.
165. 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.
166. 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.
167. 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 draft Plan Strategy are met in full.

## Natural Heritage

168. A biodiversity checklist and extended ecological statement was volunteered for consideration. This was reviewed and as a small portion of priority habitat hedgerow was identified it was considered necessary to consult with Natural Heritage Division.
169. Advice from Natural Environment Division dated 20 June 2022 acknowledged that no protected or priority species were recorded during the ecological assessment and that the small portion of NI priority habitat hedgerow is present in the north-eastern corner of the site was not impacted by the proposed development.
170. Taking the above advice into account, it is accepted that the proposal would not result in demonstrable harm being caused to any features of natural heritage importance and as such the requirements of policy NH5 the draft Plan Strategy (as modified by the Direction of the Department) are met in full.

## Consideration of Representations

171. Consideration of the issues raised by way of third party representation are set out below:

### Planning History - refusal

172. The planning history is considered within the assessment. With the publication of the Direction in relation to the draft Plan Strategy, there has been a change in the policy context since the previous decision issued. This application is being refused for similar reasons as before.
173. The view is expressed that the Concept Analysis has stated that the Gospel Hall has created Urban Sprawl between the communities of Broomhedge and Halfpenny Gat and the objector considers this creates a precedent for this proposal.
174. The assessment demonstrates that the proposed scheme is contrary to the SPPS and Policy COU8 of the draft Plan Strategy as modified by Direction of the Department) in that it fails to satisfy the exceptions tests would if approved result in the addition to ribbon development along this part of Halfpenny Gate Road. This is distinguishable and different from the Gospel Hall which was considered to be a necessary community facility with no other available site. The gap remains an important visual break irrespective of this history.
175. The site is not considered to be within a substantial and built up frontage as the dwelling at 42 does not occupy a rural context as it is within the settlement limits of Halfpenny Gate for the reasons outlined.
176. The proposal is also contrary to Policy COU16 of the draft Plan Strategy as modified by Direction of the Department) as the development if approved would cause coalescence of both settlements by eroding the visual break and would mar

the distinction between the settlement and the countryside resulting in urban sprawl.

### Rural Character

177. The assessment demonstrates how the proposal would impact on rural character. It also demonstrates how an approval would cause coalescence of both settlements by eroding the visual break, mar the distinction between the settlement and the countryside resulting in urban sprawl.

### Conclusions

178. The recommendation is to refuse planning permission as the proposal is not in accordance with the requirements of paragraph 6.73 of the SPPS and policies COU1, COU8 and COU16 of the draft Plan Strategy (as modified).

### Recommendation

179. It is recommended that planning permission is refused.

### Refusal Reasons

180. 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 draft Plan Strategy (as modified by the Direction of the Department) 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 bullet point 5 of paragraph 6.73 of the SPPS, and policy COU8 of the Lisburn and Castlereagh City Council draft Plan Strategy (as modified by the Direction of the Department) in that the site is not considered to be a small gap in substantial and continuously built-up frontage sufficient to accommodate two dwellings and the development would if permitted not respect the existing pattern of development along the frontage of this part of Halfpenny Gate Road.
- The proposal is contrary to policy COU15 of the draft Plan Strategy (as modified by the Direction of the Department) in that the proposal lacks long established natural boundaries, it relies primarily on the use of new landscaping for integration and the buildings if approved would be prominent features in the landscape. They would also fail to cluster with an established group of buildings in the rural context.
- The proposal is contrary to policy COU16 of the draft Plan Strategy (as modified by the Direction of the Department) in that the proposal would, if

permitted be prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

- The proposal is contrary to policy COU16 of the draft Plan Strategy (as modified by the Direction of the Department) in that the proposal would, if permitted mar the distinction between the defined settlement limit of Halfpenny Gate and the surrounding countryside and result in urban sprawl causing a detrimental change to the rural character of the countryside. It would also fail to respect the traditional pattern of settlement of the area for the same reason.



Site Location Plan - LA05/2022/0272/F



Lincoln & Gutteridge  
City Council  
Newborough Office  
01538 551100

18 MAR 2022  
LA05/22/0272  
File No.

Drawing No. 01

LCC  
Lincoln & Gutteridge



CLIENT  
**MR RAYMOND DAVIS**

PROJECT  
**PROPOSED DEVELOPMENT  
@ HALFPENNY GATE ROAD**

COPYRIGHT

JOB NO. **2126** DRAWING NO. **PL/00**

DRAWING  
**SITE LOCATION**

REV.	DATE	DESCRIPTION	DRAWN
		<b>PLANNING</b>	
DATE	REV. BY	DRAWN BY	CW
SCALE	1:1000	CHECKED	

**Lisburn & Castlereagh City Council**

Council/Committee	Planning Committee
Date of Meeting	07 August 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	Six
Case Officer	Grainne Rice
Recommendation	<b>Approval</b>

**Summary of Recommendation**

1. 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.
2. 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 policies COU1 and COU8 of the draft Plan Strategy (as modified by the Direction of the Department) 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.
3. Furthermore, the proposal respects the existing development pattern along the frontage in terms of its size, and plot size. The proposal also meets all other planning and environmental requirements.
4. In addition, the proposal is considered to meet the requirements of policy COU15 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.

5. The proposal also complies with the requirements of policy COU16 of the draft Plan Strategy (as modified by the Direction from the Department) 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.
6. The proposal complies with policy NH 5 of the draft Plan Strategy (as modified by the Direction from the Department) in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
7. A new access is created to the public road and the detail submitted demonstrates that the proposal complies with policy TRA2 of the draft Plan Strategy (as modified by the Direction from the Department) 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

8. 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.
9. 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

10. 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

11. This is an outline application for an infill dwelling and garage.

### Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2020/0420/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 <sup>st</sup> December 2003
S/2004/1272/RM	Erection of dwelling and detached garage	Lands to the south east of 60 Gregorlough Road, Dromore	Approval 28 <sup>th</sup> 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 <sup>th</sup> April 2005

13. 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

14. 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

15. Six representations in opposition to the proposal have been received. The following issues are 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.
16. The issues raised are considered below as part of the assessment of this proposal.

## Planning Policy Context

### Local Development Plan Context

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

### LCCC - Draft Plan Strategy 2032

18. On 28<sup>th</sup> June 2023 the Department for Infrastructure made a Direction that the Council adopt the Lisburn and Castlereagh City draft Plan Strategy subject to modifications.
19. The effect of the Direction is that the final form the Plan Strategy will take is known. For this reason the draft Plan Strategy is now a material consideration in the processing of this planning application.
20. The Department for Infrastructure provide no guidance about how to take account of the draft development plan document before it is adopted. That said, the Joint Ministerial Statement (JMS) prepared by the Department for Regional Development and the Department for the Environment in January 2005 was

issued to ensure that the correct weight was given to the provisions of an emerging plan.

21. Although written for the preparation of plans in a different legislative context the JMS was never withdrawn and provides useful guidance on the approach to be taken.
22. At paragraph 22 of the JMS it is stated that:

*Where a plan is at the draft plan stage but no objections have been lodged to relevant proposals then considerable weight should be attached to those proposals because of the strong possibility that they will be adopted and replace those in the existing plan. In circumstances where there have been objections to relevant policies, lesser weight may be attached except for those situations outlined in paragraphs 20 - 21 above. Much will also depend on the nature of those objections and whether there are representations in support of particular policies.*
23. The Lisburn and Castlereagh draft Plan Strategy sets out in clear terms the direction of future policy and has been through a process of public consultation and Independent Examination.
24. Any objections to the policies set out in the draft Plan Strategy have been taken account of and the majority of the modifications directed by the Department for Infrastructure were as a consequence of changes presented by the Council at the Independent Examination to ensure the tests of soundness were met in full.
25. Applying the same principles as those set out at paragraph 22 of the JMS and for the reasons set out above there is more than a strong possibility that the proposed policies in the draft Plan Strategy (as modified) will be adopted.
26. For these reasons the draft Plan Strategy is a material consideration of determining weight in the assessment of this proposal.

#### Transitional Arrangements

27. It is stated at page 16 of Part 1 of the draft 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.*

28. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.

29. 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.*

30. 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.*

31. 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.*

32. 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.*

33. There are equivalent policies in the draft Plan Strategy to the regional policies described in LAP and draft BMAP.
34. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out at page 66 of the draft Plan Strategy.
35. 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**

36. 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.*

37. 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**

38. 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.*

*(text in bold as modified by the Direction)*

39. 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

40. 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.*

41. The justification and amplification of this policy is modified to include the following:

**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.**

*(text in bold as modified by the Direction)*

### Rural Character and other Criteria

#### 42. Policy COU16 – Rural Character and other Criteria

*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**

#### 43. 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.***

*(text in bold as modified by the Direction)*

## Access and Transport

44. 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.*

45. 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.*

*(text in bold as modified by the Direction)*

## The approach to the statutory Development Plan and Regional Policy

46. 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.*

47. It is stated a paragraphs 1.10 and 1.11 of the SPPS that:

*A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.*

*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.*

48. Whilst the Plan Strategy is not yet adopted and the retained suite of regional planning policies (PPS's) continue to apply in accordance with the SPPS in light of the fact that a Direction to adopt the Plan is issued these policies are now considered to be of little weight for the same reasons explained earlier in this report.
49. The operational policies in Part 2 of the draft Plan Strategy are considered to take precedence over the retained suite planning policy statements and of determining weight in the assessment of this planning application.
50. 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*

51. 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*
52. 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.*
53. 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 (as modified) have been drafted to be consistent with the SPPS.

### **Regional Policy Context**

54. As the retained regional policies still apply until the Plan Strategy is adopted, they are included in the report for completeness.
55. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.

## 56. Policy CTY 1 states:

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

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

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

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

## 57. The policy states:

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

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

## 58. As per the submitted Concept Statement, this application pertains to a proposal for the development of a gap site for a single dwelling/garage.

## 59. In addition to Policy CTY 8, there are other CTY policies that are engaged as part of the assessment including; CTY 13, CTY 14 and CTY 16, and they are also considered.

## 60. Policy CTY 8 – Ribbon Development states:

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

*An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise*

*substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.*

*For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.'*

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

62. Regard is also had to the justification and amplification which states;

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

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

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

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

63. Officers have paid close attention to consideration of this planning policy by the High Court. On the 24<sup>th</sup> 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.

64. 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.”*

65. Officers have borne in mind that the policy in COU8 of the Lisburn and Castlereagh City Council draft Plan Strategy is similarly restricted as CTY8 and that any infill application is an exception to the prohibition on ribbon development.

66. Policy CTY 13 – Integration and Design of Buildings in the Countryside states;

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

67. The policy states;

*A new building will be unacceptable where:*

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

68. Policy CTY 14 – Rural Character states;

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

69. The policy states;



*A new building will be unacceptable where:*

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

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

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

71. The policy also states;

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

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

72. With regards to Policy CTY 16, Building on Tradition [page 131] states;

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

## **Natural Heritage**

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

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

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

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

75. The policy also states;

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

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

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

77. Policy AMP 2 – Access to Public Roads states:

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

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

## Development Control Advice Note 15 – Vehicular Access Standards

78. 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.’*

### **Building on Tradition**

79. Whilst not policy, and a guidance document, the SPPS states that:

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

80. This notes:

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

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

81. The guidance also 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.*

82. 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.*

83. 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.

84. 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*

## Assessment

85. As the Courts have noted in the Glasdrumman 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.

86. 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.*

87. 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.
88. 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**

89. The next step is to consider whether the proposal comes within the exception set out in the policy.
90. 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.
91. 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.
92. 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.
93. 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.
94. 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.
95. 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.
96. The next step is to consider whether a small gap exists sufficient to accommodate two dwellings.
97. 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.

98. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
99. The gap between the two closest building at 65 Gregorlough Road and 68 Gregorlough Road is 94 metres.
100. 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.
101. 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.
102. Whilst the Building on Tradition document is written with a different policy 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.
103. 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.
104. 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 limited material weight in the assessment of this proposal as the site is not sufficient in size to accommodate two dwellings consistent with the existing pattern of development. The words 'a maximum of' will no longer apply.
105. Excluding the words 'one or' from the guidance at bullet point five on page 71 even if all the other criteria were met the plot frontage of this site is smaller than the average plot width in the ribbon.  
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.
106. 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.

107. 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.
108. 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.
109. A proposed site layout map has been submitted identifying the siting of each dwelling and explaining how the plot size respect the existing pattern of development.
110. 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.
111. 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.
112. 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.
113. Both plot are considered in general to be in accordance with the existing pattern of development in terms of their size.
114. The site layout plan also demonstrates how the proposal would be in keeping with the building line along this part of the road.
115. 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, and siting and plot size.
116. The finally 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.

117. 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**

118. This outline application seeks to establish the principle of development only. Full plans have not been submitted.
119. 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.
120. 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.
121. 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.
122. 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.
123. 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**

124. 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.
125. Criteria (b) of policy COU16 requires the dwelling to cluster with and established group of buildings. This is also dealt in the preceding section. .



126. 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.
127. 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.
128. 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**

129. A Biodiversity Checklist and ecological statement was submitted during the processing of the application.
130. 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.
131. 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.
132. 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.
133. 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.
134. 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.

135. 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.
136. 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 draft Plan Strategy (as modified by the Direction of the Department) are considered to be met in full.

### **TRA2 - Access and Transport**

137. The P1 form indicates that the access arrangement for this development involve construction of a new access to a public road.
138. Advice received from DfI Roads confirmed that they had no 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.
139. 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 draft Plan Strategy (as modified by the Direction of the Department) are met in full.

### **Policy WM2 - Waste Management**

140. 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.
141. 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.
142. 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.
143. 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.

144. 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 draft 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

145. 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. It is considered that a safe access can be achieved in the interest of road safety and convenience of road users at this location and that the proposal complies with TRA2 of the draft Plan Strategy as modified.

#### Proposal would result in further suburbanisation of the countryside for financial gain

146. Following a site inspection and an assessment of planning policy it is considered that the proposal complies with the relevant planning policy. The frontage width and plot size of the proposed site is considered suitable to accommodate a dwelling that respects the existing pattern of development within the identified frontage in line with policy and guidance. This is not a suburban form of development and financial gain is not a material consideration given any weight as a material consideration.

#### Incorrect address

147. During the processing of this application an amended site address was submitted which was re-advertised and neighbour/objector notified. No one is prejudiced as the correct location of the site is identified.

#### Loss of privacy

148. 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.

#### Loss of wildlife

149. 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. The proposal is in accordance with the policy tests of Policy NH5 of the draft Plan Strategy.

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

150. Environmental Health have been consulted and have no objection to the proposed development. Noise and general disturbance are not dealt with under planning legislation and is a matter for the local Environmental Health Office. It was not observed at the site visit that there was any adverse amenity impact caused by barking dogs. In the absence of any loss of amenity by reason of noise or nuisance this objection is not sustained.

Loss of trees and hedgerow

151. 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. 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

152. Under Policy COU8, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The exception tests are met for the reasons set out above.

The septic tank of another property is located within the site.

153. 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

154. 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 Council accepts the advice of the consultees in this respect.

155. 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.

### Conclusions

156. 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 draft Plan Strategy.
157. 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

158. It is recommended that planning permission is approved.

### Refusal Reasons/Conditions

159. 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

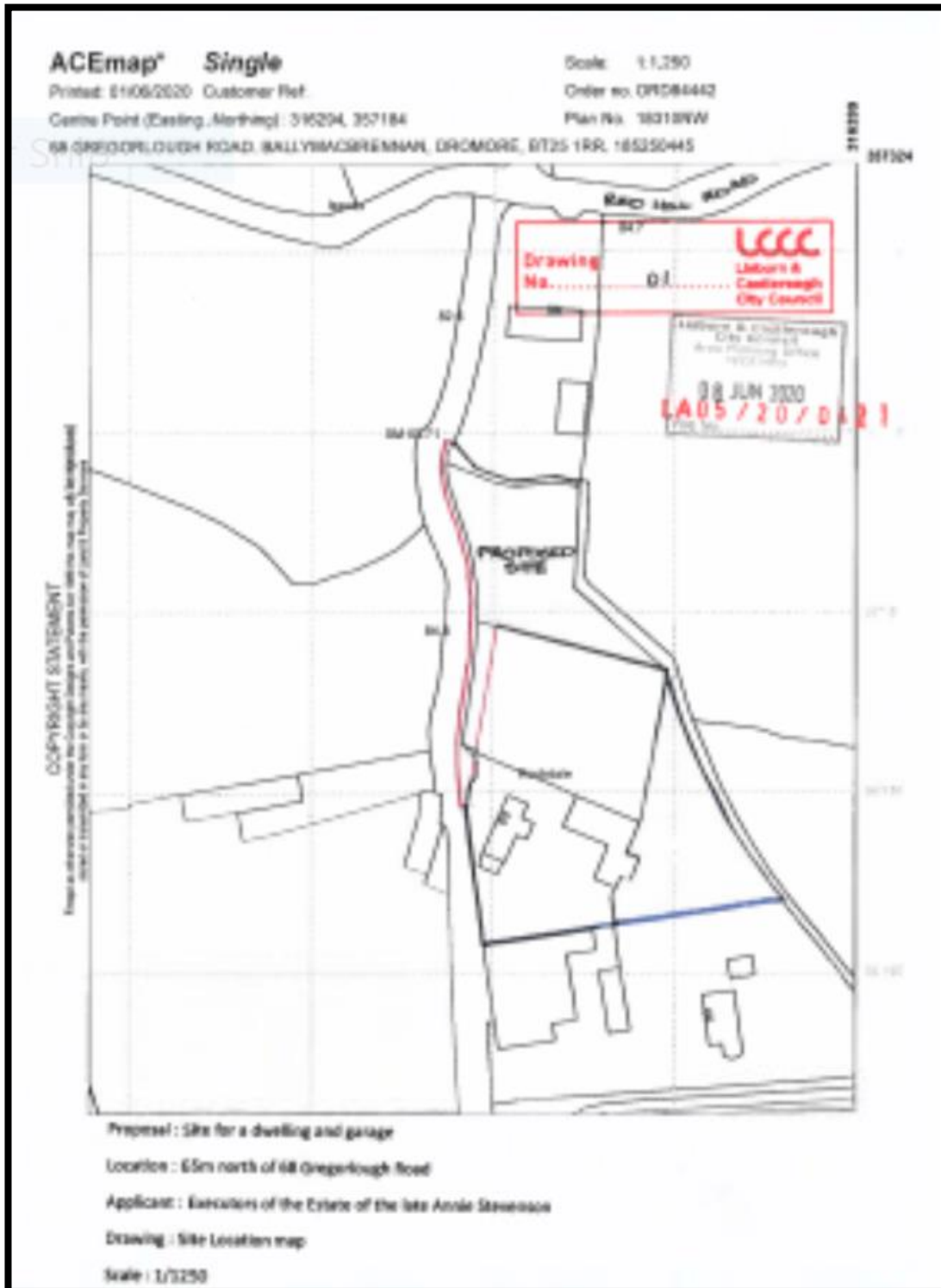
- Should the mature Ash tree, located within the western hedgerow and to the south of the Sycamore, as identified by the ecologist, be required for removal/felling, then an emergence/re-entry survey must be completed and submitted to the Planning Authority based on the ecologist's determination of the 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





**Lisburn & Castlereagh City Council**

Council/Committee	Planning Committee
Date of Meeting	03 July 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	Six
Case Officer	Grainne Rice
Recommendation	<b>Approval</b>

**Summary of Recommendation**

1. 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.
2. 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 policies COU1 and COU8 of the draft Plan Strategy (as modified by the Direction of the Department) 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.
3. Furthermore, the proposal respects the existing development pattern along the frontage in terms of its size, and plot size. The proposal also meets all other planning and environmental requirements.
4. In addition, the proposal is considered to meet the requirements of policy COU15 in that a dwelling can be sited and designed so as to integrate into the landscape without causing a detrimental change to the rural character of this part of the open countryside.

5. The proposal also complies with the requirements of policy COU16 of the draft Plan Strategy (as modified by the Direction from the Department) 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.
6. The proposal complies with policy NH 5 of the draft Plan Strategy (as modified by the Direction from the Department) in that the development will not result in an unacceptable adverse impact on, or damage to, habitats, species or features of natural heritage importance.
7. A new access is created to the public road and the detail submitted demonstrates that the proposal complies with policy TRA2 of the draft Plan Strategy (as modified by the Direction from the Department) 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

8. The application site is located at lands 35 metres north of 68 Gregorlough Road, Dromore and consists of part of an agricultural field.
9. 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

10. 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

11. This is an outline application for an infill dwelling and garage.

### Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2020/0421/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 <sup>st</sup> December 2003
S/2004/1272/RM	Erection of dwelling and detached garage	Lands to the south east of 60 Gregorlough Road, Dromore	Approval 28 <sup>th</sup> 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 <sup>th</sup> April 2005

13. 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

14. 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

15. Six representations in opposition to the proposal have been received. The following issues are 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
16. The issues raised have been considered as part of the assessment of this application.

## Planning Policy Context

### Local Development Plan Context

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

### LCCC - Draft Plan Strategy 2032

18. On 28<sup>th</sup> June 2023 the Department for Infrastructure made a Direction that the Council adopt the Lisburn and Castlereagh City draft Plan Strategy subject to modifications.
19. The effect of the Direction is that the final form the Plan Strategy will take is known. For this reason the draft Plan Strategy is now a material consideration in the processing of this planning application.
20. The Department for Infrastructure provide no guidance about how to take account of the draft development plan document before it is adopted. That said, the Joint Ministerial Statement (JMS) prepared by the Department for

Regional Development and the Department for the Environment in January 2005 was issued to ensure that the correct weight was given to the provisions of an emerging plan.

21. Although written for the preparation of plans in a different legislative context the JMS was never withdrawn and provides useful guidance on the approach to be taken.
22. At paragraph 22 of the JMS it is stated that:

*Where a plan is at the draft plan stage but no objections have been lodged to relevant proposals then considerable weight should be attached to those proposals because of the strong possibility that they will be adopted and replace those in the existing plan. In circumstances where there have been objections to relevant policies, lesser weight may be attached except for those situations outlined in paragraphs 20 - 21 above. Much will also depend on the nature of those objections and whether there are representations in support of particular policies.*
23. The Lisburn and Castlereagh draft Plan Strategy sets out in clear terms the direction of future policy and has been through a process of public consultation and Independent Examination.
24. Any objections to the policies set out in the draft Plan Strategy have been taken account of and the majority of the modifications directed by the Department for Infrastructure were as a consequence of changes presented by the Council at the Independent Examination to ensure the tests of soundness were met in full.
25. Applying the same principles as those set out at paragraph 22 of the JMS and for the reasons set out above there is more than a strong possibility that the proposed policies in the draft Plan Strategy (as modified) will be adopted.
26. For these reasons the draft Plan Strategy is a material consideration of determining weight in the assessment of this proposal.

#### Transitional Arrangements

27. It is stated at page 16 of Part 1 of the draft 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.*

28. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.

29. 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.*

30. 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.*

31. 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.*

32. 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.*

33. There are equivalent policies in the draft Plan Strategy to the regional policies described in LAP and draft BMAP.
34. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out at page 66 of the draft Plan Strategy.
35. 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**

36. 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.*

37. 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**

38. 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.*

*(text in bold as modified by the Direction)*

39. 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

40. 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.*



41. The justification and amplification of this policy is modified to include the following:

***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.***

*(text in bold as modified by the Direction)*

#### Rural Character and other Criteria

42. Policy COU16 – Rural Character and other Criteria

*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**

43. 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.***

*(text in bold as modified by the Direction)*

### **Access and Transport**

44. 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.*

45. 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.*

*(text in bold as modified by the Direction)*

### **The approach to the statutory Development Plan and Regional Policy**

46. 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.*

47. It is stated a paragraphs 1.10 and 1.11 of the SPPS that:

*A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents*

*identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.*

*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.*

48. Whilst the Plan Strategy is not yet adopted and the retained suite of regional planning policies (PPS's) continue to apply in accordance with the SPPS in light of the fact that a Direction to adopt the Plan is issued these policies are now considered to be of little weight for the same reasons explained earlier in this report.
49. The operational policies in Part 2 of the draft Plan Strategy are considered to take precedence over the retained suite planning policy statements and of determining weight in the assessment of this planning application.
50. 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*

51. 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*

52. 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.*

53. 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 (as modified) have been drafted to be consistent with the SPPS.

### **Regional Policy Context**

54. As the retained regional policies still apply until the Plan Strategy is adopted, they are included in the report for completeness.

55. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.
56. Policy CTY 1 states:
- ‘There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.’*
- ‘Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.’*
- ‘All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department’s published guidance.’*
- ‘Where a Special Countryside Area (SCA) is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan.’*
57. The policy states:
- ‘Planning permission will be granted for an individual dwelling house in the countryside in the following cases:*
- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*
  - *a replacement dwelling in accordance with Policy CTY 3;*
  - *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
  - *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
  - *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
  - *a dwelling on a farm in accordance with Policy CTY 10.’*
58. As per the submitted Concept Statement, this application pertains to a proposal for the development of a gap site for a single dwelling/garage. As such, it is to be assessed against the requirements of Policy CTY 8.
59. In addition to Policy CTY 8, there are other CTY policies that are engaged as part of the assessment including; CTY 13, CTY 14 and CTY 16, and they are also considered.
60. Policy CTY 8 – Ribbon Development states:

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

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

*For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.'*

61. A building is defined in statute to include; a structure or erection, and any part of a building as so defined.
62. Regard is also had to the justification and amplification which states;

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

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

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

#### Building on Tradition

63. 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.'*

64. 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.*

65. 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.

66. 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.*

67. 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.
68. 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
69. Policy CTY 13 – Integration and Design of Buildings in the Countryside states;
- ‘Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.’*
70. The policy states;
- ‘A new building will be unacceptable where:*
- (a) it is a prominent feature in the landscape; or*
  - (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
  - (c) it relies primarily on the use of new landscaping for integration; or*
  - (d) ancillary works do not integrate with their surroundings; or*
  - (e) the design of the building is inappropriate for the site and its locality; or*
  - (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
  - (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.’*
71. Policy CTY 14 – Rural Character states;
- ‘Planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.’*
72. The policy states;
- ‘A new building will be unacceptable where:*
- (a) it is unduly prominent in the landscape; or*

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

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

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

74. The policy also states;

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

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

#### Building on Tradition

75. With regards to Policy CTY16, Building on Tradition [page 131] states;

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

#### **Natural Heritage**



76. A bio-diversity checklist and preliminary ecological assessment is submitted with the application. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.

77. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states;

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

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

78. The policy also states;

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

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

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

80. Policy AMP 2 – Access to Public Roads states;

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

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

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

81. 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**

82. As the Courts have noted in the Glasdrumman 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.
83. 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.*

84. 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.
85. 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**

86. The next step is to consider whether the proposal comes within the exception set out in the policy.
87. 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.

88. 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.
89. 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.
90. 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.
91. 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.
92. 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.
93. The next step is to consider whether a small gap exists sufficient to accommodate two dwellings.
94. 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.
95. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
96. The gap between the two closest buildings at 65 Gregorlough Road and 68 Gregorlough Road is 94 metres.
97. 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.
98. 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.

99. Whilst the Building on Tradition document is written with a different policy 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.
100. 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.
101. 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 limited material weight in the assessment of this proposal as the site is not sufficient in size to accommodate two dwellings consistent with the existing pattern of development. The words 'a maximum of' will no longer apply.
102. Excluding the words 'one or' from the guidance at bullet point five on page 71 even if all the other criteria were met the plot frontage of this site is smaller than the average plot width in the ribbon.
103. 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.
104. 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.
105. 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.
106. 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.
107. A proposed site layout map has been submitted identifying the siting of each dwelling and explaining how the plot size respect the existing pattern of development.
108. 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.

109. 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.
110. 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.
111. Both plot are considered in general to be in accordance with the existing pattern of development in terms of their size.
112. The site layout plan also demonstrates how the proposal would be in keeping with the building line along this part of the road.
113. 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, and siting and plot size.
114. The finally 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.
115. 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**

116. This outline application seeks to establish the principle of development only. Full plans have not been submitted.
117. 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.
118. 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.

119. 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.
120. 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.
121. 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**

122. 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.
123. Criteria (b) of policy COU16 requires the dwelling to cluster with and established group of buildings. This is also dealt in the preceding section. .
124. 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.
125. 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.
126. 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

127. A Biodiversity Checklist and ecological statement was submitted during the processing of the application.
128. 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.
129. 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.
130. 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.
131. 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.
132. 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.
133. 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.
134. 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 draft Plan Strategy (as modified by the Direction of the Department) are considered to be met in full.

## **TRA2 - Access and Transport**

135. The P1 form indicates that the access arrangement for this development involve construction of a new access to a public road.
136. 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.
137. 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 draft Plan Strategy (as modified by the Direction of the Department) are met in full.

## **Policy WM2 - Waste Management**

138. 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.
139. 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.
140. 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.
141. 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.
142. 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 draft Plan Strategy are met in full.

## **Consideration of Representations**

143. 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

144. 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. It is considered that a safe access can be achieved in the interest of road safety and convenience of road users at this location and that the proposal complies with PPS 3 Access, Movement and Parking.

Proposal would result in further suburbanisation of the countryside for financial gain

145. Following a site inspection and an assessment of planning policy it is considered that the proposal complies with the relevant planning policy context. The frontage width and plot size of the proposed site is considered suitable to accommodate a dwelling that respects the existing pattern of development within the identified frontage in line with policy and guidance. This is not a suburban form of development and financial gain is not a material consideration given any weight as a material consideration.

Incorrect address

146. During the processing of this application an amended accurate site address was submitted which was re-advertised and neighbour/objector notified. No one is prejudiced as the correct location of the site is identified.

Loss of privacy

147. It is considered that adequate separation distances can be achieved to mitigate the loss of any privacy. This is an outline planning application and planning conditions will allow for an appropriate design solution at reserved matters stage.

Loss of wildlife

148. A biodiversity checklist and ecological statement has been submitted with the application. Natural Environment 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 and the proposal will not have a detrimental impact on any natural heritage features. The proposal is in accordance with the policy tests of Policy NH5 of the draft Plan Strategy.

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

149. Environmental Health have been consulted and have no objection to the proposed development. Noise and general disturbance are not dealt with under planning legislation and is a matter for the local Environmental Health Office. It was not observed at the site that there was any adverse amenity impact caused by barking dogs. In the absence of any loss of amenity by reason of noise or nuisance, this objection is not sustained.

Loss of trees and hedgerow

150. 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. 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

151. Under Policy CTY 8 an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The exceptions test are met of the reasons outlined above.

The septic tank of another property is located within the site.

152. 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

153. 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.
154. 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.

## Conclusions

155. 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 draft Plan Strategy.
156. 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

157. It is recommended that planning permission is approved.

## Conditions

158. 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.

- The ridge height of the dwelling shall not exceed 5.6 metres from their finished floor levels and under-building shall not exceed 0.45m at any point. Any application for approval of reserved matters shall incorporate plans indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point.

Reason: To ensure the development is prominent in the landscape.

- 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

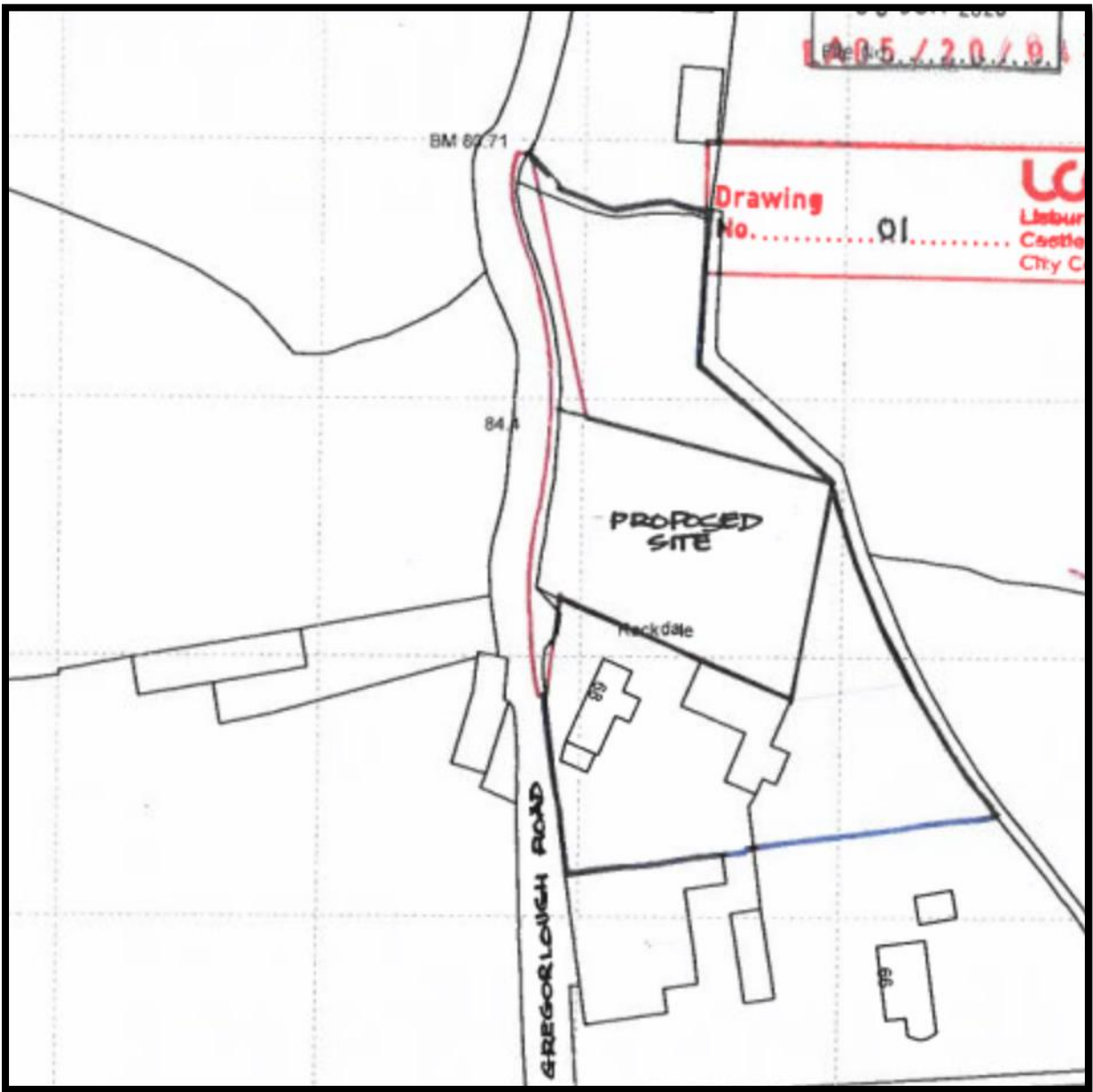
- Should the mature Ash tree, located within the western hedgerow and to the south of the Sycamore, as identified by the ecologist, be required for removal/felling, then an emergence/re-entry survey must be completed and submitted to the Planning Authority based on the ecologist's determination of the 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 Committee Meeting	07 August 2023
Committee Interest	Local Application [Called In]
Application Reference	LA05/2022/1023/O
Date of Application	21 November 2022
District Electoral Area	Downshire West
Proposal Description	Site for one detached dwelling with associated site works
Location	Lands 20 metres south east of 50 Back Road, Drumbo, Lisburn, BT27 5LB
Representations	None
Case Officer	Laura McCausland
Recommendation	Refusal

**Summary of Recommendation**

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
2. The application is presented to the Planning Committee with a recommendation to refuse 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 draft Plan Strategy (as modified by the Direction of the Department) in that the proposed development is not a type of development which in principle is acceptable in the countryside.



3. The proposal is contrary to bullet point 5 of paragraph 6.73 of the SPPS, and policy COU8 of the Lisburn and Castlereagh City Council draft Plan Strategy (as modified by the Direction of the Department) as this is not a substantial and continuously built-up frontage or a gap site sufficient to accommodate two dwellings and the development would if permitted not respect the existing pattern of development in this part of the countryside in terms of its size and plot size.
4. The proposal is contrary to policy COU16 of the Lisburn and Castlereagh City Council draft Plan Strategy (as modified by the Direction of the Department) in that the proposed development would not respect the traditional pattern of settlement and as such, would result in a detrimental change to the rural character of the countryside.

### Description of Site and Surroundings

#### Site

5. The application site is located on lands approximately 20 metres south east of single storey outbuilding in the side garden of a dwelling with integral garage at 50 Back Road.
6. Access to the site is via the driveway to 50 Back Road and the land within falls from the road edge to the rear of.
7. The boundary to the roadside is comprised of a sheep wire fence with iron gates and mature trees, to the southern boundary timber close boarded fence and mature trees, the western boundary is defined by mature hedgerow and the northern boundary is undefined.

#### Surroundings

8. The character of the surrounding and immediate area is rural in nature comprising of farm holdings, single dwellings and agricultural lands.
9. The village of Drumbo is approximately one kilometre to the north of the site.

### Proposed Development

10. Outline planning permission is sought for the erection of one detached dwelling with associated site works.

### Relevant Planning History

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

## Consultations

12. The following consultations were carried out:

Consultee	Response
NIEA	No Objection
LCCC Environmental Health	No Objection
DFI Roads	No Objection
NI Water	No Objection

## Representations

13. No representations have been received in respect of this planning application.

## Planning Policy Context

### Local Development Plan Context

14. 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.

### LCCC - Draft Plan Strategy 2032

15. On 28<sup>th</sup> June 2023 the Department for Infrastructure issued a Direction that the Council adopt the Lisburn and Castlereagh City draft Plan Strategy subject to modifications.

16. The effect of the Direction is that the final form the Plan Strategy will take is known. For this reason the draft Plan Strategy is now a material consideration in the processing of this planning application.

17. The Department for Infrastructure provide no guidance about how to take account of the draft development plan document before it is adopted. That said, the Joint

Ministerial Statement (JMS) prepared by the Department for Regional Development and the Department for the Environment in January 2005 was issued to ensure that the correct weight was given to the provisions of an emerging plan.

18. Although written for the preparation of plans in a different legislative context the JMS was never withdrawn and provides useful guidance on the approach to be taken.

19. At paragraph 22 of the JMS it is stated that:

*Where a plan is at the draft plan stage but no objections have been lodged to relevant proposals then considerable weight should be attached to those proposals because of the strong possibility that they will be adopted and replace those in the existing plan. In circumstances where there have been objections to relevant policies, lesser weight may be attached except for those situations outlined in paragraphs 20 - 21 above. Much will also depend on the nature of those objections and whether there are representations in support of particular policies.*

20. The Lisburn and Castlereagh draft Plan Strategy sets out in clear terms the direction of future policy and has been through a process of public consultation and Independent Examination.

21. Any objections to the policies set out in the draft Plan Strategy have been taken account of and the majority of the modifications directed by the Department for Infrastructure were as a consequence of changes presented by the Council at the Independent Examination to ensure the test of soundness was met in full.

22. Applying the same principles as those set out at paragraph 22 of the JMS and for the reasons set out above, there is a strong likelihood that the proposed policies in the draft Plan Strategy (as modified) will be adopted.

23. For these reasons the draft Plan Strategy is a material consideration of determining weight in the assessment of this proposal.

#### Transitional Arrangements

24. It is stated at page 16 of Part 1 of the draft 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.*

25. In accordance with the transitional arrangements the existing Local Development Plan and draft BMAP remain material considerations.

26. 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. 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.*

30. There are equivalent policies in the draft Plan Strategy to the regional policies described in LAP and draft BMAP.
31. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out at page 66 of the draft Plan Strategy.
32. 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.*

(text in bold as modified by the Direction)

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. The justification and amplification of this policy is modified to include the following:

**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.**

*(text in bold as modified by the Direction)*

### Rural Character and other Criteria

#### 39. Policy COU16 – Rural Character and other Criteria

*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.***

*(text in bold as modified by the Direction)*

## Access and Transport

41. 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.*

42. 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.*

(text in bold as modified by the Direction)

## The approach to the statutory Development Plan and Regional Policy

43. 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.*

44. It is stated a paragraphs 1.10 and 1.11 of the SPPS that:

*A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.*



*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.*

45. Whilst the Plan Strategy is not yet adopted and the retained suite of regional planning policies (PPS's) continue to apply in accordance with the SPPS in light of the fact that a Direction to adopt the Plan is issued these policies are now considered to be of little weight for the same reasons explained earlier in this report.
46. The operational policies in Part 2 of the draft Plan Strategy are considered to take precedence over the retained suite planning policy statements and of determining weight in the assessment of this planning application.
47. 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*

48. 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*
49. 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.*
50. 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 (as modified) have been drafted to be consistent with the SPPS.

### **Regional Policy Context**

51. As the retained regional policies still apply until the Plan Strategy is adopted, they are included in the report for completeness.
52. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.

53. Policy CTY 1 states that:

*there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy states:*

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

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

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

54. The policy also states that:

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

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

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

56. Policy CTY 8 – Ribbon Development states:

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

*An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and*

*plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*

57. A building is defined in statute to include a structure or erection, and any part of a building as so defined.
58. Regard is also had to the justification and amplification which states:

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

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

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

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

59. Officers have paid close attention to consideration of this planning policy by the High Court. On the 24<sup>th</sup> May 2022 Mr. Justice Scofield delivered judgment in Gordon Duff's Application (Re Glassdrumman Road, Ballynahinch) for Judicial Review. Whilst Officers are advised that this decision is under appeal, the Court discussed the general approach to be taken to the policy assessment of such applications, and they are important to bear in mind as the interpretation of policy is a matter for the Courts.
60. 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.”*

61. Officers have borne in mind that the policy in COU8 of the Lisburn and Castlereagh City Council draft Plan Strategy is similarly restricted as CTY8 and that any infill application is an exception to the prohibition on ribbon development. However the draft plan strategy the subject to the Direction contains new interpretation of relevant buildings that are important new considerations.

### **Building on Tradition**

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

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

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

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

63. The guidance also 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.*

64. It also notes that:

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

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

65. 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.

66. 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*

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

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

68. The policy states that:

*a new building will be unacceptable where:*

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

(g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

69. Policy CTY 14 – Rural Character states:

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

70. The policy states that:

*A new building will be unacceptable where:*

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

71. There is no mains sewer and connection is required to a package treatment plant. Policy CTY 16 - Development Relying on Non-Mains Sewerage states

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

72. The policy also states that:

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

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

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

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage, including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site*

*sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.*

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

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

75. Policy AMP 2 – Access to Public Roads states:

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

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

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

76. 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**

77. 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 regional policy in PPS21 CTY8 is restricted and that any infill application is an exception to the prohibition on ribbon development. The same approach applies to COU8, however COU8 contains new and significant definition of the buildings to be taken into account.



78. 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.*

79. Officers are satisfied that the proposal does engage ribbon development. There are two dwellings beside one another at 50 and 52 Back Road with a common frontage to the road.
80. The buildings are set back from the road by varying degrees and at slightly different heights in the landscape. Whilst there is a gap between them they have a common frontage which is partly filled with a domestic outbuilding. They are visually linked when travelling along the entire frontage of the two dwellings. This is sufficient to conclude that the proposal does engage ribbon development.

### **The issue of exception**

81. The next step is to consider whether the proposal comes within the exception set out in the policy.
82. 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.
83. Only three buildings front the Back Road at this location. The first is a dwelling at 50 Back Road. The second is a detached ancillary outbuilding within the curtilage of 50 Back Road. The third is a detached dwelling with an integral garage at 52 Back Road.
84. This is not a substantial and continuously built-up frontage as there are not four or more buildings. Whilst the two dwellings are visually linked and counted as part of the assessment the other building within the curtilage of 50 Back Road is a domestic ancillary building and not counted by policy. There are no other buildings book ending either side of the site.
85. The next step is to consider whether a small gap exists sufficient to accommodate two dwellings.
86. 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.

87. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
88. In this case, the size of the gap is constrained one side by the integral garage attached to the dwelling at 52 Back Road and on the other by the domestic outbuilding in the garden of 50 Back Road. It has a narrow frontage to the road and not sufficient in size to accommodate two dwellings. This part of the policy is not met. 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 that constitute the frontage of development.
89. A planning statement and additional information from the applicant and agent accompanied the application. Further supporting information was also submitted by the agent on 26 April and by the applicant on 9 May 2023.
90. The planning statement details the intention to subdivide the existing plot at 50 Back Road to accommodate a new dwelling and it is suggested that there is a gap within a built up frontage comprising buildings associated with 50 and 52 Drumbo Road.
91. As you travel along this part of the Back Road in either direction there is little visual awareness of the property at 50 Back Road due to the existing mature roadside planting to the front of the site and its outbuilding but there remains glimpsed views of the buildings and they can be seen as part of the built up frontage at this location.
92. A new building at this location would also not respect the traditional pattern of development for the following reasons:
  - The plot area and frontage width associated with the curtilage of 50 Back Road is 0.85 hectares and 110 metres respectively.
  - The plot area and frontage width of 52 Back Road is 0.2 hectares and 47 metres respectively.
  - The plot frontage of the gap between the existing outbuilding and the dwelling at 52 Back Road is 12.5 metres with the plot [excluding the outbuilding] measures less than 0.1 hectare.
  - The average plot size along this frontage is 0.53 hectares with the average frontage width is 79 metres.
93. The extent of the frontage and size of the gap between the outbuilding at 50 Back Road and the dwelling at 52 Back Road is much smaller than the average plot width and size and a building on this site would not respect the existing pattern of development.

94. The Building on Tradition document is written with a different policy in mind and the guidance contained at 4.4.0 and 4.4.1 and the worked examples on page 71 are limited material weight in the assessment of this proposal as the site is not sufficient in size to accommodate two dwellings consistent with the existing pattern of development. The words 'a maximum of' will no longer apply.
95. Excluding the words 'one or' from the guidance at bullet five on page 71 even if all the other criteria were met the plot frontage of this site is smaller than the average plot width in the ribbon.
96. 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.

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

97. As explained above, transient views of the site would be limited and brief due to presence of existing mature vegetation along the site frontage. A new building would not be prominent in the landscape as a consequence of the enclosure provided by the mature planting and buildings on one side and existing buildings on the other meaning that a dwelling could be integrated into the landscape.
98. Without prejudice to the advice that this proposal does not respect the existing pattern of development, a dwelling would cluster with the established group of buildings which provide enclosure to the site on two sides. A new dwelling could be designed to blend with the landform for the reasons detailed above and without the need for additional landscaping.
99. 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. The loss of significant vegetation can be mitigated without impacting significantly on the ability to integrate the development into the countryside.
100. This is an outline planning application and details of the design are not included. This bulk, scale, massing and external appearance of the building could be controlled by condition. For the reasons outlined in the preceding paragraphs it is considered that all of the criteria of policy COU15 are or can be met.

### **Policy COU16 - Rural Character**

101. A new building in its own right if all the other policy tests were met will not be unduly prominent in the landscape for the reasons outlined above at paragraph 97.
102. Criteria (b) of policy COU16 requires the dwelling to cluster with and established group of buildings. This is dealt in the preceding section at paragraph 98.

103. A new dwelling would not however respect the traditional pattern of settlement exhibited in the area as it introduces a new building into a ribbon on a plot that is not of sufficient in size and scale to accommodate a new house. There is a prohibition of development that adds to a ribbon where the exception is not demonstrated.
104. This proposal is not in accordance with criteria (c) and as a consequence have an adverse impact on the rural character of the area. Criteria (e) is not met.
105. In respect of criteria (d) whilst this site is not adjacent to a settlement to mar the distinction between a settlement and the surrounding countryside it does result in urban sprawl when viewed with the existing buildings.
106. In respect of criteria (f) a dwelling is capable of being sited and designed to ensure that the proposal does not have an adverse impact on residential amenity. Any new building will front the road and the gable elevation is unlikely to have windows to habitable rooms with the potential to overlook the neighbouring property.
107. In respect of criteria (g) and (h) all of the proposed services are provided underground or from existing overheads 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.
108. In respect of criteria (i) for the reasons set out at paragraphs 109 – 111, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

### **Policy TRA 2 - Access and Transport**

109. Detail submitted with the application indicates that access arrangements for the development as proposed will consist of construction of a new access onto a public road which will be used for vehicular use.
110. DFI Roads have considered the detail and offer no objections to the proposed development subject to standard conditions.
111. Based on a review of the information and the advice from statutory consultees, it is accepted that an 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 draft Plan Strategy are met in full.

### **Policy WM2 - Waste Management**

112. Detail submitted with the application indicates that source of water supply will be from mains and surface water disposed of via soakaway and foul via septic tank.

113. LCCC Environmental Health were consulted and offer no objection.
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 draft Plan Strategy are met in full.

### Conclusions and Recommendation

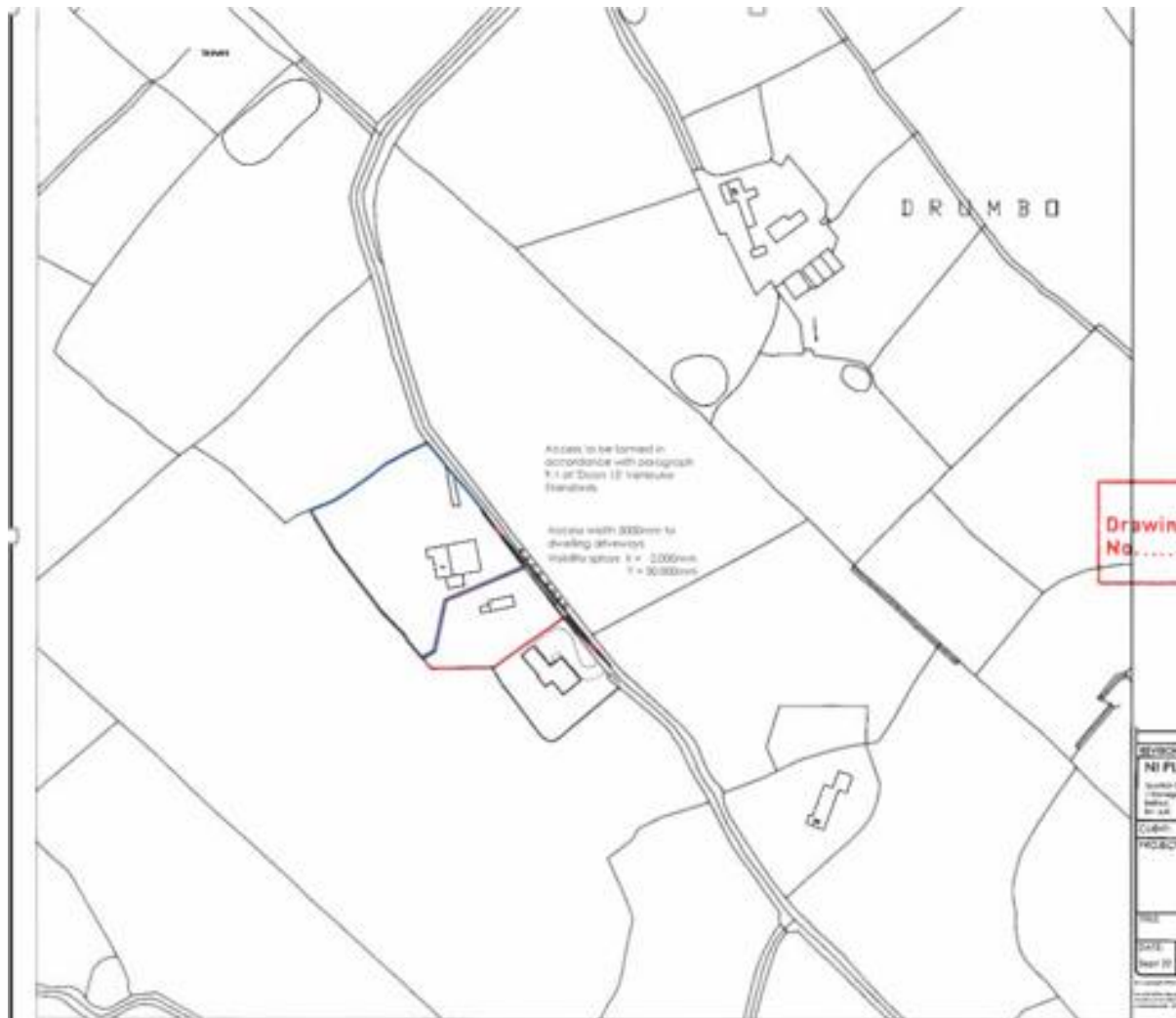
117. The recommendation is to refuse planning permission as the proposal is not in accordance with the requirements of paragraph 6.73 of the SPPS and policies COU1, COU8 and COU16 of the draft Plan Strategy.

### Refusal Reasons

118. The proposal did not also meet the regional policies retained in the transitional period but as the draft Plan Strategy is given determining weight the following reasons for refusal are proposed:
- The proposal is 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 a type of development which in principle is acceptable in the countryside.
  - 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 draft Plan Strategy (as modified by the Direction of the Department) as this is not a substantial and continuously built-up frontage or a gap site sufficient to accommodate two dwellings and the development would if permitted not respect the existing pattern of development in this part of the countryside in terms of its size and plot size.
  - The proposal is contrary to policy COU16 of the Lisburn and Castlereagh City Council draft Plan Strategy (as modified by the Direction of the Department) in that the proposed development not respect the traditional

pattern of settlement and as such would result in a detrimental change to the rural character of the countryside.

### Site Location Plan – LA05/2022/1023/O



**Lisburn & Castlereagh City Council**

Council/Committee	Planning Committee
Date of Meeting	07 August 2023
Committee Interest	Local Application (previously called-in)
Application Reference	LA05/2017/0633/O
Date of Application	14 June 2017
District Electoral Area	Downshire East
Proposal Description	Proposed two infill dwellings and garages
Location	Adjacent to 11 Magheraconlunce Lane
Representations	Two
Case Officer	Rosaleen Heaney
Recommendation	<b>Refusal</b>

**Background**

1. A recommendation to refuse planning permission was presented to the Planning Committee in December 2017.
2. The Committee, having considered the information provided within the report of Officers, and by those making representations, agreed by a majority vote to approve the application as outlined in the report.
3. The reasons cited in this instance were that the application complied with Policy CTY 8 as there was a continuous roadway. The decision granting planning permission in relation to the application issued on 12 December 2017.
4. The Council was notified on 8 March 2018 that an Order 53 Statement issued out of the High Court seeking leave to apply to judicially review the decision of the Council to grant planning permission.
5. The decision of the Council to grant planning permission was subsequently quashed by Scofield J. on the application of the Chief Executive of the Council on the grounds that the decision was made in contravention of the requirement to provide adequate reasons for the decision to grant planning permission.



- 6. Whilst this is a delegated application it was previously called-in and the same process of decision making is followed for consistency.

**Description of Site and Surroundings**

**Site**

- 7. The site is located on lands adjacent to 11 Magheraconluce Lane, Hillsborough and comprises a rectangular plot cut of a roadside agricultural field.
- 8. The boundary along the road frontage (southern and eastern boundary) is characterised with a mature two-metre high hedge with a small grass verge extending along its full length. A ranch style fence extends along the western boundary with 11 Magheraconluce Lane. The northern boundary is currently undefined.
- 9. The land slopes from SW to NE across the site.

**Surroundings**

- 10. The surrounding area is rural in character and the lands are mainly in agricultural use.

**Proposed Development**

- 11. This is an outline application for two infill dwellings and garages.

**Relevant Planning History**

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

<b>Application Reference</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Decision</b>
LA05/2016/0760/O	Adjacent to 11 Magheraconluce Road	Two infill dwellings and garages	Planning permission refused on 02 February 2017

- 13. An appeal was lodged with the Planning Appeals Commission in respect of this decision [2017/A0039]. The appeal was subsequently withdrawn on 19 June 2017 and the decision by the Council to refuse planning permission stood.

**Consultations**

14. The following consultations were carried out:

<b>Consultee</b>	<b>Response</b>
DfI Roads	No Objection
Environmental Health	No Objection
Water Management Unit	No objection
NI Water	No Objection

**Representations**

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

- Application is exactly the same proposal as was previously refused under application LA05/2016/0760/O on 02/02/2017;
- Access and increase in traffic;
- Concerns that the proposed new dwellings would have to use septic tanks and harm the water quality;
- Creation of a ribbon of development;
- The proposal site is not a small gap and is contrary to policy CTY 8;
- Proposal is contrary to Policy CTY 13 Integration;
- Proposal is contrary to Policy CTY 14 Rural Character;
- The layout map is not accurate and deliberately misleading, it exaggerates the gap between numbers 11 and 20 and it shows that there is a private lane coming onto Magheraconluce Lane, however this is a track only used by the farmer to move cattle; and
- Impact on wildlife species and habitat.

16. The issues in the Judicial Review proceedings were as follows:

- Permission granted was contrary to planning policy and there was no justification for departing from policy;

17. These issues are engaged with and considered in the reconsideration of this application.

## Planning Policy Context

### Local Development Plan Context

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

### LCCC - Draft Plan Strategy 2032

19. On 28<sup>th</sup> June 2023 the Department for Infrastructure made a Direction that the Council adopt the Lisburn and Castlereagh City draft Plan Strategy subject to modifications.
20. The effect of the Direction is that the final form the Plan Strategy will take is known. For this reason the draft Plan Strategy is now a material consideration in the processing of this planning application.
21. The Department for Infrastructure provide no guidance about how to take account of the draft development plan document before it is adopted. That said, the Joint Ministerial Statement (JMS) prepared by the Department for Regional Development and the Department for the Environment in January 2005 was issued to ensure that the correct weight was given to the provisions of an emerging plan.
22. Although written for the preparation of plans in a different legislative context the JMS was never withdrawn and provides useful guidance on the approach to be taken.
23. At paragraph 22 of the JMS it is stated that:

*Where a plan is at the draft plan stage but no objections have been lodged to relevant proposals then considerable weight should be attached to those proposals because of the strong possibility that they will be adopted and replace those in the existing plan. In circumstances where there have been objections to relevant policies, lesser weight may be attached except for those situations outlined in paragraphs 20 - 21 above. Much will also depend on the nature of those objections and whether there are representations in support of particular policies.*
24. The Lisburn and Castlereagh draft Plan Strategy sets out in clear terms the direction of future policy and has been through a process of public consultation and Independent Examination.
25. Any objections to the policies set out in the draft Plan Strategy have been taken account of and the majority of the modifications directed by the Department for

Infrastructure were as a consequence of changes presented by the Council at the Independent Examination to ensure the tests of soundness were met in full.

26. Applying the same principles as those set out at paragraph 22 of the JMS and for the reasons set out above there is more than a strong possibility that the proposed policies in the draft Plan Strategy (as modified) will be adopted.
27. For these reasons the draft Plan Strategy is a material consideration of determining weight in the assessment of this proposal.

#### Transitional Arrangements

28. It is stated at page 16 of Part 1 of the draft 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 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.*

31. 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.*

32. 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.*

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 draft Plan Strategy to the regional policies described in LAP and draft BMAP.
35. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out at page 66 of the draft Plan Strategy.
36. 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**

37. 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.*

38. 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

39. 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.*

*(text in bold as modified by the Direction)*

40. 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

#### 41. 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.*

#### 42. The justification and amplification of this policy is modified to include the following:

***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.***

*(text in bold as modified by the Direction)*

#### Rural Character and other Criteria

#### 43. Policy COU16 – Rural Character and other Criteria

*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**

44. 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.***

*(text in bold as modified by the Direction)*

### **Access and Transport**

45. 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.*

46. 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.*

*(text in bold as modified by the Direction)*

### The approach to the statutory Development Plan and Regional Policy

47. 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.*

48. It is stated a paragraphs 1.10 and 1.11 of the SPPS that:

*A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.*

*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.*

49. Whilst the Plan Strategy is not yet adopted and the retained suite of regional planning policies (PPS's) continue to apply in accordance with the SPPS in light of the fact that a Direction to adopt the Plan is issued these policies are now considered to be of little weight for the same reasons explained earlier in this report.

50. The operational policies in Part 2 of the draft Plan Strategy are considered to take precedence over the retained suite planning policy statements and of determining weight in the assessment of this planning application.

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 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*

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. The policies in the Plan Strategy (as modified) have been drafted to be consistent with the SPPS.

### **Building on Tradition**

55. Whilst not policy, and a guidance document, the SPPS states that:

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

56. This notes:

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

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

57. The guidance also 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.*

58. 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.*

59. 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.

60. 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*

### **Regional Policy Context**

61. As the retained regional policies still apply until the Plan Strategy is adopted, they are included in the report for completeness.

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

63. Policy CTY 1 states:

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

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

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

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

64. The policy states:

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

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

65. As per the submitted Concept Statement, this application pertains to a proposal for the development of a gap site for a single dwelling/garage.

66. In addition to Policy CTY 8, there are other CTY policies that are engaged as part of the assessment including; CTY 13, CTY 14 and CTY 16, and they are also considered.

67. Policy CTY 8 – Ribbon Development states:

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

*An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the*

*existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.*

*For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.'*

68. A building is defined in statute to include; a structure or erection, and any part of a building as so defined.
69. Regard is also had to the justification and amplification which states;

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

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

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

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

70. Officers have paid close attention to consideration of this planning policy by the High Court. On the 24<sup>th</sup> May 2022 Mr Justice Scofield delivered judgment in Gordon Duff's Application (Re Glassdrumman Road, Ballynahinch) for Judicial Review. Whilst Officers are advised that this decision is under appeal, the Court discussed the general approach to be taken to the policy assessment of such applications, and they are important to bear in mind as the interpretation of policy is a matter for the Courts.
71. 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.”*

72. Officers have borne in mind that the policy in COU8 of the Lisburn and Castlereagh City Council draft Plan Strategy is similarly restricted as CTY8 and that any infill application is an exception to the prohibition on ribbon development.

73. Policy CTY 13 – Integration and Design of Buildings in the Countryside states;

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

74. The policy states;

*A new building will be unacceptable where:*

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

75. Policy CTY 14 – Rural Character states;

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

76. The policy states;

*A new building will be unacceptable where:*

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

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

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

78. The policy also states;

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

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

79. With regards to Policy CTY 16, 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.'*

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

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

81. Policy AMP 2 – Access to Public Roads states:

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

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

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

82. 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**

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

#### Ribbon Development

84. 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 similarly restrictive as CTY 8 and that any infill application is an exception to the prohibition on ribbon development.

85. 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.*

86. 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 not more than two buildings beside one another on the same road frontage at this location.
87. Only the dwelling house at 11 Magheraconluce Lane has a frontage to public road by reason of its curtilage extending to the edge of the road. The other ancillary buildings linked to this dwelling are separated from the frontage by hedgerow and have a secondary access onto a private lane. They are not counted as part of a ribbon of development for this reason.
88. The dwelling at 20 Magheraconluce Road is on the opposite side of a public road. It is not beside another dwelling nor does it share a common frontage to Magheraconluce Lane with the dwelling at 11. It cannot be counted as part of a ribbon of development for this reason.
89. The development of this site for two houses would create a ribbon of development and is contrary to policy COU8.

#### The issue of exception

90. The next step of the policy is normally to consider whether the proposal comes within the exception set out in the policy. As there is only one building on the road frontage and ribboning is not engaged the issue of exception is not tested.

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

91. The ground behind the site is falling way from the edge of the road and there is no hedgerow or trees in the backdrop that will provide a means of enclosure for the buildings. The dwellings could not blend with the landform for these reasons. Integration could only be achieved by in depth and substantial landscaping of the northern boundary of the site.
92. It is considered that two dwellings on this corner site would be prominent in the landscape travelling south along the Magheraconluce Lane towards the dwelling at number 20 and north towards the site close to the entrance at number 11. Criteria (a), (c), (d) and (e) of the policy are not met.

93. Without prejudice to the advice offered in respect of the development of this site creating a ribbon of development at least one of the dwellings would cluster with the buildings at 11 Magheraconluce Lane.
94. However the second building would extend along the road frontage without a bookend and for this reason could not be considered to be clustered with the buildings at number 11. Criteria (b) is not met for this reason.
95. This is an outline application and no detailed design is submitted. As long as the building are designed to a high standard in accordance with the requirements of the Building on Tradition document a refusal reason on the grounds of criteria (f) could not be sustained at this stage.
96. Approximately 30 metres of hedgerow is required to be removed along the site frontage to facilitate the paired access arrangement. The hedgerow is maintained at approximately 1.2 metres and could be replaced after the works to form the access are completed. The ancillary works in their own right can be easily absorbed and reintegrated into their surroundings. A refusal on the grounds of criteria (g) cannot be sustained.

#### **Policy COU16 - Rural Character**

97. New buildings will be unduly prominent in the landscape for the reasons outlined above at paragraphs 91 - 92 above. Criteria (a) is not met.
98. Criteria (b) of policy COU16 requires the dwelling to cluster with and established group of buildings. This is dealt in the preceding section at paragraph 93 - 94 and for these reasons is not met.
99. The two new dwellings would not respect the traditional pattern of settlement exhibited in the area as it creates a ribbon of development. There is a prohibition of development that creates a ribbon.
100. This proposal is not in accordance with criteria (c) and as a consequence have an adverse impact on the rural character of the area criteria (e) is not met.
101. In respect of criteria (d) whilst this site is not adjacent to a settlement to mar the distinction between a settlement and the surrounding countryside it does result in urban sprawl by creating a ribbon of development at this location.
102. In respect of criteria (f) two dwellings are capable of being sited and designed to ensure that the proposal does not have an adverse impact on residential amenity. Any new buildings will front the road and the gable elevation is unlikely to have windows to habitable rooms with the potential to overlook the neighbouring property.
103. In respect of criteria (g) and (h) all of the proposed services are provided underground or from existing overheads 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.

104. In respect of criteria (i) for the reasons set out at paragraphs 105 – 107, access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.

### **Policy TRA 2 - Access and Transport**

105. Detail submitted with the application indicates that access arrangements for the development as proposed will consist of construction of a new access onto a public road which will be used for vehicular use.
106. DFI Roads have considered the detail and offer no objections to the proposed development subject to standard conditions.
107. Based on a review of the information and the advice from statutory consultees, it is accepted that an 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 draft plan strategy are met in full.

### **Policy WM2 - Waste Management**

108. Detail submitted with the application indicates that source of water supply will be from mains and surface water disposed of via soakaway and foul via septic tank.
109. LCCC Environmental Health were consulted and offer no objection.
110. 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.
111. 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.
112. 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 draft plan strategy are met in full.

## Consideration of Representations

113. The issues raised by way of third party representation as part of the planning application process are considered below:

### Same proposal as one that was previously refused under application LA05/2016/0760/O

114. The application is the same as the previous application is the same proposal as was previously refused on the site by the Council on 02 February 2017. An appeal against the refusal of permission with withdrawn.

115. This is a similar proposal but not a repeat application. The additional supporting evidence is considered and the policy tests in the emerging plan are still not met.

### Access and increase in traffic

116. DfI Roads have no objection to the proposed development on road safety or traffic impact grounds. Officers have no reason to disagree with that advice and the scale of development would not in its own right give rise to significant traffic generation.

### Concerns in relation to use of septic tanks and impact on water quality

117. Both Environmental Health and Water Management Unit have been consulted on the proposal and have raised no objections. Officers have no reason to disagree with the advice of the consultees.

### Creation of a ribbon of development

118. The proposal would create a ribbon of development along Magheraconluce Lane and is contrary to planning policy for the reasons explained above.

### Proposed site is not a small gap

119. There is no gap as there is no building to bookend the site. This proposal creates a ribbon of development.

### Integration and Rural Character concerns

120. This is a prominent site and new buildings cannot be integrated into the countryside for the reasons outlined above.

### Inaccuracies with site layout map

121. No weight is given to the detail on the plan as the exception test is not engaged.

### Impact on wildlife species/habitats

122. The proposal would not have a negative impact on any natural heritage features as the proposal would not involve the removal of a significant amount of vegetation or habitat.

### Issues raised during the legal proceedings

123. The complainant explained at paragraph 4 of the Order 53 statement that:

*A previous identical application (LA05/2016/0760/0) was refused for 4 substantial reasons on 17th January 2017.*

124. Account is taken of the earlier planning permission and the recommendation to refuse planning permission is consistent with the planning history for the site.

125. The complainant also explained at paragraphs 5 - 7 of his Order 53 statement that:

*The planning officer dealing with application LA0S/2017/0633/0 also recommended refusal to the planning committee and gave 4 strong reasons for refusal.*

*The planning committee on 4th December 2017 overturned the planning officer recommendations and decided to approve the application instead.*

*The only reason given by the planning committee for approval was "that the committee believe that the application complies with CTY8 as there continuous road". This reason has very little meaning as most roads are continuous and CTY8 is interested in a substantial and continuous frontage so a continuous road comment has nothing to add to the debate.*

126. The policy context is changed with the publication of Direction of the Department for the Council to adopt its draft Plan Strategy. However, the issues of infilling a gap are the same. This is not an infill opportunity and is contrary to policy for the reasons set out above.

127. The complainant raised issues of the proposal not being in accordance with planning policy. It is not a development opportunity for the reasons set out in the report. The prohibition on ribbon development is engaged and the exception test does not apply.

## **Conclusions and Recommendations**

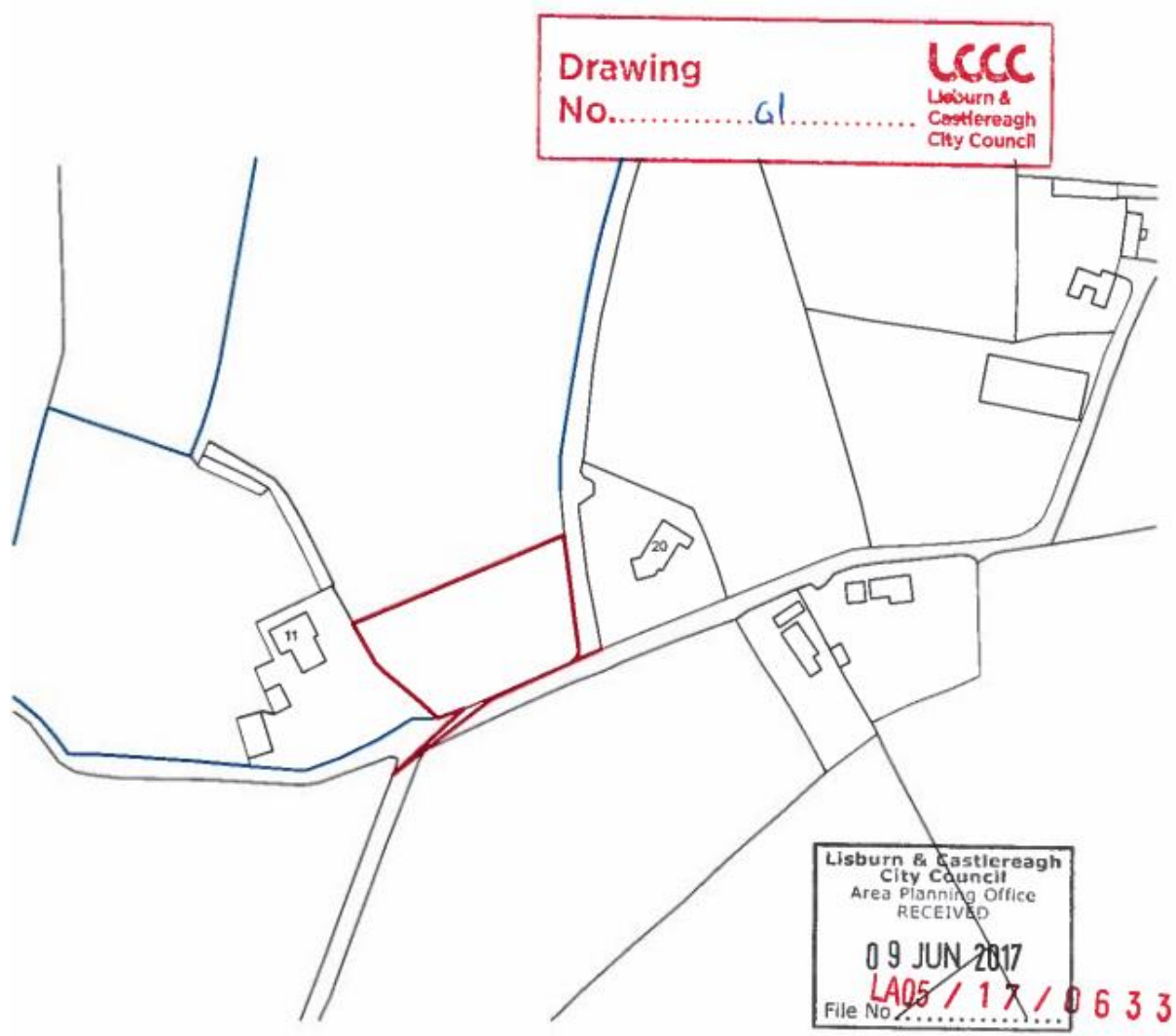
128. The recommendation is to refuse planning permission as the proposal is not in accordance with the requirements of paragraph 6.73 of the SPSS and policies COU1, COU8, COU15 and COU16 of the draft Plan Strategy.

## Refusal Reasons

129. The proposal is contrary the draft Plan Strategy is given determining weight the following reasons for refusal are proposed:

- The proposal is 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 this is not a type of development which in principle is acceptable in the countryside.
- The proposal is contrary to bulletin point 5 of paragraph 6.73 of the SPPS, and policy COU8 of the Lisburn and Castlereagh City Council draft plan strategy (as modified by the Direction of the Department) as this proposal would create a ribbon of development.
- The proposal is contrary to policy COU15 of the Lisburn and Castlereagh City Council draft plan strategy (as modified by the Direction of the Department) in that two dwellings will be prominent and cannot be integrated into the rural landscape at this location.
- The proposal is contrary to policy COU16 of the Lisburn and Castlereagh City Council draft plan strategy (as modified by the Direction of the Department) in that the proposed development would result in a suburban style build-up of development and would not respect the traditional pattern of settlement and result in urban sprawl resulting in a detrimental change to the rural character of the countryside.

Site Location Plan – LA05/2017/0633/O







## Planning Committee

07 August 2023

Report from:

Head of Planning and Capital Development

### Item for Decision

**TITLE:** Item 2 – Submission of Pre-Application Notice (PAN) for proposed cemetery and ancillary works including landscaping, internal access roads, and railway underpass. Principal site access from established access point on the Lisburn Road, emergency-only access onto Lisnabilla Road.

Background and Key Issues:

#### Background

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.

#### Key Issues

1. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report set out how the requirement of the legislation and associated guidance has been considered as part of the submission.

**Recommendation:**

It is recommended that the Members note the content of the Pre-application Notice attached (see **Appendices**) and that it is submitted in accordance with the relevant section of the legislation and related guidance.

**Finance and Resource Implications:**

There are no finance and resource implications.

**Screening and Impact Assessment**

**1. Equality and Good Relations**

Has an equality and good relations screening been carried out on the proposal/project/policy?

**If no, please provide explanation/rationale**

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.

If yes, what was the outcome?:

<b>Option 1</b> Screen out without mitigation	<input type="text" value="N/A"/>	<b>Option 2</b> Screen out with mitigation	<input type="text" value="N/A"/>	<b>Option 3</b> Screen in for a full EQIA	<input type="text" value="N/A"/>
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**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

**2. Rural Needs Impact Assessment:**

Has consideration been given to Rural Needs?	<input type="text" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="text" value="No"/>
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**If no, please give explanation/rationale for why it was not considered necessary:**

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.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**Appendix 2(a)** - Report in relation to LA05/2023/0574/PAN

**Appendix 2(b)** – LA05/2023/0574/PAN – PAN Form

**Appendix 2(c)** – LA05/2023/0574/PAN – Site Location Plan

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	07 August 2023
Responsible Officer	Conor Hughes
Date of Report	18 July 2023
File Reference	LA05/2023/0574/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 a proposed cemetery and ancillary works including landscaping, internal access roads, and railway underpass. The principal site access is from an established access on the Lisburn Road, emergency-only access onto Lisnabilla Road.

### Background Detail

2. Section 27 of the Planning Act (Northern Ireland) 2011 requires that a prospective applicant, prior to submitting a major application must give notice to the appropriate council that an application for planning permission for the development is to be submitted.
3. It is stipulated that there must be at least 12 weeks between the applicant giving the notice (through the PAN) and submitting any such application.
4. The PAN for the above described development was received on 11 July 2023. The earliest possible date for the submission of a planning application is week commencing 2 October 2023.

### Consideration of PAN Detail

5. Section 27 (4) stipulates that the PAN must contain:
 

**A description in general terms of the development to be carried out;**
6. The description associated with the FORM PAN1 is as described above.

7. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is considered that an adequate description of the proposed development has been provided.

**The postal address of the site, (if it has one);**

8. The postal address identified on the FORM PAN1 is as described above.
9. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that an adequate description of the location has been provided.

**A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site;**

10. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that a site location plan with the extent of the site outlined in red and submitted with the PAN form is sufficient to identify the extent of the site.

**Details of how the prospective applicant may be contacted and corresponded with;**

11. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10 it is noted that the FORM PAN1 as amended and associated covering letter includes details of how the prospective applicant may be contacted and corresponded with.
12. The Form PAN1 includes the name and address of the agent. Any person wishing to make comments on the proposals or obtain further information can contact the agent Hayley Dallas of Less Ross Planning at 14 King Street, Magherafelt, BT45 6AR.
13. In addition to the matters listed above, Regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

**A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;**

14. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is noted that question 9 of the FORM PAN 1 indicates that no environmental impact assessment determination has been made.
15. It is accepted that this reference is made without prejudice to any future determination being made or the applicant volunteering an Environmental Statement.

**A copy of any notice served by the Department under Section 26(4) or (6) i.e. confirmation (or not) of the Department's jurisdiction on regionally significant developments**

16. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is considered that the form of development proposed is not specified in the Planning (Development Management) Regulations (Northern Ireland) 2015 as a major development (i.e. regionally significant) prescribed for the purpose of section 26 (1) of the Planning Act (Northern Ireland) 2011 and it is noted that consultation with the Department has not taken place.

**An account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take**

17. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 the account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take has been provided.

The PAN form indicates at Question 10 that a public event in the form of a public information drop in session will take place at Maghaberry Community Centre on 20 September 2023 at 7:30 pm.

The event will be publicised in the Ulster Star on 01 September 2023. A letter will also be sent to nearby dwelling houses via mail drop and all Councils within the local ward. A location map, draft layout and a copy of a feedback form will be provided.

Elected members for the DEA identified as having an interest received a copy of the Proposal of Application Notice on the week commencing 11 July 2023.

**Recommendation**

18. In consideration of the detail submitted with the Pre-Application Notice (PAN) in respect of community consultation, it is recommended that the Committee note the information submitted.



[www.lisburncastlereagh.gov.uk/resident/planning](http://www.lisburncastlereagh.gov.uk/resident/planning)  
Lisburn & Castlereagh City Council, Civic Headquarters, Lagan Valley Island, Lisburn, BT27 4RL  
Tel: 028 9244 7300  
E-mail: [planning@lisburncastlereagh.gov.uk](mailto:planning@lisburncastlereagh.gov.uk)

## Combined application for pre application discussion & proposal of application notice

### Planning Act (Northern Ireland) 2011

#### Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Are you an agent acting on behalf of the applicant?

- Yes
- No

#### Applicant Details

Name/Company

Title

First name

Surname

Company Name

#### Address

Address line 1

Address line 2

Address line 3

Town/City

Country

236

## Contact Details

Telephone number

Mobile number

Email address

## Agent Details

### Name/Company

Company / Organisation

Title

First name

Surname

## Address

Address line 1

Address line 2

Address line 3

Town/City

Postcode



## Contact Details

237

Telephone number

Mobile number

Email address

Ref no.

## Site Address

**Disclaimer:** Recommendations can only be based on the answers given to the questions.

If you cannot provide a postcode, then further details must be provided below for 'Description of site location' by providing the most accurate site description you can in order to help locate the site.

Number

Suffix

Property Name

Address Line 1

Address Line 2

Town/city

Postcode

## Description of site location (must be completed if postcode is not known)

Description

Easting co-ordinates (x)

362162

### Ownership

Please state applicant's interest in the site

Owner

### Site Area

What is the area of the site?

6.72

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).

### Type of Planning Application

Please indicate what type of application is being requested

- Outline permission
- Full permission
- Reserved matters

Is the application which is now being made a renewal for an existing permission?

- Yes
- No

Please select all categories of development which are relevant to this application

- Residential
- Retail
- Industrial/business use
- Community use
- Other

If Other, please clarify with more detail

Cemetery development.

Does the proposal include non-residential floor space?

- Yes
- No

Site Area (ha)

6.72

- How to make an application
- The information required to support an application
- Which regional and local planning policies apply
- Whether the proposal is acceptable in principle
- Design issues
- Heritage
- Amenity issues
- Transport
- Flood risk
- Drainage
- Need for a Section 76 planning agreement
- Environment Impact Assessment
- Other

Please explain why you wish to discuss the matter(s) which are indicated above

To discuss nature, scale and character of the proposal and the need for development.

Please tell us what you are trying to achieve through your proposal

A cemetery development to facilitate the medium/long term needs of the sub regional population.

### Related Proposals

Have you submitted a Proposal of Application Notice or any other pre-application/application in relation to this development?

- Yes
- No

If yes, please provide the application reference number(s)

S/2010/1021/O  
 S/2013/0093/RM  
 LA05/2017/0311/F  
 LA05/2019/0243/PAN

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 cemetery and ancillary works including landscaping, roadways, and railway underpass. Principal site access from established access point on the Lisburn Road, emergency-only access onto Lisnabilla Road.

### Floorspace Summary

Does the proposal include floorspace?

- Yes
- No

### Renewable Energy

Does your proposal involve renewable energy development?

- Yes  No

### Determinations

Has a determination been made as to whether the proposed development would be of Regional Significance?

- Yes  No

Has an Environmental Impact Assessment determination previously been made?

- Yes  No

### Details of Proposed Consultation

Please add separate details for each proposed consultation

Proposed public event: Public presentation event.  
 Venue: Maghaberry Community Centre  
 Date and time: 20/09/2023 19:30

Please add separate details for each publication used for the above consultation

Publication

Name of publication Ulster Star  
 Proposed advert date start 01/09/2023  
 Proposed advert date finish 01/09/2023

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)

We are proposing to hold a public information evening in Maghaberry Community Centre, the event will be advertised within the Ulster Star, the local newspaper. To ensure an effective consultation process we are also proposing to write to all nearby dwelling houses (via mail drop) and all Councillors within the local ward. We will enclose with each letter a copy of the location map, a draft layout and a copy of a feedback form. We will also provide contact details for Les Ross Planning.

Details of any other publicity methods (e.g. leaflets, posters)

N/A

### 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

**Elected member(s) for District Electoral Area:**

Ald Allan Ewart MBE Ald Owen Gawith Cllr Alan Martin Cllr Caleb McCready Cllr Gretta Thompson

**Date notice served:**

11/07/2023

Details for Other Parties

**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.

Developers and applicants should be aware that information related to a Pre Application Discussion may be subject to requests under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Act and Regulations provide for some exemptions from the need to disclose information, for example if it is commercially sensitive. In cases where applicants consider that specific information is exempt from the requirements of the Act or the Regulations, the justification for their position should be provided to the relevant authority.

- I acknowledge that this request and any resulting advice may be disclosed as part of any related Freedom of Information request**
- I do not wish this request or resulting advice disclosed as part of any related Freedom of Information request**

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**

General advice obtained from the authority website, or advice obtained through discussions with duty officers or through the pre-application discussion process, is not binding on any future decision the authority may make once a formal planning application has been submitted.

It is important to note all pre-application advice is given based on the information available at the time. This is without prejudice to the formal consideration of a planning application as other information may arise from consultations, third party representations or policy changes during the regulatory determination process. Moreover, not all planning decisions are made by officers, with some applications, including all proposals for Major development, decided by the Planning Committee.

**Declaration**

Pre-Application Discussions are provided by officers on behalf of the Authority. It is informal advice only and not binding on any future decisions that the Authority may make once a formal planning application has been submitted. All advice given is on the basis of the information available at the time. The planning application process involves consultation with neighbours and technical consultees and it will not be possible to predict all the issues that will arise once a planning application is submitted. Moreover, not all planning decisions are made by officers, with some applications, including all proposals for Major development, decided by the Planning Committee and Minister. 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

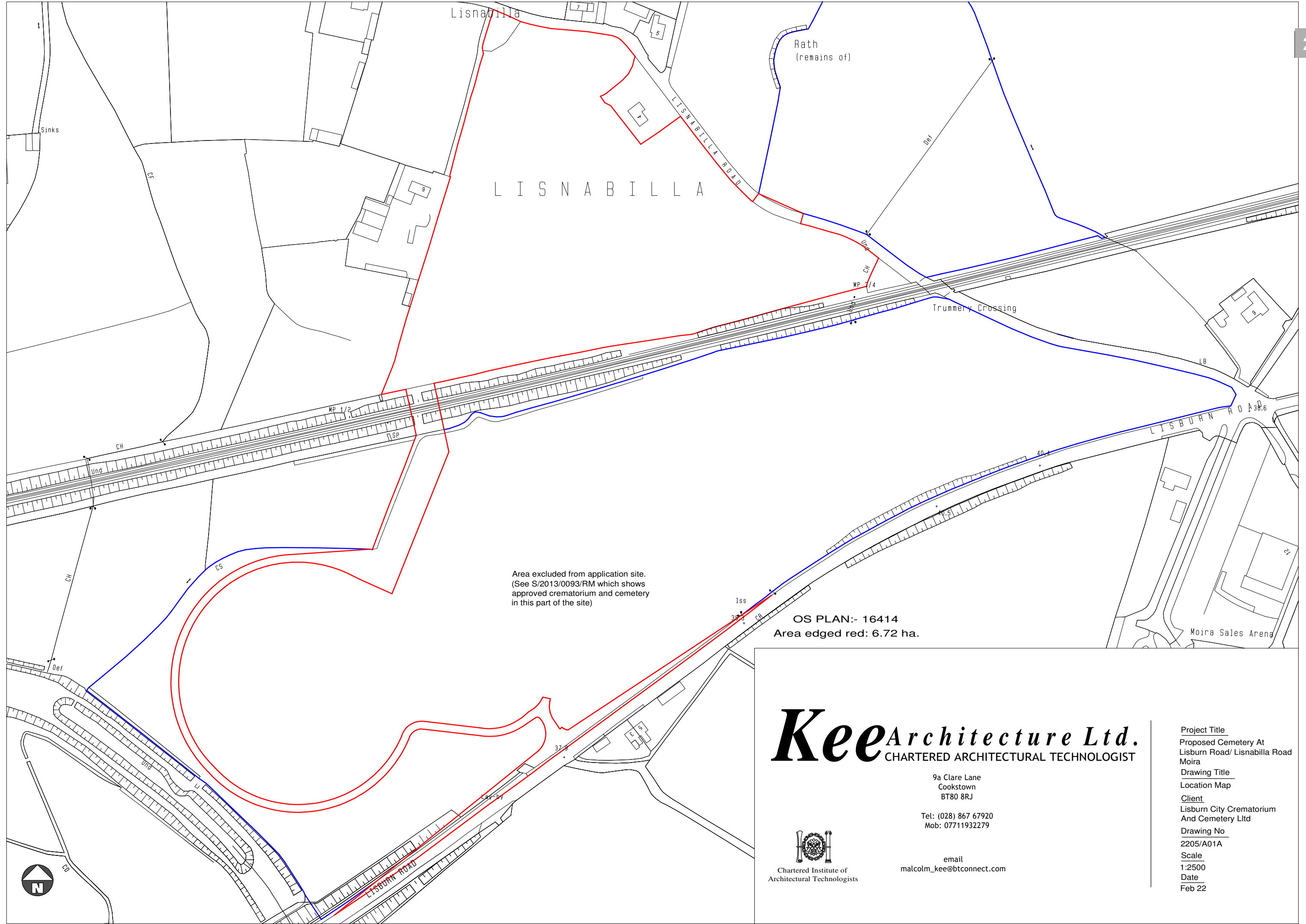
Hayley Dallas

Date

11/07/2023

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



Area excluded from application site.  
 (See S/2013/0093/RM which shows approved crematorium and cemetery in this part of the site)

OS PLAN:- 16414  
 Area edged red: 6.72 ha.

# *Kee* Architecture Ltd.

CHARTERED ARCHITECTURAL TECHNOLOGIST

9a Clare Lane  
 Cookstown  
 BT80 8RJ

Tel: (028) 867 67920  
 Mob: 07711932279

email  
 malcolm\_kee@btconnect.com



Project Title  
 Proposed Cemetery At  
 Lisburn Road/ Lisnabilla Road  
 Moira  
 Drawing Title  
 Location Map  
 Client  
 Lisburn City Crematorium  
 And Cemetery Ltd  
 Drawing No  
 2205/A01A  
 Scale  
 1:2500  
 Date  
 Feb 22





## Planning Committee

07 August 2023

Report from:

Head of Planning and Capital Development

### Item for Decision

**TITLE:** Item 3 – Submission of Pre-Application Notice (PAN) for a proposed change of house type for circa 88 dwellings previously granted planning permission under application LA05/2017/1153/F and ancillary works including car parking, detached garages, landscaping, access arrangements and associated site works.

**Background and Key Issues:**

#### Background

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.

#### Key Issues

1. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report set out how the requirement of the legislation and associated guidance has been considered as part of the submission.

**Recommendation:**

It is recommended that the Members note the content of the Pre-Application Notice attached (see **Appendices**) and that it is submitted in accordance with the relevant section of the legislation and related guidance.



**Finance and Resource Implications:**

There are no finance and resource implications.

**Screening and Impact Assessment**

**1. Equality and Good Relations**

Has an equality and good relations screening been carried out on the proposal/project/policy?

**If no, please provide explanation/rationale**

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.

If yes, what was the outcome?:

<b>Option 1</b> Screen out without mitigation	<input type="text" value="N/A"/>	<b>Option 2</b> Screen out with mitigation	<input type="text" value="N/A"/>	<b>Option 3</b> Screen in for a full EQIA	<input type="text" value="N/A"/>
--	----------------------------------	---	----------------------------------	--	----------------------------------

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

**2. Rural Needs Impact Assessment:**

Has consideration been given to Rural Needs?	<input type="text" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="text" value="No"/>
--	---------------------------------	---	---------------------------------

**If no, please give explanation/rationale for why it was not considered necessary:**

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.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

- Appendix 3(a)** - Report in relation to LA05/2023/0583/PAN
- Appendix 3(b)** – LA05/2023/0583PAN – PAN Form
- Appendix 3(c)** – LA05/2023/0583/PAN – Site Location Plan

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	07 August 2023
Responsible Officer	Conor Hughes
Date of Report	19 July 2023
File Reference	LA05/2023/0583/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 a proposed change of house type for circa 88 dwellings previously granted planning permission under application LA05/2017/1153/F and ancillary works including car parking, detached garages, landscaping, access arrangements and associated site works.

### Background Detail

2. Section 27 of the Planning Act (Northern Ireland) 2011 requires that a prospective applicant, prior to submitting a major application must give notice to the appropriate council that an application for planning permission for the development is to be submitted.
3. It is stipulated that there must be at least 12 weeks between the applicant giving the notice (through the PAN) and submitting any such application.
4. The PAN for the above described development was received on 18 July 2023. The earliest possible date for the submission of a planning application is week commencing 09 October 2023.

### Consideration of PAN Detail

5. Section 27 (4) stipulates that the PAN must contain:  
**A description in general terms of the development to be carried out;**
6. The description associated with the FORM PAN1 is as described above.

7. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is considered that an adequate description of the proposed development has been provided.

**The postal address of the site, (if it has one);**

8. The postal address identified on the FORM PAN1 is as described above.
9. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that an adequate description of the location has been provided.

**A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site;**

10. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that a site location plan with the extent of the site outlined in red and submitted with the PAN form is sufficient to identify the extent of the site.

**Details of how the prospective applicant may be contacted and corresponded with;**

11. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10 it is noted that the FORM PAN1 as amended and associated covering letter includes details of how the prospective applicant may be contacted and corresponded with.
12. The Form PAN1 includes the name and address of the agent. Any person wishing to make comments on the proposals or obtain further information can contact the agent Turley, Hamilton House, 3 Joy Street.
13. In addition to the matters listed above, Regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

**A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;**

14. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is noted that question 9 of the FORM PAN 1 indicates that no environmental impact assessment determination has been made.
15. It is accepted that this reference is made without prejudice to any future determination being made or the applicant volunteering an Environmental Statement.

**A copy of any notice served by the Department under Section 26(4) or (6) i.e. confirmation (or not) of the Department's jurisdiction on regionally significant developments**

16. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is considered that the form of development proposed is not specified in the Planning (Development Management) Regulations (Northern Ireland) 2015 as a major development (i.e. regionally significant) prescribed for the purpose of section 26 (1) of the Planning Act (Northern Ireland) 2011 and it is noted that consultation with the Department has not taken place.

**An account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take**

17. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 the account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take has been provided.

The PAN form indicates at Question 10 that a public event in the form of a public information event will take place at Enler Community Centre (Minor Hall) Castlereagh on 24 August 2023 from 3 to 7 pm.

The event will be publicised in the Belfast Telegraph on 16 August 2023. Leaflets will be distributed to properties within 200 metres of the proposed development. A consultation phone line and project email will be made available and promoted on the project leaflet and consultation website.

Hard copies of materials can be provided to parties unable to access public event or digital material.

Elected members for the DEA identified as having an interest received a copy of the Proposal of Application Notice on the week commencing 03 July 2023.

**Recommendation**

18. In consideration of the detail submitted with the Pre-Application Notice (PAN) in respect of community consultation, it is recommended that the Committee note the information submitted.

Form PAN1

Official Use Only	
Reference No.:	
Associate Application No.:	
Registration date:	

250

## Proposal of Application Notice

Planning Act (Northern Ireland) 2011  
 Planning (General Development Procedure) Order (Northern Ireland) 2015

**To be completed for all developments within the major category of development**

Please note that when you submit this form the information, including plans, maps and drawings, will appear on the Planning Register which is publicly available and, along with other associated documentation (with the exception of personal telephone numbers, email addresses or sensitive personal data), will also be published on the internet on the Public Access site (<http://epicpublic.planningni.gov.uk/publicaccess/>). The Department for Infrastructure and the 11 Councils will process your information in line with the General Data Protection Regulations (GDPR) requirements. A copy of the full Privacy Statement is available at [www.infrastructure-ni.gov.uk/dfi-privacy](http://www.infrastructure-ni.gov.uk/dfi-privacy). To request a hard copy, please contact the relevant Data Protection Officer as listed in the statement.

**1a. Applicant's name and address**

**1b. Agent's name and address (if applicable)**

Name:		Name:	
Address:		Address:	
Town:		Town:	
Postcode:		Postcode:	
Tel:		Tel:	
E-mail:		E-mail:	

**2. Address or Location of Proposed Development** Please state the postal address of the prospective development site. If there is no postal address, describe its location. Please outline the site on an OS base plan and attach it to this completed notice.

**3. What is the area of the site in hectares?**

**4. Description of Proposed Development** Please describe the development to be carried out, outlining its characteristics. Please also enclose appropriate drawings, including: plan, elevations and site layout of the proposal.

**5. What is the total gross floorspace of the proposed development?**

**6. If the proposed development includes a renewable energy project, what is the total amount of power (in kilowatts or megawatts) expected to be generated per year?**

**7. Which type of planning permission does this Proposal of Application Notice relate to?**

(Please tick)

Full planning permission

Outline planning permission

**8. Has a determination been made as to whether the proposed development would be of Regional Significance?**

Yes

*(Please enclose a copy of the determination made under Section 26 of the Planning Act (NI) 2011)*

No

**9. Has an Environmental Impact Assessment determination been made?**

Yes

*(Please enclose a copy of the determination made under Part 2 of the Planning [Environmental Impact Assessment] Regulations [NI] 2015)*

No

**10. Please give details of proposed consultation**

Proposed public event	Venue	Date and Time

Name of publication(s) used:

Proposed newspaper advert date(s):

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):

Details of any other publicity methods (such as leaflets, posters, etc):

**11. Please state which other parties have received a copy of this Proposal of Application Notice** (Please continue on a separate sheet if necessary)

Elected member(s) for District Electoral Area	Date notice served
Other	Date notice served

**12. Council Employee / Elected Member Interest**

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

Or 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

If you have answered yes, please provide details (name, relationship and role):

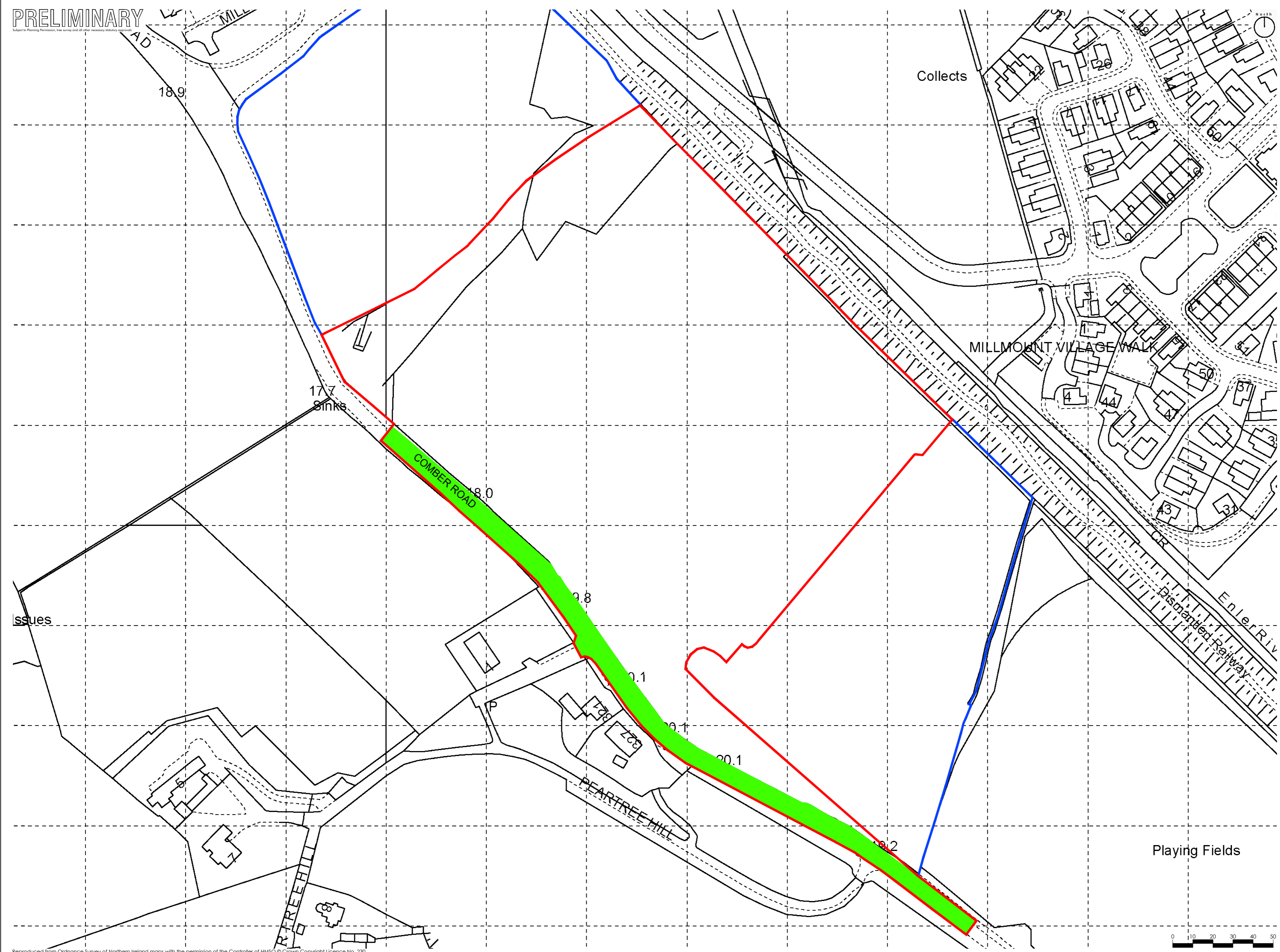
**13. Declaration**

<b>Signature:</b>	
<b>Print name:</b>	
<b>Date:</b>	

**PLEASE NOTE:** A planning application for this development cannot be submitted less than 12 weeks from the date the Proposal of Application Notice is received and without the statutory requirements having been undertaken. The application must be accompanied by the Pre-Application Consultation report.

We will respond within 21 days of receiving the Notice. We will confirm whether the proposed pre-application community consultation is satisfactory, or if additional notification and consultation is required. The minimum statutory consultation activity includes holding one public event and its advertisement in a local paper. We also require this Notice to be sent to local councillors for the District Electoral Area in which the proposed development is situated, and evidence of additional publicity of the event.





**PRELIMINARY**  
Subject to Planning Permission, the survey and all other necessary statutory approvals

NOTED DIMENSIONS TO BE FOLLOWED IN PREFERENCE TO SCALED DIMENSIONS AND REPORT ANY DISCREPANCY IMMEDIATELY

THE INFORMATION PROVIDED ON THIS DRAWING IN RESPECT OF STATUTORY OR OTHER EXTERNAL SERVICE INFORMATION CANNOT BE GUARANTEED TO BE ACCURATE. IS GIVEN FOR ASSISTANCE AND GENERAL GUIDANCE AND THAT ROUTES MAY DEVIATE ALAN PATTERSON DESIGN THEREFORE CAN TAKE NO RESPONSIBILITY FOR THE INFORMATION PROVIDED AND DOES NOT WARRANT ACCURACY OF THE SAME

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REV. DESCRIPTION	BY	DATE

**Key:**

- Application Boundary
- Extent of lands owned by applicant
- DOE ownership

PLANNING

BUILDING CONTROL

RECORD

FOR APPROVAL

CLIENT  
Millmount (Comber Road) Ltd

PROJECT  
Comber Road, Dundonald

DRAWING TITLE  
Location Plan  
(Balanced Lands)

SCALE/S  
1:1250 @ A2

SITE AREA  
13.07 acres/5.28 hectares approx

DATE  
08-02-23/15-06-23

DRAWN BY  
CAP/AH

DRAWING NUMBER  
3244-050-01-03-001

**apd** RIBA Chartered Practice

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112 Craigdaragh Road  
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info@alanpattersondesign.com  
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Partners  
Alan Patterson · Stephen Villiers

Company Number N676912

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## Planning Committee

07 August 2023

Report from:

Head of Planning and Capital Development

### Item for Decision

**TITLE:** Item 4 – Submission of Pre-Application Notice (PAN) for application under Section 55 of the Planning Act 2011 for retrospective planning permission for the retention of an earthen screening bund and associated woodland planting located along the western extents of Temple Quarry Ballycarnannon Road Lisburn

Background and Key Issues:

#### Background

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.

#### Key Issues

1. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report set out how the requirement of the legislation and associated guidance has been considered as part of the submission.

**Recommendation:**

It is recommended that the Members note the information on the content of the pre-application Notice attached (see **Appendices**) and that it is submitted in accordance with the relevant section of the legislation and related guidance.

**Finance and Resource Implications:**

There are no finance and resource implications.

**Screening and Impact Assessment**

**1. Equality and Good Relations**

Has an equality and good relations screening been carried out on the proposal/project/policy?

**If no, please provide explanation/rationale**

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.

If yes, what was the outcome?:

<b>Option 1</b> Screen out without mitigation	<input type="text" value="N/A"/>	<b>Option 2</b> Screen out with mitigation	<input type="text" value="N/A"/>	<b>Option 3</b> Screen in for a full EQIA	<input type="text" value="N/A"/>
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**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

**2. Rural Needs Impact Assessment:**

Has consideration been given to Rural Needs?	<input type="text" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="text" value="No"/>
--	---------------------------------	---	---------------------------------

**If no, please given explanation/rationale for why it was not considered necessary:**

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.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

- Appendix 4(a)** - Report in relation to LA05/2023/0597/PAN
- Appendix 4(b)** – LA05/2023/0597PAN – PAN Form
- Appendix 4(c)** – LA05/2023/0597/PAN – Site Location Plan

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	07 August 2023
Responsible Officer	Conor Hughes
Date of Report	31 July 2023
File Reference	LA05/2023/0583/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 **retrospective planning permission for the retention of an earthen screening bund and associated woodland planting located along the western extents of Temple Quarry** 26 Ballycarnannon Road, Lisburn

### Background Detail

2. Section 27 of the Planning Act (Northern Ireland) 2011 requires that a prospective applicant, prior to submitting a major application must give notice to the appropriate council that an application for planning permission for the development is to be submitted.
3. It is stipulated that there must be at least 12 weeks between the applicant giving the notice (through the PAN) and submitting any such application.
4. The PAN for the above described development was received on 21 July 2023. The earliest possible date for the submission of a planning application is week commencing 16 October 2023.

### Consideration of PAN Detail

5. Section 27 (4) stipulates that the PAN must contain:  
**A description in general terms of the development to be carried out;**
6. The description associated with the FORM PAN1 is as described above.

7. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is considered that an adequate description of the proposed development has been provided.

**The postal address of the site, (if it has one);**

8. The postal address identified on the FORM PAN1 is as described above.
9. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that an adequate description of the location has been provided.

**A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site;**

10. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that a site location plan with the extent of the site outlined in red and submitted with the PAN form is sufficient to identify the extent of the site.

**Details of how the prospective applicant may be contacted and corresponded with;**

11. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10 it is noted that the FORM PAN1 as amended and associated covering letter includes details of how the prospective applicant may be contacted and corresponded with.
12. The Form PAN1 includes the name and address of the agent. Any person wishing to make comments on the proposals or obtain further information can contact the agent Quarryplan Ltd, 10 Saintfield Road, Crossgar, BT30 9HY.
13. In addition to the matters listed above, Regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

**A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;**

14. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is noted that question 9 of the FORM PAN 1 indicates that no environmental impact assessment determination has been made.
15. It is accepted that this reference is made without prejudice to any future determination being made or the applicant volunteering an Environmental Statement.

**A copy of any notice served by the Department under Section 26(4) or (6) i.e. confirmation (or not) of the Department's jurisdiction on regionally significant developments**

16. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is considered that the form of development proposed is not specified in the Planning (Development Management) Regulations (Northern Ireland) 2015 as a major development (i.e. regionally significant) prescribed for the purpose of section 26 (1) of the Planning Act (Northern Ireland) 2011 and it is noted that consultation with the Department has not taken place.

**An account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take**

17. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 the account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take has been provided.

The PAN form indicates at Question 10 that a public drop in event will take place at Temple Quarry on 15 August 2023 from 4 – 6pm. The event will be publicised in the Belfast Telegraph on 31 July 2023. Information will also be available via Quarryplan website.

Elected members for the DEA identified as having an interest received a copy of the Proposal of Application Notice on the week commencing 21 July 2023.

### Recommendation

18. In consideration of the detail submitted with the Pre-Application Notice (PAN) in respect of community consultation, it is recommended that the Committee note the information submitted.

Form PAN1

Official Use Only	
Reference No.:	
Associate Application No.:	
Registration date:	

## Proposal of Application Notice

Planning Act (Northern Ireland) 2011  
 Planning (General Development Procedure) Order (Northern Ireland) 2015

**To be completed for all developments within the major category of development**

Please note that when you submit this form the information, including plans, maps and drawings, will appear on the Planning Register which is publicly available and, along with other associated documentation (with the exception of personal telephone numbers, email addresses or sensitive personal data), will also be published on the internet on the Public Access site (<http://epicpublic.planningni.gov.uk/publicaccess/>). The Department for Infrastructure and the 11 Councils will process your information in line with the General Data Protection Regulations (GDPR) requirements. A copy of the full Privacy Statement is available at [www.infrastructure-ni.gov.uk/dfi-privacy](http://www.infrastructure-ni.gov.uk/dfi-privacy). To request a hard copy, please contact the relevant Data Protection Officer as listed in the statement.

**1a. Applicant's name and address**

**1b. Agent's name and address (if applicable)**

Name:		Name:	
Address:		Address:	
Town:		Town:	
Postcode:		Postcode:	
Tel:		Tel:	
E-mail:		E-mail:	

**2. Address or Location of Proposed Development** Please state the postal address of the prospective development site. If there is no postal address, describe its location. Please outline the site on an OS base plan and attach it to this completed notice.

**3. What is the area of the site in hectares?**

**4. Description of Proposed Development** Please describe the development to be carried out, outlining its characteristics. Please also enclose appropriate drawings, including: plan, elevations and site layout of the proposal.

**5. What is the total gross floorspace of the proposed development?**



**6. If the proposed development includes a renewable energy project, what is the total amount of power (in kilowatts or megawatts) expected to be generated per year?**

**7. Which type of planning permission does this Proposal of Application Notice relate to?**  
(Please tick)

Full planning permission

Outline planning permission

**8. Has a determination been made as to whether the proposed development would be of Regional Significance?**

Yes

*(Please enclose a copy of the determination made under Section 26 of the Planning Act (NI) 2011)*

No

**9. Has an Environmental Impact Assessment determination been made?**

Yes

*(Please enclose a copy of the determination made under Part 2 of the Planning [Environmental Impact Assessment] Regulations [NI] 2015)*

No

**10. Please give details of proposed consultation**

Proposed public event	Venue	Date and Time
Name of publication(s) used:		
Proposed newspaper advert date(s):		
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):		
Details of any other publicity methods (such as leaflets, posters, etc):		

**11. Please state which other parties have received a copy of this Proposal of Application****Notice** (Please continue on a separate sheet if necessary)

Elected member(s) for District Electoral Area	Date notice served
Other	Date notice served

**12. Council Employee / Elected Member Interest**

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

Or 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

If you have answered yes, please provide details (name, relationship and role):

--

**13. Declaration**

<b>Signature:</b>	
<b>Print name:</b>	
<b>Date:</b>	

**PLEASE NOTE:** A planning application for this development cannot be submitted less than 12 weeks from the date the Proposal of Application Notice is received and without the statutory requirements having been undertaken. The application must be accompanied by the Pre-Application Consultation report.

We will respond within 21 days of receiving the Notice. We will confirm whether the proposed pre-application community consultation is satisfactory, or if additional notification and consultation is required. The minimum statutory consultation activity includes holding one public event and its advertisement in a local paper. We also require this Notice to be sent to local councillors for the District Electoral Area in which the proposed development is situated, and evidence of additional publicity of the event.

Notes: Bing Aerial Imagery dated Novemehr 2011 - March 2012



Legend

- Land Ownership
- Bund Footprint



Contains OS Data © Crown copyright and database right 2011.

Title: Site Location Plan

Scale: 1:5000 @A3

Dwg. No.: 001

Drawn By: AJL

Date: 03/07/23



## Planning Committee

07 August 2023

Report from:

Head of Planning and Capital Development

### Item for Decision

**Item 5 – Submission of Pre-Application Notice (PAN) for Proposed change of use of existing building from call centre (B1) to general industrial (B3) including alterations to building elevations at Ballyoran Lane Dundonald**

Background and Key Issues:

#### Background

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.

#### Key Issues

1. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report sets out how the requirement of the legislation and associated guidance has been considered as part of the submission.

**Recommendation:**

It is recommended that the Members note the information on the content of the Pre-application Notice attached (see **Appendices**) and that it is submitted in accordance with the relevant section of the legislation and related guidance.

**Finance and Resource Implications:**

There are no finance and resource implications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

**If no, please provide explanation/rationale**

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.

If yes, what was the outcome?:

**Option 1**  
Screen out  
without mitigation

**Option 2**  
Screen out with  
mitigation

**Option 3**  
Screen in for  
a full EQIA

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

Has a Rural Needs Impact Assessment (RNIA) template been completed?

**If no, please give explanation/rationale for why it was not considered necessary:**

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.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**Appendix 5(a)** - Report in relation to LA05/2023/0602/PAN

**Appendix 5(b)** – LA05/2023/0602PAN – PAN Form

**Appendix 5(c)** – LA05/2023/0602/PAN – Site Location Plan

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	07 August 2023
Responsible Officer	Conor Hughes
Date of Report	31 July 2023
File Reference	LA05/2023/0583/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 a **Proposed change of use of existing building from call centre (B1) to general industrial (B3) including alterations to building elevations** at 4 Ballyoran Lane, Dundonald, BT16 1UH.
- 2.

### 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 26 July 2023. The earliest possible date for the submission of a planning application is week commencing 16 October 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 Clyde Shanks, 2<sup>nd</sup> Floor, 7 Exchange Plan, Belfast.
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 at Question 10 that a public event in the form of a drop in information session will take place at Ballyoran Community Centre on Wednesday 13 September 2023 from 5 to 7 pm.

The event will be publicised in the Belfast Newsletter on Friday 1 September 2023. Notification of the public information event is to be provided by way of letter on 1 September 2023 to all businesses within Ballyoran Business Park or accessed via Ballyoran Lane and Dundonald High School. No other publicity methods are identified.

Elected members for the DEA identified as having an interest will receive a copy of the Proposal of Application Notice on the week commencing 01 September 2023.

**Recommendation**

19. In consideration of the detail submitted with the Pre-Application Notice (PAN) in respect of community consultation, it is recommended that the Committee note the information submitted.

## Proposal of Application Notice (PAN)

The Planning Act (Northern Ireland) 2011, Section 169  
Article 11 of the Planning (General Development Procedure)  
Order (Northern Ireland) 2015

### Official Use

Application No.: \_\_\_\_\_

Fee Received: £ \_\_\_\_\_

Receipt No.: \_\_\_\_\_

This form is specifically designed to be downloaded and completed offline. If completing a printed version, please use black ink and block capitals as the document will be scanned once received by the Planning Authority.

If you would rather make this application online, you can do so on the Planning Portal (<https://submissions.planningsystemni.gov.uk/app/>).

Please note that when you submit a planning application the information you provide including all plans, maps, drawings, forms and associated assessments will appear on the Planning Register which is publicly available and, along with any other associated documentation (with the exception of personal telephone numbers, personal e-mail addresses or sensitive personal data), will also be published online on the Planning Portal (<https://planningregister.planningsystemni.gov.uk/>). The Planning Authority will process your information in line with the General Data Protection Regulations (GDPR) requirements. A copy of the full Privacy Statement is available on the Planning Portal. To request a hard copy, please contact the Data Protection Officer for the relevant Planning Authority.

To find contact details for the Planning Authorities, including the postal or e-mail address to send offline applications to, please check their website or visit [www.nidirect.gov.uk/contacts/planning-offices-ni](http://www.nidirect.gov.uk/contacts/planning-offices-ni).

## Section A

**Applicant's name and address**

**Agent's name and address (if applicable)**

Name:		Name:	
Address:		Address:	
Town/City:		Town/City:	
Postcode:		Postcode:	
Tel:		Tel:	
Mobile:		Mobile:	
E-mail:		E-mail:	
Your Ref.:		Your Ref.:	

## Section B – Site Address

Give the full postal address of the site to be developed. If you cannot provide a postcode, then please give the most accurate description you can in order to help locate the site.

## Section C – Site Area

What is the area of the site? (Hectares)

# Section D – Details of Proposed Development

## Description of Proposed Development

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.

Please indicate what type of application is being requested

Outline permission                       Full permission

## Floorspace Summary

Does the proposal include floorspace?                      Yes                       No

If yes, what is the total gross floorspace of proposed development (sq m)?

## Section E – Renewable Energy

Does your proposal involve renewable energy development?                      Yes                       No

If yes, please provide details for each applicable type of renewable energy. Please include renewable energy type and total amount of power (MW) expected to be generated per year.

## Section F - Determinations

Has a determination been made as to whether the proposed development would be of Regional Significance?                      Yes                       No

If Yes, please provide the Reference No. for the Regional Significance determination

**Please note, as part of this application process you must also attach a copy of the determination made under Section 26 of the Planning Act (NI) 2011.**

Has an Environmental Impact Assessment determination previously been made?

Yes

No

If Yes, please provide the Reference No. for the Environmental Impact Assessment determination

**Please note, as part of this application process you must also attach a copy of the determination made under Part 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2015.**

## Section G – Details of Proposed Consultation

The minimum statutory consultation activity includes holding one public event and its advertisement in a local paper. A public event must not be held earlier than 7 days after the notification date.

Please add separate details for each proposed consultation

Proposed public event	Venue	Date and Time

Name of publication(s):

Proposed advert start and finish dates:

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):

Details of any other publicity methods (such as leaflets, posters, etc):

## Section H – Details of Other Parties Receiving a copy of this PAN

**Please state which other parties have received a copy of this Proposal of Application Notice (PAN)**

The minimum statutory consultation activity includes holding one public event and its advertisement in a local paper. A public event must not be held earlier than 7 days after the notification date.

Elected member(s) for District Electoral Area, including Date Served:

Details for Other Parties, including Date Served:

## Section I – Authority Employee / Elected Member Interest

Are you / the applicant / the 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

If you have answered Yes to either of the above questions, you / the applicant / the applicant’s spouse or partner may have a duty to declare an interest in this application under the Authority’s code of conduct or scheme of delegation. If necessary, a council officer may be in touch with you to confirm details.

## Section J - Declaration

**The information \*I / we have given in this form is correct and complete to the best of my knowledge and belief.**

**Signature of \*Applicant / Agent \_\_\_\_\_ Date \_\_\_\_\_**

**On behalf of \_\_\_\_\_**

\* Delete as appropriate

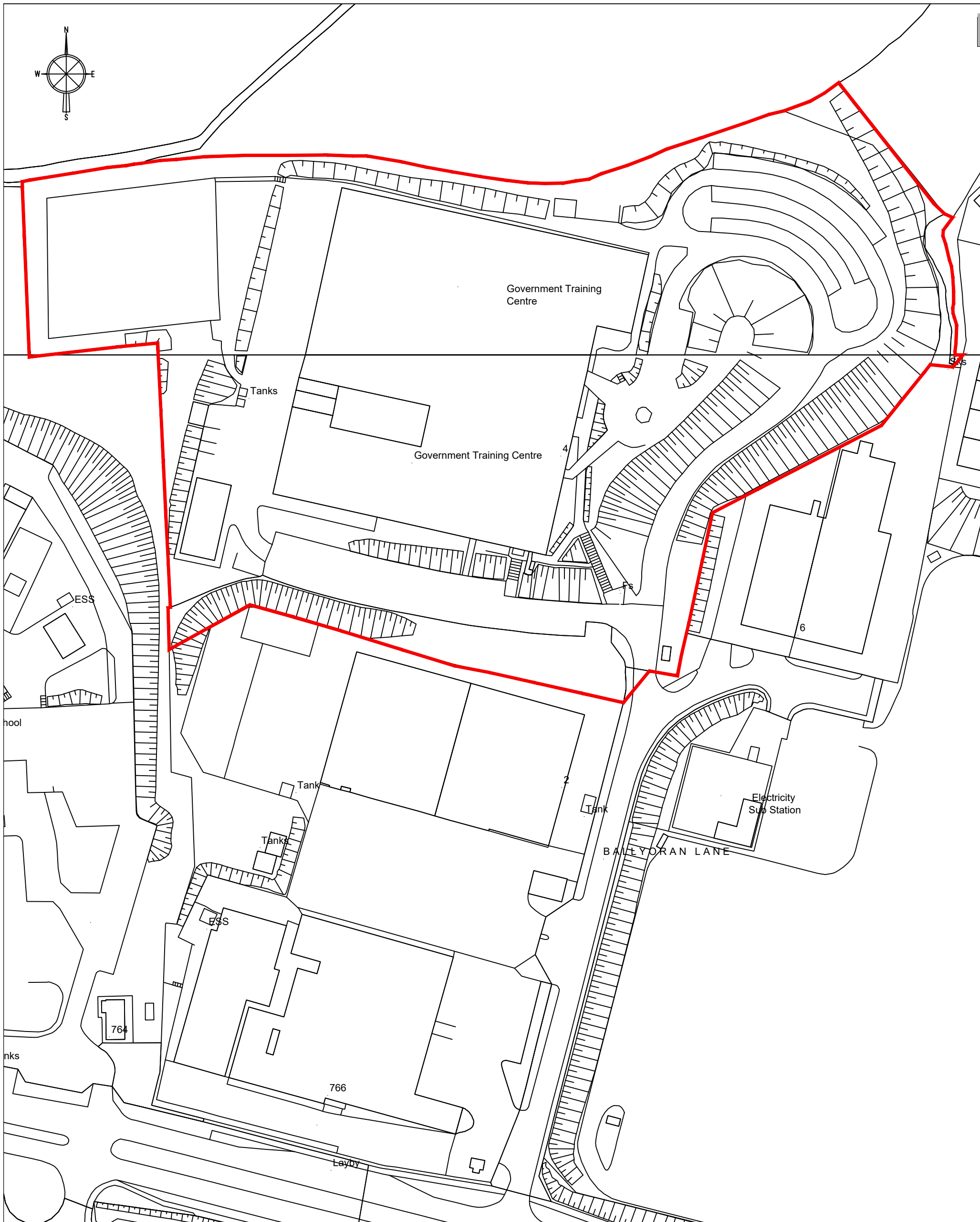
This information may be shared with other departments within the Authority for the purposes of promoting investment. Please indicate by ticking the box below that you are providing your personal data on the basis of consent and are positively agreeing that it is shared with these departments and used 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

**PLEASE NOTE:** A planning application for this development cannot be submitted less than 12 weeks from the date the Proposal of Application Notice is received and without the statutory requirements having been undertaken. The application must be accompanied by the Pre-Application Consultation report.

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We will respond within 21 days of receiving the Notice. We will confirm whether the proposed pre-application community consultation is satisfactory, or if additional notification and consultation is required. The minimum statutory consultation activity includes holding one public event and its advertisement in a local paper. We also require this Notice to be sent to local councillors for the District Electoral Area in which the proposed development is situated, and evidence of additional publicity of the event.



Site Boundary  
Area 4.406 Hectares

**NOTES**

1. © Copyright rests with Vision Design. This drawing may not be reproduced wholly or in part without the express written permission of Vision Design
2. All drawings issued prior to the relevant Planning and Building Regulations have been obtained are to be deemed preliminary. Any works carried out based on preliminary drawings are entirely at the clients risk. Vision Design cannot be held responsible for additional works/expense incurred on this basis.
3. Contractors to carry out their own due diligence and report any errors to this office.
4. All dimensions are in mm unless stated otherwise

**A3**  
paper size

Somerville Enterprise Holdings Ltd

**VISION**  
DESIGN | ARCHITECTURE

31 Rainey Street  
Magherafelt  
N. Ireland  
BT45 5DA  
visiondesign.org.uk  
tel: 028 7930 0866

4 Ballyoran Lane Dundonald, BT16 1UH				
Proposed change of use from call centre (B1) to general industrial (B3)				
Revision	Drawn By	Chkd By	Date	Comments
-	-			

<b>PAN Location Plan</b>	
<b>3974-PAN01</b>	
Scale 1:1250	Date July 2023



## Planning Committee

### 07 August 2023

Report from:

Head of Planning and Capital Development

### Item for Noting

TITLE: Item 6 – Appeal Decision – LA05/2020/0862/O

Background and Key Issues:

#### Background

1. An application for a proposed one and a half storey private dwelling and garage on land 20 metres east of 52 Gransha Road was refused planning permission on 24 June 2022.
2. An appeal was lodged with the Planning Appeals Commission on 04 July 2022. The procedure followed in this instance was Informal Hearing which took place following the exchange of written evidence on 05 April 2023.
3. The main issues in the appeal are whether the proposed development would be acceptable in principle in the countryside as part of an existing cluster of development or would it harm the rural character of the area as a consequence of a build up of development.
4. A decision received on 28 June 2023 indicated that the appeal was allowed subject to conditions and planning permission was granted.

#### Key Issues

1. The Commissioner at paragraph 10 acknowledges that the issue of whether a proposed dwelling would cluster with development appearing as a 'visual entity' in the landscape was previously considered in appeal decision 2013/A0016. In that case the Commission



concluded that a dwelling could not be absorbed into the existing cluster through rounding off and it would have visually intruded into the open countryside.

2. This appeal decision was considered to be a material consideration of significant weight in the decision by the Council to refuse planning permission.
3. In considering this appeal, the Commissioner had regard to the case advanced by the appellant who argued that the context of the appeal site and the circumstances relating to the site have changed considerably since that appeal decision. The circumstances presented were the Church Hall had been extended on both sides; the Church car park and playing fields had been extended and redeveloped; a substantial two-storey dwelling had been built to the north east of the appeal site; and planning permission had been granted for a dwelling (LA05/2017/0676/O) in close proximity to the appeal site.
4. The Commissioner having regard to this evidence accepted that the circumstances had changed and the site now appeared to cluster with the 'visual entity' in the local landscape.
5. All the other criteria of the policy were already considered to be met and the Council's reasons for refusal were not sustained. There is limited learning in respect of this decision as the Commission attaches a different emphasis and weight to the evidence.

#### Recommendation:

It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.

#### Finance and Resource Implications:

No cost claim was lodged by any party in this instance.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

#### If no, please provide explanation/rationale

This is a report updating the committee on a decision by the PAC and EQIA is not required.

If yes, what was the outcome?:

**Option 1**

N/A

**Option 2**

N/A

**Option 3**

N/A

Screen out without mitigation

Screen out with mitigation

Screen in for a full EQIA

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

Has a Rural Needs Impact Assessment (RNIA) template been completed?

If no, please give explanation/rationale for why it was not considered necessary:

This is a report updating the committee on a decision by the PAC and RNIA is not required.

If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:

SUBJECT TO PLANNING APPROVAL:

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

APPENDICES:

APPENDIX 6 – Appeal Decision – LA05/2020/0862/O

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

If Yes, please insert date:



4th Floor  
92 Ann Street  
Belfast  
BT1 3HH

Phone: 02890 893 906 (direct line)

Phone: 028 9024 4710

Email: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)

Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)

Our reference: 2022/A0069

Authority

reference: LA05/2020/0862/O

28 June 2023

Dear Sir/Madam

**Appellant name: Mr N Harvey**

**Description: Proposed 1 1/2 storey private dwelling and garage with surrounding garden**

**Location: Land 20m east of No 52 Gransha Road, Gransha, Comber, BT23 5RF**

Please find enclosed Commission decision on the above case.

Yours Sincerely,

Kathryn McCullough  
PACWAC Admin Team



# Appeal Decision

4<sup>th</sup> Floor  
92 Ann Street  
BELFAST  
BT1 3HH  
T: 028 9024 4710  
E: info@pacni.gov.uk

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<b>Appeal Reference:</b>	2022/A0069
<b>Appeal by:</b>	Mr N Harvey
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	One and half storey dwelling and garage
<b>Location:</b>	Land 20m east of 52 Gransha Road, Comber, BT23 5RF
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council
<b>Application Reference:</b>	LA05/2020/0862/O
<b>Procedure:</b>	Hearing on 5 <sup>th</sup> April 2023
<b>Decision by:</b>	Commissioner Maeve McKearney, dated 28 <sup>th</sup> June 2023

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## Decision

1. The appeal is allowed, and outline planning permission granted subject to conditions set out below.

## Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside and would it detrimentally change the rural character of the area.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 (the Act) states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6(4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. The appeal site is located in Lisburn and Castlereagh City Council and relevant to this area is the Belfast Metropolitan Area Plan 2015 (BMAP). In 2017, the purported adoption of BMAP was declared unlawful by the Court of Appeal. Therefore, although past its stated end date, the Belfast Urban Area Plan 2001 (BUAP) is the statutory development plan for the area. However, a further consequence of the judgement is that the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, remains as a material consideration in the appeal.
5. In the BUAP the site is located in the countryside and is identified as an area of Green Belt. However, as the Green Belt policy of the LDP is now outdated having been overtaken by regional policy, no determining weight can be attached to it. There are no other provisions in the LDP that are material to the determination of the appeal. In the dBMAP the appeal site is within the countryside and not within any other designation in the draft plan.

6. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). The SPPS is no more prescriptive than PPS 21 in respect of the issues raised in this appeal. Thus, the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS. Supplementary planning guidance is found in 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside' (BOT).
7. Policy CTY 1 of PPS 21 sets out a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The appellant has made the argument the proposal is in accordance with Policy CTY 2a New Dwellings in Existing Clusters of PPS 21. Policy CTY1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.
8. The proposal is for a dwelling and garage sited in the garden area of the dwelling at 52 Gransha Road. The dwelling at 52 is located to the west of the appeal site. The appellant submitted a proposed site layout drawing date stamped received by Lisburn and Castlereagh City Council 23<sup>rd</sup> October 2020 and indicated at the hearing the dwelling would have a ridge height of approximately 6 metres. The topography of the appeal site is undulating and sits at an elevated position above that in the landscape. The land slopes away from the dwelling at 52 Gransha Road towards the appeal site. There are two buildings within the appeal site. These include a split-level storey and half garage and a small stone building. The storey and half dwelling at 52 Gransha Road and the appeal site are accessed via a shared laneway.
9. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the criteria are met. The first criterion of Policy CTY 2a requires that the cluster of development lies outside of a farm and consists of four or more buildings of which at least three are dwellings. This was not disputed by the parties. The cluster consists of the dwelling at 52 Gransha Road and the development to the south and southwest of the appeal site which includes Gransha Presbyterian Church (which is a Listed building) and its associated Church Hall. In addition to two single storey dwellings Nos. 46 and 48 Gransha Road located to the southwest of the appeal site. This development is a cluster of development that is outside a farm and consists of four or more buildings of which at least three are dwellings. The first criterion of Policy CTY2a is met.
10. The second criterion of Policy CTY 2a is that the cluster appears as a visual entity in the local landscape. The issue of visual entity was considered in a previous appeal decision (2013/A0016) which was also for a dwelling on this same appeal site. In that appeal decision the Commissioner considered the cluster to extend to around development to the south on the opposite side of the Gransha Road which consisted of La Mon Hotel complex, a caravan park and a dwelling and found that the cluster did not appear as a visual entity. The Commissioner also considered in that appeal that the development on the appeal site could not be absorbed into the existing cluster through rounding off and it would have visually intruded into the

open countryside. However, in this appeal the appellant has made the case that side of the Gransha Road to the La Mon Hotel, as considered in appeal 2013/A0016, to the south does not form part of this cluster and should not form part of the consideration in this appeal.

11. Whilst the appeal proposal now relates to the same site considered in the previous appeal (2013/A0016) the appellant argues that the context of the appeal site and the circumstances relating to the site have changed considerably since that appeal decision. These circumstances presented by the appellant relate to the Church Hall being extended to both sides; the Church car park and playing fields have been extended and redeveloped; a substantial 2 storey dwelling has been built to the north east of the appeal site; and the Council has granted planning permission for a dwelling (LA05/2017/0676/O) in close proximity to the appeal site. The extension of the Church Hall, carpark and playing fields increases the appearance of the building development in this area. I therefore accept that the circumstances relating to the appeal site have changed considerably since 2014 when the previous appeal was determined.
12. Furthermore, in respect of the approved dwelling (LA05/2017/0676/O) sited in the garden of and directly in front of the existing dwelling at 52 Gransha Road the appellant makes the argument that the Council in making that decision, must have been satisfied that this application met all the tests of Policy CTY 2a including the test of visual entity. The Council accepted the principal of this development in the countryside in accordance with Policy CTY 2a.
13. I therefore must consider the appeal proposal in the context of the circumstances which are before me now. To assess if the identified cluster of development appears as a visual entity in the local landscape both parties requested that I view the appeal site from where the Glen Road meets the Gransha Road and while travelling along the Gransha Road on approach from the east towards the cluster of development. On the approach from the east the dwellings (No.48 and 52) read together with the Church, Church Hall, car park, graveyard and playing pitches. It is apparent that these buildings and facilities are clustered together and form a visual entity in the landscape. Taking into account of the change in circumstances and the specific area around the Church referred to as the visual cluster I accept the cluster appears as a visual entity in the local landscape. The second criterion of Policy CTY 2a is satisfied.
14. The third criteria requires that the appeal site is associated with a focal point such as a social/community building/facility or is located at a cross-roads. The appeal site is located to the rear of Gransha Church Hall which is a community building. In addition, the fourth criteria require the appeal site to be bound on two sides with other development in the cluster. The appeal site is bound by the Church Hall and the dwelling at 52 Gransha Road. Accordingly, I accept the proposal also satisfies the third and fourth criteria of Policy CTY 2a.
15. Policy CTY 2a also requires the proposed development to be absorbed into the existing cluster through rounding off and consolidation. In addition, a proposal should not visually intrude into the open countryside. In the previous appeal decision (2013/A0016) the Commissioner concluded that these criteria had not been satisfactorily met. I note there has been no change to policy from the date of the previous appeal decision. However, the circumstances have changed since

the previous appeal decision, the Church Hall has been extended at either side and a dwelling has been granted approval which adjoins the appeal site. I find that from views to the east along the Gransha Road a dwelling and garage, with the imposition of a siting condition generally in accordance with the proposed site layout drawing 03 date stamped received 23<sup>rd</sup> October 2020, would ensure that the appeal proposal would be absorbed into the existing cluster through the consolidation with the existing development. In addition, further landscaping to the appeal site boundaries would help ensure the siting of this building in the landscape would not cause a detrimental change to the rural character in the area. On this basis I accept that the proposal would not alter the character of the cluster or extend development into the countryside.

16. At the hearing it was established that the ridge height of the proposed dwelling would be approximately 6 metres which would be approximately 1 metre above that of the Church Hall. As the building would be on higher ground, I consider that that a ridge height, restricted to 6 metres above the existing ground level, is necessary to ensure that the appeal development is absorbed in terms of its height with the adjacent development. Given the sloping nature of the site, a condition seeking sections along with existing and proposed levels should be added to assess the levels of the site. Therefore, with the use of planning conditions the fifth criterion of Policy CTY 2a can be satisfied.
17. The Council raised additional concerns in their statement of case in respect of the impact of the development on residential amenity. The timing of raising these issues is unhelpful. Nonetheless the issues raised relate to the sixth criteria of Policy CTY 2a and specifically the layout and settlement pattern. The appellant was given the opportunity at the appeal hearing to provide comments in respect of these issues.
18. The Council's concerns related to the potential impact of the proposed access on the residential amenity of the occupants of the dwelling at 52 Gransha Road. In addition to the loss of residential amenity due to the orientation and siting of existing and approved buildings. In relation to the positioning of the proposed dwelling. It was established at the hearing that the principal aspect of the dwelling would be facing east. Given the difference in levels, the orientation of the dwelling and its positioning on site can be reinforced through a siting condition, I find that any further concerns could be overcome through design which can be reserved. In response to the Council's concern in relation to the proposed vehicular access, the appellant has argued that the location of this is not uncommon in rural areas. The Council presented limited evidence as to what aspect of amenity would be impacted upon. The proposed access cuts across the frontage of the existing dwelling at 52 Gransha Road. However, I find the proximity of the access to the frontage of this dwelling would not result in the loss of residential amenity to the occupants at 52. As such the concern raised in respect of residential amenity is not upheld. On this basis the appeal proposal therefore satisfies the sixth criterion of Policy CTY 2a. The Council's first reason for refusal in respect of Policy CTY 2a is not sustained.
19. Policy CTY 14 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The Council's objections relate to criteria (b) and (c). When the site is viewed at road frontage and from the Gransha

Road on approach from the east a typical rural style cluster of development exists around the Church and Church Hall. This has been supplemented by the most recent approval for a dwelling at this cluster. A further dwelling sited to the rear of the Church Hall, retaining the existing landscaping with additional planting to the south eastern/eastern boundary would not alter the rural character of the area. An additional dwelling on the appeal site would round off that development when viewed with the existing and approved buildings in this area. The development would respect the traditional pattern of settlement exhibited in the area. The appeal proposal does satisfy the requirements of criteria (b) and (c) of CTY 14. Therefore, the Council has not sustained its second reason for refusal.

20. To provide a safe means of access for the dwelling on the site, the Council have suggested conditions onto the Gransha Road, visibility splays of 2.4 metres x 65 metres in both directions. The visibility splays can be provided by means of a planning condition. In addition to the requirement for visibility splays the Council have requested that the shared access must be a minimum of 6 metres wide for the first 10 metres off the public road. This has been suggested on the basis that another dwelling would intensify the use of this access. On the day of my site inspection, I met two vehicles attempting to access the private laneway from the public road. Each vehicle could not turn off the public road until I had exited from the laneway. Given the speed and bends of the public road in relation to the location of the access point of the private laneway. The provision of widening the laneway at the junction of Gransha road is required in the interests of road safety and is a necessary condition.
21. During the processing of the planning application a third party raised concerns regarding land ownership and the proposed access to the appeal site. These are civil matters which fall outside of the remit of my consideration in this appeal.
22. As the Council's reasons for refusal are not sustained the appeal is allowed, subject to the following conditions.

### Conditions

- (1) Except as expressly provided for by Conditions 2, 3, and 4 the following reserved matters shall be as approved by the Planning Authority – the design, external appearance of the dwelling and garage and the means of access thereto.
- (2) The dwelling and garage shall be sited generally in accordance with the proposed site layout drawing No.03 dated stamped received by Lisburn and Castlereagh City Council 23<sup>rd</sup> October 2020.
- (3) The ridge height of the dwelling and garage shall not exceed 6 metres above existing ground level at the lowest point within their footprints.
- (4) Any application for approval of reserved matters shall incorporate plans indicating sections, existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point. The drawings shall also indicate the location, height and materials of any proposed retaining walls.
- (5) Prior to commencement of any building works visibility splays of 2.4 metres x 65 metres shall be laid out in both directions at the point of access with the appeal



site and Gransha Road and thereafter shall be permanently retained and kept clear.

- (6) Prior to commencement of any building works the shared access onto the Gransha Road shall be constructed at a minimum of 6 metres wide for the first 10 metres off the public road.
- (7) No development shall take place until a landscaping scheme showing the retention of the existing vegetation and the means by which the boundaries of the appeal site are to be defined has been submitted to and approved in writing by the Planning Authority. The scheme of landscaping shall include the location, number and sizes of any trees and shrubs to be planted, and any walls or fences to be erected. Any scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development and thereafter maintained. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.
- (8) Application for approval of the reserved matters shall be made to the Planning Authority before the expiration of three years from the date of this decision.
- (9) The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is the later.

This decision is based on drawing numbers 01, 02, 03 and 04 date stamped received by Lisburn and Castlereagh City Council 23<sup>rd</sup> October 2020.

**COMMISSIONER MAEVE MCKEARNEY**

**List of Appearances – Hearing**

Planning Authority:- Mark Burns (Lisburn and Castlereagh City Council)  
Brenda Ferguson (Lisburn and Castlereagh City Council)

Appellants:- David Donaldson (Planning Agent)  
Norman Harvey (Appellant)  
Mark McIntyre (Project Architect)

**List of Documents**

Planning Authority:- “A1” Statement of Case on behalf of Lisburn and Castlereagh City Council.

Appellants:- “B1” Statement of Case by David Donaldson Planning on behalf of Mr N Harvey.



## Planning Committee

07 August 2023

Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 7 – Notification by telecommunication operator(s) of intention to utilise permitted development rights

**Background and Key Issues:**

#### Background

1. The Council is notified by Openreach of their intention to utilise permitted development rights to install communications apparatus at seven separate locations within the Council area.
2. The installations consist of the erection of poles and fixed line apparatus and it is stated that this in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (Northern Ireland) 2015.

#### Key Issues

1. The notification advises the Council of the scope of the proposed works and the locations of where they intend to utilise permitted development rights. Detail is also provided in relation to the nature and scale of the works proposed. The content of this recent notification is provided and attached to this report.
2. No comment is provided on the requirement for planning permission for the equipment listed. This letter is also referred to the planning enforcement section of the Council. They

will write separately to the operator should it be considered that the requirements of the Regulations cannot be met at any of the locations specified by either operator.

**Recommendation:**  
It is recommended that Members note the detail of the notifications specific to the site identified.

**Finance and Resource Implications:**  
There are no finance or resource implications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

**If no, please provide explanation/rationale**

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. EQIA not required.

If yes, what was the outcome?:

<b>Option 1</b> Screen out without mitigation	<input type="text" value="N/A"/>	<b>Option 2</b> Screen out with mitigation	<input type="text" value="N/A"/>	<b>Option 3</b> Screen in for a full EQIA	<input type="text" value="N/A"/>
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**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	<input type="text" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="text" value="No"/>
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**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. RNIA not required.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 7 – Notifications from an Operator in respect of intention to utilise permitted development rights**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

**If Yes, please insert date:**

### List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights August 2023 Planning Committee

	Applicant/Agents	Operator	Location	Summary of details	Date received
1	Openreach	BT	Mountain Road Newtownards	Notice of Pole Erection	29/06/2023
2	Openreach	BT	41 Hillhead Road, Dundonald	Notice of Intention to Install Fixed Line Broadband Apparatus.	05/07/2023
3	Openreach	BT	11 Fort Road, Co Antrim	Notice of Intention to Install Fixed Line Broadband Apparatus.	07/07/2023
4	Openreach	BT	Old Coach Road, Hillsborough	Notice of Intention to Install Fixed Line Broadband Apparatus.	18/07/2023
5	Openreach	BT	52a Rowan Drive, Dunmurry	Notice of Intention to Install Fixed Line Broadband Apparatus.	18/07/2023
6	Openreach	BT	36 Hillhead Road, Dundonald	Notice of Intention to Install Fixed Line Broadband Apparatus.	19/07/2023
7	Openreach	BT	36a Church Road, Moneyrea	Openreach permissions for Ducting Work and Cabling Work	20/07/2023