



June 7th, 2022

Chairman : Alderman J Tinsley

Vice Chairman : Councillor John Palmer

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

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

Notice of Meeting

A meeting of the Planning Committee will be held on **Monday, 13th June 2022 at 10:00 am**, in the **Council Chamber and Remote** for the transaction of business on the undernoted Agenda.

Refreshments shall be served in the Members' Suite at 9.30 am.

David Burns

Chief Executive

Agenda

1.0 Apologies

2.0 Declaration of Interests

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

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

📄 *Disclosure of Interests form.pdf*

Not included

3.0 Minutes of the Planning Committee Meeting held on 9 May 2022

📄 *PC 09 05 2022 Draft minute for adoption.pdf*

Page 1

4.0 Report from the Head of Planning and Capital Development

4.1 Schedule of Applications to be Determined:

📄 *Item 1 - Schedule of Applications - June 2022 - FINAL.pdf*

Page 18

- (i) (a) LA05/2017/0021/F - Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) Order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing at 531 Saintfield Road, Belfast, BT8 8ES

📄 *Appendix 1(a)(i)- DM Officer Report - LA0520170021F - Nursing Home -Thir....pdf*

Page 22

📄 *Appendix 1(a)(ii)- DM Officer Report - LA0520170021F - Nursing Home - Se....pdf*

Page 29

📄 *Appendix 1(a)(iii) - Note of Site meeting iro Saintfield Road 0021 - FIN....pdf*

Page 42

📄 *Appendix 1(a)(iv)- DM Officer Report - LA0520170021F - Nursing Home - Ad....pdf*

Page 44

📄 *Appendix 1(a)(v) - DM Officer Report - LA0520170021F - Nursing Home - Fl....pdf*

Page 50

- (ii) (b) LA05/2018/1030/F - Demolition of existing buildings and erection of service station, associated forecourt and parking at 99 Moneyreagh Road, Moneyreagh

📄 *Appendix 1(b) (i) - DM Officer Report - LA0520181030 Moneyreagh PFS - Ad....pdf*

Page 84

	▢ <i>Appendix 1(b) (ii) - Site Visit Minute - 99 Moneyreagh Road - FINAL.pdf</i>	<i>Page 89</i>
	▢ <i>Appendix 1(b) (iii) - DM Officer Report - LA0520181030 Moneyreagh PFS -pdf</i>	<i>Page 90</i>
(iii)	(c) LA05/2018/0862/F - Proposed infill site for 2 dwellings with detached garages between 26 & 30 Magheraconluce Road, Hillsborough	
	▢ <i>Appendix 1(c) - DM Officer Report LA0520180862F - Mageraconluce.pdf</i>	<i>Page 136</i>
(iv)	(d) LA05/2021/0944/F - Dwelling under Policy CTY 6 on land 35 metres south east of 252 Hillhall Road, Lisburn	
	▢ <i>Appendix 1(d) - DM Officer Report - LA0520210944F - Hillhall - FINAL.pdf</i>	<i>Page 179</i>
(v)	(e) LA05/2021/1093/F - New metal clad shed (7.5 x 9.0 metres) for indoor golf studio on unused grass area at Castlereagh Hills Golf Course, 73 Upper Braniel Road, Gilnahirk, Belfast, BT5 7TX	
	▢ <i>Appendix 1(e) - DM Officer Report - LA0520211093F - Castlereagh Hills Go....pdf</i>	<i>Page 208</i>
4.2	Statutory Performance Indicators - April 2022	
	▢ <i>Item 2 - Statutory Performance Indicators - June - FINAL.pdf</i>	<i>Page 226</i>
	▢ <i>Appendix 2 - Lisburn_Castlereagh_Apr_Monthly_MI.XLSX</i>	<i>Page 229</i>
4.3	Appeal Decision in respect of planning application LA05/2018/0307/F	
	▢ <i>Item 3 - Appeal Decision - LA05 2018 0307F - FINAL.pdf</i>	<i>Page 230</i>
	▢ <i>Appendix 3 - Appeal Decision - LA0520180307F.PDF</i>	<i>Page 234</i>
4.4	Appeal Decision in respect of planning application LA05/2019/0347/RM	
	▢ <i>Item 4 - Appeal Decision - LA05 2019 0347RM - FINAL.pdf</i>	<i>Page 239</i>
	▢ <i>Appendix 4 - Appeal Deicsion - LA05 2019 0347RM.PDF</i>	<i>Page 243</i>
4.5	Appeal Decision in respect of planning application LA05/2019/0640/F	
	▢ <i>Item 5 - Appeal Decision - LA05 2019 0640F - FINAL.pdf</i>	<i>Page 250</i>
	▢ <i>Appendix 5 - Appeal Decision - LA0520190640F.PDF</i>	<i>Page 254</i>
4.6	Submission of Pre-Application Notice (PAN) for the construction of one general industrial unit (Class B3) and one general industrial unit with	

offices (B1 & B3) with associated access and parking facilities along with other ancillary works 50 metres south west of Ferguson Drive, Knockmore Hill Industrial Estate, Lisburn

📄 *Item 6 - LA0520220430PAN - FINAL.pdf* *Page 263*

📄 *Appendix 6(a) - LA0520220430PAN - FINAL.pdf* *Page 266*

📄 *Appendix 6(b) - LA05 2022 0430 PAN - Form.pdf* *Page 269*

📄 *Appendix 6(c) - LA05 2022 0430 PAN - Site Location Plan.pdf* *Page 272*

4.7 Submission of Pre-Application Notice (PAN) for a mixed use development comprising mixed tenure residential development and employment uses, park & ride provision and associated landscaping, car parking and site works on lands at 160 Moira Road, Lisburn

📄 *Item 7 - LA0520220453PAN - FINAL.pdf* *Page 273*

📄 *Appendix 7 (a) - LA0520220453PAN - Moira Road - FINAL.pdf* *Page 276*

📄 *Appendix 7 (b) - LA0520220453F - 160 Moira Road - PAN_FINAL.PDF* *Page 279*

📄 *Appendix 7 (c) - LA0520220453PAN - Site Location Plan - Moira Road.pdf* *Page 282*

4.8 Feedback on Guidance for Councils on building preservation notices/Schemes of Delegation

📄 *Item 8 - Feedback on Guidance for Councils on building preservation noti....pdf* *Page 283*

📄 *Appendix 8 - HED - building-preservation-notices.pdf* *Page 287*

5.0 Any Other Business

LISBURN & CASTLEREAGH CITY COUNCIL

Minutes of Meeting of the Planning Committee held remotely and in the Council Chamber, Island Civic Centre, The Island, Lisburn, on Monday 9 May 2022 at 10.00 a.m.

PRESENT:

Present in Chamber:

Councillor A Swan (Chairman)

Alderman J Tinsley (Vice-Chairman)

Aldermen WJ Dillon, D Drysdale, O Gawith and A Grehan

Councillors J Craig, M Gregg

Present in Remote Location

Councillor J Palmer

IN ATTENDANCE:

Present in Chamber:

Director of Service Transformation

Head of Planning and Capital Development

Principal Planning Officer (RH)

Senior Planning Officer (RT)

Senior Planning Officer (MB)

Member Services Officer (PS)

Member Services Officer (EW)

Present in Remote Location:

Legal Advisor – B Martyn, Cleaver Fulton Rankin

Commencement of Meeting

The Chairman, Councillor A Swan, welcomed everyone to the meeting which was being live streamed to enable members of the public to hear and see the proceedings.

He stated that planning officers would be present in the Council chamber and the legal advisor and some of those making representations would be attending remotely.

The Head of Planning and Capital Development advised on housekeeping and evacuation procedures. The Member Services Officer then read out the names of the Elected Members in attendance at the meeting.

The Chairman then expressed his congratulations to newly elected MLAs.

1. Apologies

It was agreed that apologies for non-attendance at the meeting would be recorded from Councillors U Mackin and J McCarthy. It was further indicated that Alderman A Grehan would be arriving late.

2. Declarations of Interest

The Chairman sought Declarations of Interest from Members and reminded them to complete the supporting forms which had been left at each desk. He indicated that a form would also be available for those Members attending remotely.

The following Declaration of Interest was made:

- During the course of the meeting, Alderman O Gawith referred to LA05/2020/0800/RM advising that - as he had called the application in - he would be withdrawing from the meeting during its determination.

At the end of the meeting, by way of a completed Declarations of Interest Form the following Declaration of Interest was made:

- Alderman D Drysdale said he had been contacted regarding LA05/2020/0800/RM on a matter of process and referred this query to the Planning Office.

3. Minutes of the Planning Committee Meeting held on 4 April 2022

It was proposed by Councillor M Gregg, seconded by Councillor J Craig, and agreed that the minutes of the Committee Meeting held on 4 April 2022 as circulated be signed.

4. Report from the Head of Planning and Capital Development

4.1 Schedule of Applications

The Chairman reminded Members that they needed to be present for the entire determination of an application. If absent for any part of the discussion they would render themselves unable to vote on the application.

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

- (1) LA05/2018/1030/F - Demolition of existing buildings and erection of service and associated forecourt and parking at 99 Moneyreagh Road, Moneyreagh

It was proposed by Councillor J Craig, seconded by Alderman D Drysdale and agreed by the Committee to defer the determination of the above planning application pending a site visit being arranged.

The Head of Planning and Capital Development then explained that Ms Celine Duff, the newly appointed Principal Professional Technical Officer from the Department for Infrastructure (Roads) had been present to assist with the determination of the above application which had been withdrawn from the schedule. In the absence of being able to make a contribution to the meeting, he took the opportunity to introduce Ms Duff to the Committee.

Adjournment of Meeting

The Chairman, Councillor A Swan, declared the meeting adjourned at 10.15 am to allow time for the next speaker to join the meeting remotely.

Resumption of Meeting

The Chairman, Councillor A Swan declared the meeting resumed at 10.25 am.

At the resumption of the meeting, the Chairman explained that he should have confirmed the previous proposal to defer the application by a show of hands from the Committee. He asked members to indicate whether they were content with the proposal, which had been made by Councillor J Craig and seconded by Alderman D Drysdale to defer the determination of the planning application pending a site visit being arranged and by a majority show of hands of 5:2 the proposal was carried.

- (2) LA05/2020/0862/O – Proposed 1 ½ storey private dwelling and garage with surrounding garden on land 20m east of No 52 Gransha Road, Gransha, Comber

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

(Alderman J Tinsley arrived at 10.30 am, the Director of Service Transformation left at 10.30 am)

The Committee received Mr D Donaldson who wished to speak in support of the application and who had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- He said that the planning history was important as it indicates that it was accepted that there was a cluster.
- He said the application met all the requirements.
- He said there was clearly a visible entity and a focal point.
- He outlined why he felt this would not create harm to the rural character or visual amenity.
- He said there was more than adequate space for the new dwelling.
- He clarified proposals for a garage and driveway.
- He clarified the amenity space.
- He advised that there would be no demonstrable harm.

Mr Donaldson then responded to Members' queries as follows:

- Councillor J Craig said that the site visit had been helpful and he felt that the buildings around the site minimised any visual impact, he sought Mr Donaldson's comments on this. Mr Donaldson responded that he did not think there would be any impact from a westerly direction, from the east you would get a glimpse of the house but No 52 sat at a higher level and this would minimise visibility until it disappeared behind the church hall.
- Alderman D Drysdale sought more detail on policy requirements and Mr Donaldson replied that the planning unit had considered that the development met all of the requirements apart from the issue of visual entity. He said he did not understand how it did not. He said there was a church, a church hall and dwellings and he considered there was a clear link. The other issue raised was extending the cluster to the east but he said it was clear from the map that this was not the case. He said that the La Mon House Hotel on the other side of the road adds to this.

There then followed a question and answer session with the planning officers during which the following issues arose:

- Councillor M Gregg asked what has changed since the previous appeal. The Head of Planning and Capital Development said that since then the SPPS has been introduced but that did not change the policy. He read out an extract from the appeal decision as relevant to this application. He said that the car park and graveyard were not accepted as part of the cluster at that time and it was considered that the fifth criteria had not been met i.e. that this intruded further into the countryside. With the aid of a drawing he demonstrated the location of the proposal and said that planning officers had considered that there was no distinguishable difference in the situation on the ground between the appeal decision and now.
- Alderman D Drysdale outlined that only from the east would this dwelling be visible and it would be behind a church, he asked if there was a cluster and stated that he felt it was a rounding off. He also said he did not feel that this did extend into the countryside by any significant amount and asked whether planning officers agreed. The Head of Planning and Capital Development said that this was a finely balanced decision. He again referred to the Commission's previous decision stating that they had considered that it did extend into the countryside. Alderman Drysdale asked for one of the slides to be displayed and said that he could not accept that this was the case. The Head of Planning and Capital Development outlined the appeal site and the application site on the map and he said it was felt that the building would be visible from the easterly direction.
- Councillor J Craig said that he felt it ironic that this site was surrounded by large houses which had benefited from planning permission. The application was right beside other houses which he felt it would integrate into, some of which were at a higher level. He could not see how this could not be seen to be integrating and given this he requested a clear explanation of why this was extending into the countryside. The Head of Planning and Capital Development outlined the levels and ridge heights of the neighbouring buildings explaining that there was a visual test regarding the extension of the development into the countryside. He referred again to

the appeal decision which had been made previously and which he explained demonstrated consistency in respect of the application of policy.

- Councillor A Swan asked if there had been a policy change since the appeal decision and was advised that there had not.
- Councillor J Craig said that the planning unit had based their decision on the appeal, he asked whether, during the appeal, the Commissioner had visited the site and were they aware of the other application which had been approved. The Head of Planning and Capital Development advised that the approval had come after the appeal and said that whilst it is not detailed in the appeal decision, it is his experience that it would be normal for the Commission to have visited the site. He went on to advise of the process.
- Councillor J Craig then suggested that the other dwelling approved had impacted on the cluster. The Head of Planning and Capital Development replied that the commission had agreed that all other conditions were met, it was the extension into the countryside that was the issue. He read again from the appeal decision and with the use of a map explained how the location of the approved site met the requirements of policy and distinguishable from this proposal. Councillor J Craig asked how the other site had been approved given the issue of extending into the countryside and the Head of Planning and Capital Development went on to outline the difference in levels which meant that it did not sit on all fours with the application before the committee at the meeting.
- Alderman O Gawith asked whether the planning officers were aware that the garage was to be demolished and whether the church hall had been extended since the appeal and was advised that the entrance had been questioned but could be conditioned should the application be approved. He advised that there was no obvious extension to the church, approval had been given for a small extension in 2019 but it had not yet been built.

During the ensuing debate, the following comments were made:

- Councillor J Craig disagreed with the recommendation. He said there was a fine line as to what was intrusive into the countryside and what was not. He said he could see no difference between this application and what had been approved previously.
- Alderman D Drysdale concurred, he said that the first thing you see from the road was the church and he could not see how there was a visual impact issue with this application.
- Alderman J Dillon said that planning officers had made a judgement and this concurs with the previous appeal and he felt that this was the right decision.
- Councillor M Gregg said that this was a very finely balance decision and the additional site approved makes it more possible. This does however push it too far north and he would therefore be supporting the recommendation.
- Councillor A Swan said he would be supporting the recommendation, there was the option of an appeal for the applicant.

The Committee, having considered the information provided within the report of the Senior Planning Officer and by those making representations, agreed by a

majority of 5:2 with 0 abstentions to refuse the application as outlined in the Officer's report.

(Alderman A Grehan arrived at 11.30 am but neither she nor Alderman J Tinsley were able to vote as they had not been present for the entire discussion on the application.)

- (3) LA05/2020/0614/O – Site for dwelling, garage and associated site works at a side garden of 21 Moss Brook Road, Carryduff.

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

The first speaker on the application experienced technical difficulties with zoom and it was decided to postpone the determination of the application to allow him to make his way to the Council Offices and attend the meeting in person.

The Chairman then moved on to the following applications for which there were no speakers.

- (4) LA05/2020/0794/O - Infill site on lands 40m north west of 180 Ballynahinch Road, Dromore.
- (5) LA05/2020/0795/O – Infill site on lands 100m north west of 180 Ballynahinch Road, Dromore.

The above applications were presented together but voted on individually.

The Principal Planning Officer (RH) presented these applications as outlined within the circulated report.

There were no speakers on these applications.

There then followed a question and answer session with the planning officers during which the following issues arose:

- Alderman J Tinsley sought clarification on why one of the buildings had been excluded and the Head of Planning and Capital Development went on to explain the reasons.
- Councillor M Gregg sought clarification on the refusal reasons which the Head of Planning and Capital Development explained had been provided at paragraph 122. He went on to explain that this was not a small gap, but one which could accommodate more than two houses. He went on to outline the plots and the other building which did not benefit from planning permission. He then responded to a number of queries from Councillor M Gregg on the size of the plots and their frontages.

During the ensuing debate, no comments were made and the Committee proceeded to vote on the applications as follows –

LA05/2020/0794/O - Infill site on lands 40m north west of 180 Ballynahinch Road, Dromore.

The Committee, having considered the information provided within the report of the Principal Planning Officer agreed unanimously to refuse the application as outlined in the Officer's report.

LA05/2020/0795/O – Infill site on lands 100m north west of 180 Ballynahinch Road, Dromore.

The Committee, having considered the information provided within the report of the Principal Planning Officer, agreed unanimously to refuse the application as outlined in the Officer's report.

Councillor M Gregg asked whether enforcement action would be taken and it was confirmed to him that the matter would be referred to the enforcement unit.

Adjournment of Meeting

The Chairman, Councillor A Swan declared the meeting adjourned at 12.05 pm

Resumption of Meeting

The Chairman, Councillor A Swan declared the meeting resumed at 12.20 pm

On resumption of the meeting, the Chairman advised that the speaker who had wished to speak on LA05/2020/0614/O had now arrived at the Council Chamber and that the determination of that planning application could now resume.

(3) LA05/2020/0614/O – Site for dwelling, garage and associated site works at a side garden of 21 Moss Brook Road, Carryduff continued ...

The Senior Planning Officer (MB) summarised the presentation of this application as made earlier in the meeting.

The Committee received Mr N Coffey who wished to speak in support of the application and who had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- He said that the proposal was compliant with CTY8.
- He highlighted an amended map which had been submitted.
- He outlined an example of precedent which he said was material.
- He said that he considered that planning permission should be granted.

Mr Coffey then responded to Members' queries as follows:

- Alderman J Tinsley referred to a slide and asked if the content was accurate. Mr Coffey explained that a revised plan had been submitted recently which altered the size of the frontages slightly. He went on to explain the differences. The Head of Planning and Capital Development offered assistance to the members by way of detailing the differences that Mr Coffey described on a map associated with the presentation.
- Alderman J Tinsley wanted to know if the changes made a difference to the recommendation. Mr Coffey emphasised that the plots in the past had been sold in two separate lots and he felt this needed to be reflected upon.
- Councillor J Craig referred to the hen house which appeared to have a separate access. Mr Coffey confirmed that his was the case and he explained that this had been the domain of the owner's husband, now deceased.
- Councillor M Gregg asked if the hen house was a permanent structure and was advised that it was.
- Having made adjustments the Senior Planning Officer then proceeded to advise of the frontage sizes in light of the change referred to by Mr Coffey earlier in the meeting. These were as follows:

	Frontage	Area
Frontage of house	44.5m	927 sq m
Site as amended	18.3m	355 sq m
Hen house	11.4m	260 sq m

A google map was displayed on the screen and the Head of Planning and Capital Development outlined the various elements of the site which were taken account of in the application.

Mr Coffey again emphasised that the plot had in the past been marketed as two plots.

- Councillor A Swan sought clarification on an area on the map and was advised that it was a vegetable patch.

There then followed a question and answer session with the planning officers during which the following issues arose:

- Alderman J Tinsley sought confirmation on the number of buildings and frontages and was advised by the Head of Planning and Capital Development that his was the challenge. The planning officer's report refers to one plot but Mr Coffey says it was marketed as two plots. On the ground there was a vegetable plot and the hen house has been part of the curtilage for some time which is why it had been taken as one plot. He said that whichever view was taken the plot size was not consistent with the established pattern of development.
- Councillor J Craig asked if officers could confirm that we are being absolutely consistent as he recalled instances in the past where a similar

scenario had been acceptable. The Head of Planning and Capital Development responded that Mr Coffey had cited an example however that needed to sit on all fours with the site under consideration, he said that the Senior Planning Officer would look at the example given and make comment. He again outlined the plot sizes and frontages and said that these can only be compared with the house next door and there was inconsistency as outlined in the report at paragraph 85. The Senior Planning Officer (MB) then said he had looked at the example of precedent referred to by Mr Coffey and said that it represented two different plots with houses in them and was therefore not the same scenario. He said that he was aware of more recent applications, similar to this which had been refused and which had had appeals dismissed.

During the ensuing debate, the following comments were made:

- Alderman D Drysdale said he would have difficulty in voting against the recommendation.
- Alderman J Dillon said he felt the planning officers had made the correct recommendation.
- Councillor A Swan said he would be supporting the recommendation.

The Committee, having considered the information provided within the report of the Senior Planning Officer and by those making representations, agreed by a majority of 8:1 with 0 abstentions to refuse the application as outlined in the Officer's report.

(6) LA05/2021/0928/O - Site for a dwelling, garage including ancillary site works on land 30m north of 39 Garlandstown Road, Glenavy

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

The Committee received Mr N Coffey who wished to speak in support of the application and who had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- He said that regarding CTY8 there were six buildings and only three were required by the policy.
- He said that the plot sizes were varied and went on to outline these as interpreted by him.
- He outlined the cluster under CTY2A and highlighted the focal point as perceived by him.
- He outlined how this would provide closure.
- He outlined how he felt this application was compliant.

There were no questions for Mr Coffey from the Committee.

There then followed a question and answer session with the planning officers during which the following issues arose:

- Alderman J Tinsley asked how this did not integrate with the infill policy and was advised by the Head of Planning and Capital Development that this was the challenge in establishing what the pattern of development is. Mr Coffey explains the plot sizes are much smaller on the ground than they appear on the map but the Head of Planning and Capital Development outlines that the planning officer has gone to the site and considers No. 39 to be one plot. Mr Coffey says it is split due to the presence of the pillars but this was not obvious on the ground and the plot appears to be the entire field and it is for the Committee to weigh the difference in the two opinions in making a decision.
- Councillor J Craig referred to extensive mature growth and asked if this does not help it integrate. The Head of Planning and Capital Development responded that there was always a fine balance in such circumstances, the challenge was not just one of intervisibility but whether a building could be integrated. Councillor J Craig said he was confused as trees had been alluded to before as assisting with integration so why was that not the case in this instance. The Head of Planning and Capital Development went on to highlight the differences in this instance and said that the principle of development in CTY8 also needed to be taken into account.

During the ensuing debate, the following comments were made:

- Alderman J Tinsley said that he personally felt there was integration and he would not be supporting the recommendation.
- Councillor J Craig said he failed to see how this application did not meet the criteria and he would also not be supporting the recommendation.
- Councillor M Gregg said that the application did meet a number of the criteria but it failed on plot sizes and therefore he would be supporting the recommendation.
- Councillor A Swan concurred.
- Councillor J Palmer said he could not support it.

The Committee, having considered the information provided within the report of the Senior Planning Officer and by those making representations, agreed by a majority of 7:2 with 0 abstentions to refuse the application as outlined in the Officer's report.

Adjournment of Meeting

The Chairman, Councillor A Swan declared the meeting adjourned at 1.35 pm

Resumption of Meeting

The Chairman, Councillor A Swan declared the meeting resumed at 2.05 pm

- (7) LA05/2020/0800/RM - 12 dwellings and associated works (including retention of works on site) at 6 Lisburn Road, Hillsborough.

"In Committee"

It was proposed by Councillor M Gregg, seconded by Alderman D Drysdale and agreed that the meeting go "in committee", to obtain legal advice in the absence of members of the press and public being present.

Legal advice was obtained and the information noted.

(During the above discussion the Director of Service Transformation arrived at 2.15 pm)

Resumption of Normal Business

It was proposed by Alderman D Drysdale, seconded by Alderman J Dillon and agreed to come out of committee and normal business was resumed.

(Alderman O Gawith left the meeting at 2.30 pm having declared an interest in this Application).

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

The Committee received Mr Paul Crute who wished to speak in opposition to the application and who had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- He said that in terms of the loss of amenity he disputed the planning officer's opinion of its dominance.
- He said that the term 'difficult to sustain', did not mean impossible to sustain.
- He highlighted comments made by the architect.
- He queried the overshadowing trajectory.
- He requested a site visit to consider his issues.
- He said that the building work had been commenced ahead of planning permission.
- He said that he found engaging with the planning process difficult.
- He said he had requested permission to show drone footage but no-one had got back to him.

Mr Crute then responded to Members' queries as follows:

- Alderman D Drysdale asked whether Mr Crute had any planning reasons to support his objection.
- Alderman J Tinsley asked whether Mr Crute had been opposed to the application from the start or is it not what he had envisaged. Mr Crute responded that it was not what he had envisaged and he had object in 2021 and submitted many pictures.

- Councillor J Craig made the comment that the issues raised were in the remit of Planning Enforcement rather than Planning Permission and Mr Crute responded that his issues were in relation to the fact that what was under construction was very different to what was approved. The Head of Planning and Capital Development was asked to clarify the position. He stated that Mr Crute has objected to the Reserved Matters application but that the applicant had proceeded with the development before the application process was concluded. He further clarified that the applicant was advised that this is at risk and that the matter was referred to the enforcement team. A site visit was carried out by them and it was their finding that the building works were in line with the submitted plans. The drawings used in the presentation today reflect what is built on the ground. He reminded the Committee that enforcement proceedings were held in abeyance pending the outcome of an application process.
- Councillor M Gregg asked if Mr Crute could briefly summarise the content of the drone footage and Mr Crute responded that it showed how close the property was to the fence and you can see that the footprint had been increased and sunlight blocked.
- Alderman D Drysdale asked if a Planning Consultant had been employed and Mr Crute responded that his barrister had done that and that measurements would be checked.

The Committee received Mr A McCreedy and Mr G Roulston who wished to speak in support of the application and who had provided the Committee with a written submission in advance of the meeting and highlighted the following:

- Mr Roulston emphasised that the conceptual approval was just that, more detail comes at the Reserved Matters stage.
- Regarding plot 9, this had been assessed by offers and a sunlight diagram had been submitted and showed no adverse effects. He went on to outline the topography of the site.
- He said he fully supported the recommendation.

Mr Roulston then responded to Members' queries as follows:

- Alderman J Tinsley sought confirmation of distances which were provided by Mr Roulston.
- Alderman J Tinsley asked for confirmation that the building was being constructed as per the drawings and Mr Roulston provided that confirmation.
- Alderman J Tinsley asked whether it would not have been preferable to wait on planning permission before proceeding with construction.
- Councillor M Gregg sought information on the difference in ridge height and boundary distances between the property at plot 9 compared to the previous approval and was advised that there had been no ridge height restrictions placed on the development. Regarding separation distance there was a difference of 2m closer to the boundary and the ridge height was 9.2m but as it was a hipped roof it was therefore further away from the objector's property.

There then followed a question and answer session with the planning officers during which the following issues arose:

- Councillor M Gregg asked how the ridge height and boundary distances met Creating Places and sought clarification of the distances, he also requested information on the sunlight issues. The Head of Planning and Capital Development then referred to the revision to the site layout which had been confirmed by the enforcement unit as being in line with what was built on the ground. He provided clarification of ridge height and separation distances and, regarding sunlight, he differentiated between requirement for the Council to consider the impact on the amenity of neighbours and that is different from the test a chartered surveyor might undertake to measure whether there was a loss of light in a room. With the aid of a map he explained how this had been considered by the Planning Unit. He then read out the relevant paragraphs from Creating Places which referred to back to back relationships between buildings but was silent on back to side relationships. He accepted that this back to side relationship was 2m short of normal guidance where the buildings have a back to back relationship. He clarified that the separation was considered acceptable and it was felt that the Reserved Matters submission closely reflected the original concept drawing.
- Councillor J Craig said he wanted to ensure that officers had been on site and checked that everything on the ground was consistent with what was being presented to the Committee, he said he felt there was going to be building control issues in terms of monitoring. The Head of Planning and Capital Development responded that he accepted that the ideal scenario would have been for the developer to wait for the planning application process to be finished before commencing building works on the site, however the developer has been held to the original concept layout, there had been a site inspection and it has been confirmed that the building works were in line with what had been submitted.

During the ensuing debate, the following comments were made:

- Alderman J Dillon said that he would support the recommendation.
- Councillor J Palmer said he was disappointed that the developer had proceeded with construction however he would be supporting the recommendation.
- Alderman D Drysdale said that having considered the information provided there was nothing to warrant refusal.
- Councillor M Gregg outlined his disapproval at the developer commencing works prior to planning permission however he said there was in-adequate evidence to warrant refusal.
- Councillor A Swan said he would be supporting the recommendation.

The Committee, having considered the information provided within the report of the Principal Planning Officer and by those making representations, agreed by a majority of 8:0 with 0 abstentions to refuse the application as outlined in the Officer's report.

Mr Crute then took the opportunity of thanking the Committee for their honesty.

- (8) LA05/2020/0862/O – Proposed infill site for 2 no dwellings with detached garages between 26 and 30 Magheraconluce Road, Hillsborough.

The Committee was advised that the above application had been removed from the Schedule.

Adjournment of Meeting

The Chairman declared the meeting adjourned at 3.45 pm

Resumption of Meeting

The Chairman declared the meeting resumed at 3.55 pm

(Councillor J Craig did not return to the meeting).

4.2 Planning Statistics for Quarter 3 (October to December 2021)

Members had been provided with a copy of DfI NI Planning Statistics covering the third quarter of 2020/21 and were provided with a verbal summary by the Head of Planning and Capital Development. Councillor M Gregg commended officers for their efforts.

It was proposed by Councillor M Gregg, seconded by Alderman J Tinsley and agreed that the Committee note the information.

4.3 Statutory Performance Indicators – March 2022

Members were provided with information on Statutory Performance Indicators for the month of March 2022 and a verbal summary was provided by the Head of Planning and Capital Development.

Councillor M Gregg sought an update on the Planning Portal and was advised by the Head of Planning and Capital Development that a report would be produced in due course, he went on to provide a verbal update on issues with the current system.

It was proposed by Councillor M Gregg, seconded by Alderman J Dillon and agreed that the Committee note the information.

4.4 Appeal Decision in respect of planning application LA05/2020/0419/O

Members had been provided with information on the above planning appeal and were advised that it had been dismissed. It was proposed by Councillor J Craig,

seconded by Alderman O Gawith and agreed that the information be noted.

4.5 Appeal Decision in respect of planning application LA05/2020/0255/O and LA05/2020/0256/O

Members had been provided with information on the above planning appeals and were advised that they had been dismissed. It was proposed by Councillor J Craig, seconded by Alderman O Gawith and agreed that the information be noted.

4.6 Ammonia Emission Factors for Broilers Houses (Updated Guidance for Development Proposals – March 2022)

Members were advised that the Council had been notified by DAERA Planning Response team on 23 March 2022 that AFBI has scientific research that has up to date emission factors for broilers housed in buildings under indirect (e.g. hot water) heating systems. They were advised of the key issues and were provided with a link to access the updated guidance. It was proposed by Councillor M Gregg, seconded by Alderman O Gawith and agreed that the information be noted.

4.7 Planning Forum – Internal Advice Note – Consultations in the Planning Application Process Operating Principles for Planning Authorities

Members were advised that the Department had made available to SOLACE an advice note entitled Consultations in the Planning Application Process: Operating Principles for Planning Authorities and Consultees published in December 2021. It was highlighted that the purpose of the advice note was to reflect the best practice principles discussed and agreed through Planning Forum workshops with statutory consultees for the efficient and effective operation of the development management consultation process. They were advised of the key issues and it was proposed by Councillor M Gregg, seconded by Alderman D Drysdale and agreed that the information be noted.

4.8 Response to the NI Audit Office (NIAO) Report – Planning in Northern Ireland

Members were reminded that the NIAO had published a report on Planning in NI on 1 February 2022 and were provided with a copy. They were advised of the key issues and the need for the Council to place on record its views on the content and were provided with a draft response which was considered by the Development Committee at its meeting on 4 May 2022. It was proposed by Councillor M Gregg seconded by Alderman J Dillon and agreed that the information circulated be noted.

Councillor M Gregg stated that he felt the response was admirable and asked if this was something the new Infrastructure Minister could act upon or did it require input from The NI Executive. The Director of Service Transformation responded outlining the process envisaged which would take this forward.

Alderman J Dillon outlined his concern at the opening statement which said that 'The Planning System in NI was not working', he said that as far as he was concerned it was working but could be improved upon.

4.9 Notification by telecommunication operators of intention to utilise permitted development rights.

The Council had been advised by Taylor Patterson of their intention to utilise permitted development rights at two locations within the Council area to install electronic communications apparatus in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (NI) 2015. It was proposed by Councillor M Gregg, seconded by Alderman D Drysdale and agreed that the information be noted.

4.10 Proposed abandonment at Quay Street, Lisburn

Members had been advised that the Department for Infrastructure had notified the Council in a letter dated 10 March 2022 of its intention to abandon land at Quay Street, Lisburn. The Committee had been provided with a copy of the correspondence and the associated map and it was proposed by Alderman O Gawith, seconded by Councillor M Gregg and agreed that the information be noted.

4.11 Proposed Stopping-Up at Market Square, Lisburn Castlereagh City Council

Members were advised that the Department for Infrastructure had notified the Council in a letter dated 12 April 2022 that an application had been received for the stopping up of areas from A-B and C-D at Market Square Lisburn. The Committee had been provided with a copy of the correspondence and the associated map and it was proposed by Alderman O Gawith, seconded by Councillor M Gregg and agreed that the information be noted.

4.12 June 2022 Planning Committee

Members were advised of the impact that the two bank holidays in June would have on arrangements for the Planning Committee should it be held on its original scheduled date of 6 June 2022. They were further advised that the date of Monday 13 June 2022 was now the date proposed to hold the Committee Meeting. It was proposed by Councillor M Gregg, seconded by Alderman J Dillon and agreed that the June meeting of the Planning Committee be held on Monday 13 June 2022.

5. Any Other Business

1. Councillor M Gregg
Thanks to the current Chairman – Councillor A Swan

Councillor M Gregg wished to express thanks to the Chairman as this was his final meeting in the position of Chair. Councillor Swan responded by thanking the Committee for their contribution throughout the year saying that he had enjoyed his

period as Chairman of the Committee, he went on to express thanks to staff for their input throughout the year as well.

Alderman O Gawith also thanked that Chairman and commended him for the work he had carried out during the past year.

2. The Head of Planning and Capital Development
Independent Examination

The Head of Planning and Capital Development updated on the forthcoming Independent Examination on Housing which was imminent.

3. The Head of Planning and Capital Development
NI Housing Conference – Wednesday 11 May 2022

The Head of Planning and Capital Development advised members that Councillor U Mackin was now unable to attend the above conference for which a place had been booked for him, he asked that any member wishing to attend in his place advise Members Services so that the name of the delegate attending could be amended.

There being no further business, the meeting concluded at 4.20 pm.

CHAIRMAN / MAYOR



Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Decision

TITLE: 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 are five local applications in total, four of which have been called-in and one which is mandatory.
2. The following applications will be decided having regard to paragraphs 42 to 53 of the Protocol of the Operation of the Planning Committee.
 - (a) LA05/2017/0021/F - Demolition of existing buildings and erection of care home (Class 3(b) of the schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing at 531 Saintfield Road, Belfast
Recommendation - Approval
 - (b) LA05/2018/1030/F - Demolition of existing buildings and erection of service and associated forecourt and parking at 99 Moneyreagh Road, Moneyreagh
Recommendation - Refusal
 - (c) LA05/2018/0862/F - Proposed infill site for 2 no dwellings with detached garages On lands Between 26 & 30 Magheraconluce Road, Hillsborough
Recommendation – Approval
 - (d) LA05/2021/0944/F – Proposed dwelling under PPS21 CTY6 on land 35 metres South East of 252 Hillhall Road, Lisburn
Recommendation - Refusal
 - (e) LA05/2021/1093/F - New metal clad shed 7.5 m wide x 9.0m long for indoor golf studio on unused grass area with pitch roof, eaves height 3.3m and ridge height 4.1m colour of metal cladding to be "mushroom" from Kingspan colour range at Castlereagh Hills Golf Course, 73 Upper Braniel Road, Gilnahirk, Belfast
Recommendation - Approval

Recommendation:

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

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 application is assessed has been subject to separate screening.

If yes, what was the outcome?:

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

N/A

Insert link to completed Equality and Good Relations report:

N/A

2. Rural Needs Impact Assessment:

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

The policies against which each application is assessed has been subject to separate RNIA screening.

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:

N/A

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 1(a)(i),(ii),(iii),(iv) & (v)– LA05/2017/0021/F**
- APPENDIX 1(b)(i), (ii) & (iii) - LA05/2018/1030/F**
- APPENDIX 1(c) - LA05/2018/0862/F**
- APPENDIX 1(d) – LA05/2021/0944/F**
- APPENDIX 1(e) – LA05/2021/1093/F**

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

If Yes, please insert date:

Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	13 June 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2017/0021/F
Date of Application	10 January 2017
District Electoral Area	Castlereagh South
Proposal Description	Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing.
Location	531 Saintfield Road, Belfast, BT8 8ES
Representations	Sixteen
Case Officer	Mark Burns
Recommendation	Approval

Summary of Recommendation

- Members will be aware that this application had been subject to a number of previous consultations with the planning committee and the associated reports are listed as follows::

07 December 2020 – Initial DM Officer Report
 02 August 2021 – First Addendum Report
 06 September 2021 – Second Addendum Report
 04 October 2021 – Composite Report (comprising three previous reports)
 01 November 2021 – Addendum Report
 07 March 2022 – Second Addendum Report

2. The composite report [dated October 2021] brought together the chronology of assessments as outlined in the other reports referred to above and provides the main basis for consideration of the proposal in front of the committee.
3. To assist the members and by way of an aid memoire it was first agreed at a meeting of the planning committee on 04 October 2021, that consideration of the application be deferred to allow for a site meeting to be arranged to enable Members to view the site within its surrounding context.
4. A site visit was facilitated on Friday 15 October 2021. A minute of the meeting was taken which informs the detail of the 01 November 2021 addendum report.
5. At the November 2021 meeting, members agreed that consideration of the application should be deferred for a second time to allow for additional information in relation to the use of the existing access in terms of traffic impact, modelling and for further comment to be provided by DfI Roads.
6. In December 2021, the applicant's consultant team provided additional information in relation to roads/traffic generation and access arrangements as requested. Clarification is provided in relation to the following matters:
 - Direct Access from A24 Saintfield Road
 - Development Proposals increase in traffic generation
 - Traffic Safety
 - Accident History
 - Proposed access impact on existing junctions
 - Capacity Model of Proposed Access
7. Consideration of this further information was set out in an addendum report dated 07 March 2022.
8. Prior to the application being presented to the Committee at its meeting in March 2022 further representations were received from a third party on the 4 and 6 March 2022.
9. This representation included a third party challenge in respect of the proposed visibility splays. It was decided to withdraw the application from the schedule to allow the Council time to investigate the challenge and consider the implications for the application process.
10. Additional information was received from the applicant on 29 April 2022 and was uploaded to the Planning Portal on the 04 May 2022.
11. Neighbour notifications also issued at this time. At the date of writing this report, no further representation had been received.

Further Consideration

12. The Information received from the applicant on 29 April 2022 included the following:
 - Proposed Site Plan - drawing no.1571-01 100-03 Rev G
 - Proposed Block Plan - drawing no.1571-01 200-01 Rev C
 - Proposed Cross Section - drawing no.1571-01 500-01 Rev C
 - Sightline Plan – drawing no. 20-150-DR-001
13. The covering letter provided with the drawings explained that no roads works are proposed that require the wall at the entrance to Wrights to be altered or removed.
14. The letter further explained that the proposed demolition of the existing wall to the north of the proposed access and its replacement approximately 645 mm further into the site will assist in enhancing visibility to the north for those exiting the site onto Saintfield Road.
15. Finally it was noted that Dfl Roads had already stated its position in relation to intensification and for this reason, there was no requirement to alter the existing access arrangements.
16. The letter and associated drawings were sent to Dfl Roads for their information and comment. In a response dated 30 May 2022 it was confirmed that the minor changes to the access arrangements including the visibility splays were acceptable.
17. It was also confirmed that the drawings now showed the correct position of the existing right turning lane road markings.
18. Dfl Roads advised that they were unable to offer an objection to the access arrangements in terms of prevailing regional policy and guidance.
19. Significant weight is afforded by Dfl Roads to the established use of the land and use of TRICS data to establish there is no intensification of the use of the access.
20. The response provided by Dfl Roads also has regard to information submitted from all the third parties which highlight discrepancies in the previously submitted drawings together with related objections about the existing access layout which they consider to falls short of current standards.

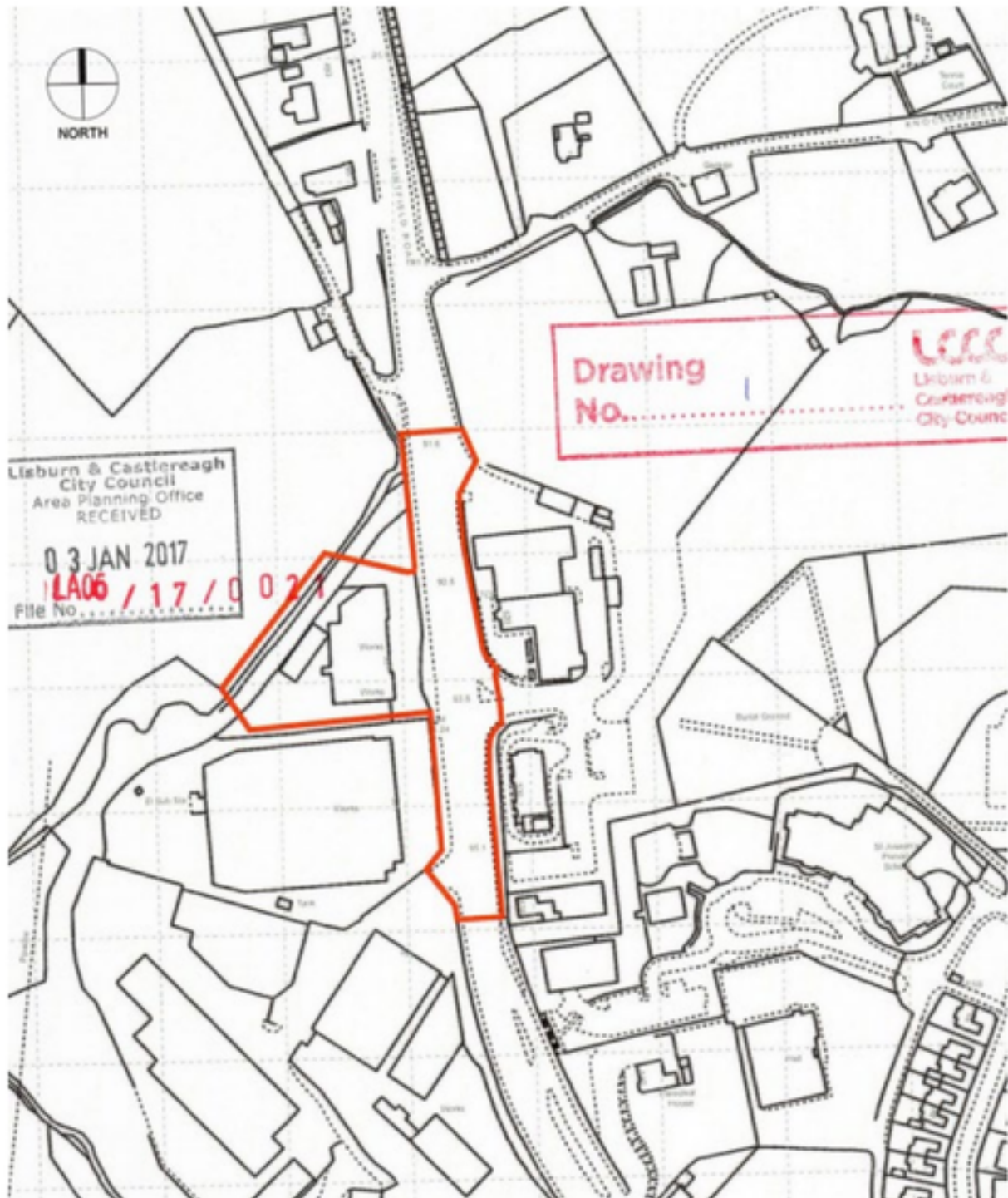
Conclusions

21. The information from the applicant received on 29 April 2022 address a P2 challenge. Amendments to the submitted plans are minor in nature and do not result in any additional road safety or traffic impact concerns and the advice of DfI Roads is accepted. .
22. No new substantive evidence is provided that would require the advice set out in the composite report of October 2021 and subsequent addendum reports to be changed or amended.
23. The recommendation that planning permission be approved for the reasons indicated in the composite report are not changed.
24. The detail of this third addendum report should be read in conjunction with the all the reports previously drafted for committee dated 04 October 2021, 01 November 2021 and 07 March 2022.

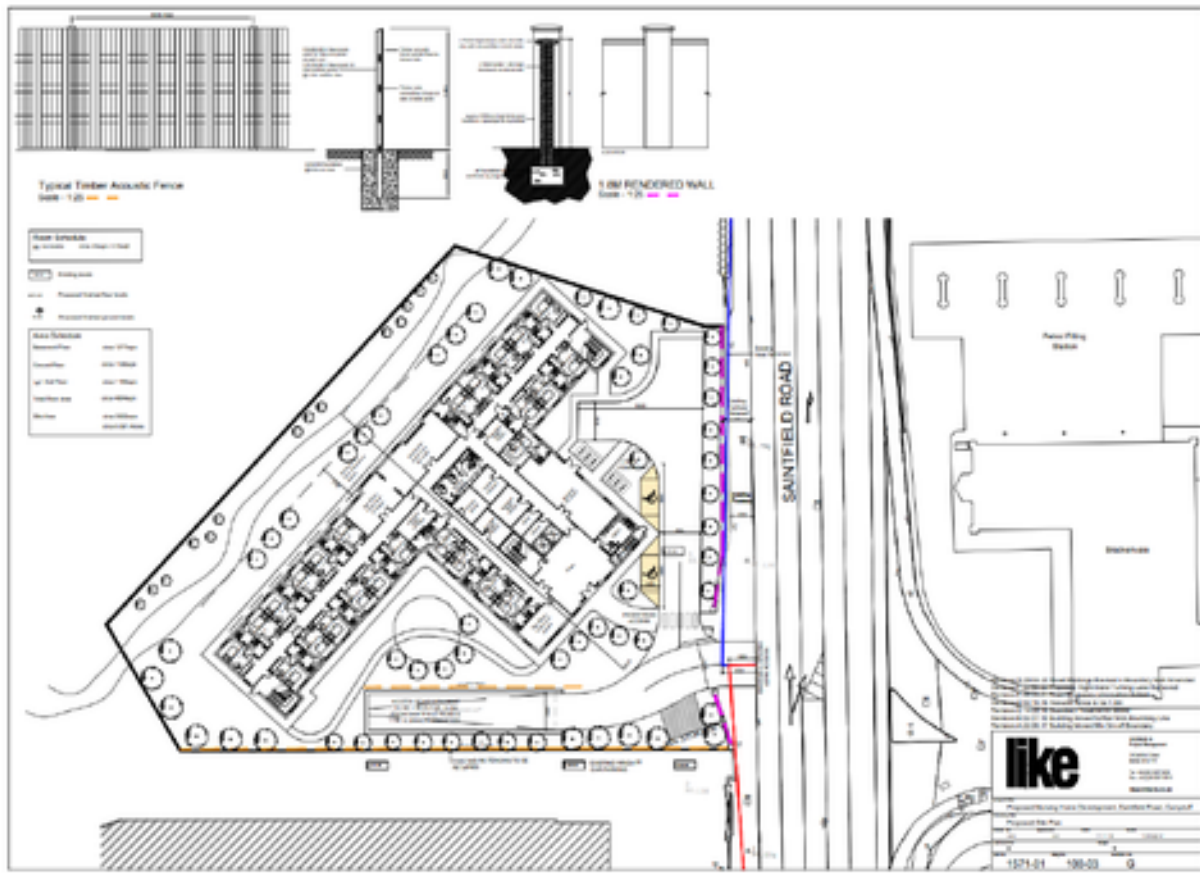
Recommendations

25. It is recommended that planning permission is approved.

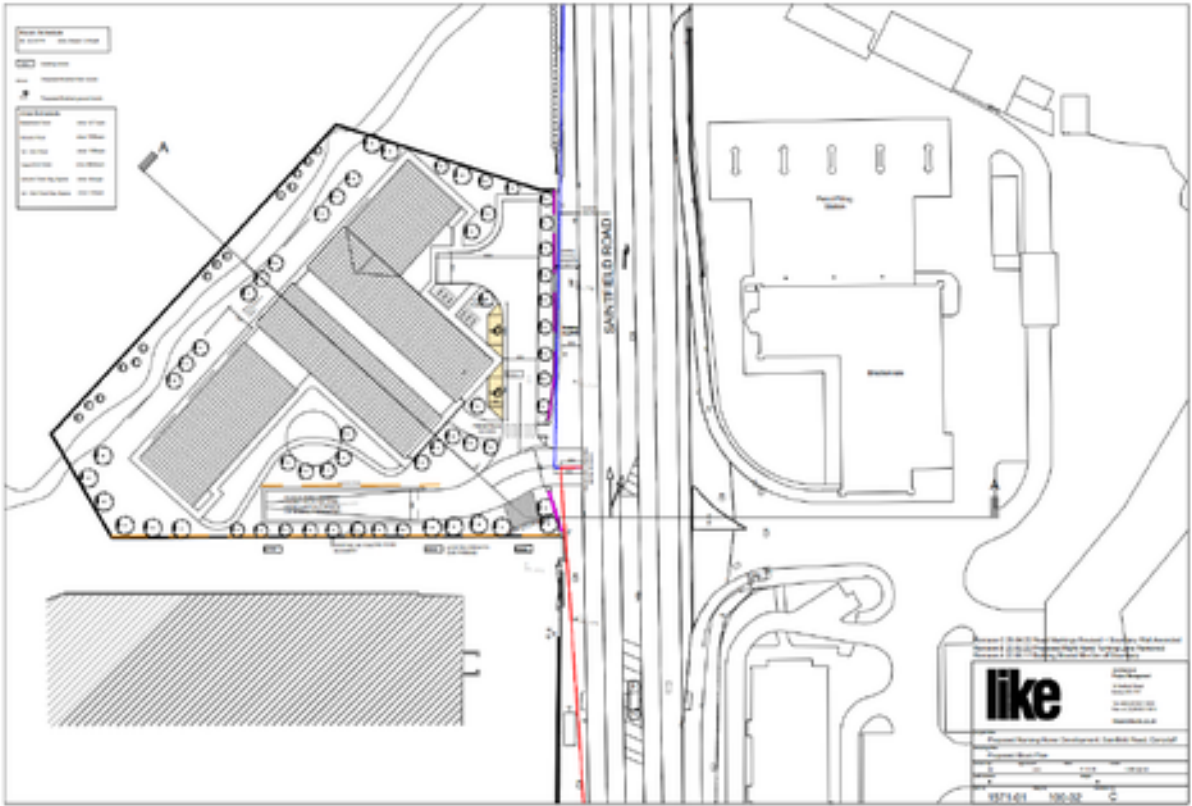
Site Location Plan – LA05/2017/0021/F



Proposed Site Plan – LA05/2017/0021/F



Proposed Block Plan – LA05/2017/0021/F



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	07 March 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2017/0021/F
Date of Application	10 January 2017
District Electoral Area	Castlereagh South
Proposal Description	Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing.
Location	531 Saintfield Road, Belfast, BT8 8ES
Representations	Sixteen
Case Officer	Mark Burns
Recommendation	Approval

Summary of Recommendation

- Members will be aware that this application had been withdrawn from the schedule of applications as presented to the Committee on the following occasions:
 - 07 December 2020 – Initial DM Officer Report
 - 02 August 2021 – First Addendum Report
 - 06 September 2021 – Second Addendum Report
 - 04 October 2021 – Composite Report
- The composite report brought together the chronology of assessments as outlined in the other reports referred to above.

3. A recommendation to approve planning permission was presented to the Committee on 04 October 2021 for the reasons outlined in a composite report.
4. At the request of members, it was agreed that consideration of the application should be deferred to allow for a site meeting to be arranged to enable Members to view the site within its surrounding context.
5. A site visit was facilitated on Friday 15 October 2021. A minute of the meeting was taken which informs the detail of an addendum report along with the minute of the site visit are provided.
6. At the November 2021 meeting, members agreed that consideration of the application should be deferred for a second time to allow for additional information in relation to the use of the existing access in terms of traffic impacts, modelling and for further comment to be provided.

Further Consideration

7. In December 2021, the applicant's consultant team provided additional information in relation to roads/traffic generation and access arrangements as requested. Clarification is provided in relation to the following matters:

Direct Access from A24 Saintfield Road

8. The submission [dated 3 December 2021] acknowledges that the A24 Saintfield Road forms part of the Protected Route network within the settlement development limit.
9. As advised previously, policy AMP 2 of PPS 3 – Access, Movement and Parking 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.
10. Policy AMP 3 provides direction in relation to Protected Routes within Settlement limits. It 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:
 - (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.

11. In this case and as previously advised, there are no minor roads bounding the site which would permit an alternative access route and as such, access via an existing access to the Saintfield Road is the only feasible access option to the site consistent with the requirements of policy AMP 3.
12. Advice received from DfI Roads dated 25 January 2022 also acknowledge that there is no minor road giving access to the site Furthermore, the advice provided notes that the proposal is for the use of an existing access and that it has not been demonstrated by the third party objectors that intensification of the use of the access would result from the proposed development. As such they do not consider the proposal to be contrary to Policy AMP 2.
13. This latest advice from DfI Roads also takes account of the operation of the right turn pocket serving the Brackenvale complex opposite together with the access service an existing premises on the same side along with the relatively high volume and speed of traffic using the Saintfield Road.

Development Proposals increase in traffic generation

14. In response to concerns raised by Members about traffic generation associated with the existing and proposed use of the site, the applicant's consultant team has advised that with transport analysis, there is an accepted methodology for carrying out traffic calculations and it is the land use that is compared against other land uses because businesses can come and go within the approved land use with different levels of traffic.
15. The submission advises that the methodology for deriving the proposed development daily vehicle trips is supported through the use of the TRICS database – an assessment tool which utilises surveyed vehicle generations of existing sites throughout the UK and Ireland to provide an anticipated vehicle generation for proposed sites yet to be constructed and represent recorded flows of existing sites.
16. This is assessed on the basis of the **proposed land use rather than a particular occupier** or operator since planning permission is granted for the land use and not an individual user.
17. The submission from the applicant notes that the representation in opposition to the application provides evidence based on the existing vehicle trips associated with the operation of the current site occupier and the associated daily vehicle movements of this specific business, rather than the existing site land use.
18. The submission explains that that the proposed development anticipates 207 two-way vehicle trips to the site per day which equates to an average of 17 two-way trips per hour.

19. That said, the submission also notes that it is widely accepted that the peak hours of operation at development sites equates to 10% of the total daily traffic flow and that taking this into consideration, that proposed development is anticipated to generate approximately 21 tow-way trips during the busiest hours of operation [one arrival and 1 departure every three minutes during peak operating times].
20. The applicant provides TRICS data in relation to a retail/warehouse land uses and proposed land uses. For convenience and ease of reference, the tables provided for in the applicants submission of 03 December 2021 are set out below.

Table 1 - Existing Site Layout 1st %ile TRICS Database Vehicle Trip Generations

Land Use	GFA	Trip Rate		Generated Trips		
		Arr	Dep	Arr	De p	Tota l
01/G Retail - Other Individual Non-Food Superstore	557	6.59	6.20	37	35	71
02/C Employment - Industrial Unit	814.5	0.27	0.35	2	3	6
Existing Site Layout 1st %ile TRICS Trip Generations				39	37	77

Table 2 - Proposed Site Layout 1st %ile TRICS Database Vehicle Trip Generations

Land Use	No. of Beds	Trip Rate		Generated Trips		
		Arr	Dep	Arr	Dep	Total
05/F Health - Care Home	86	0.39	0.35	33	30	63

Table 3 - Existing and Proposed Site Layouts 1st %ile TRICS Comparison

Land Use	Generated Trips		
	Arr	Dep	Total
Existing – Retail/ Industrial	39	37	77
Proposed – Care Home	33	30	63

21. The tables demonstrate that when comparable trip generation methodologies are used, the daily vehicle generations of the existing and proposed sites are broadly similar.

22. DfI Roads in correspondence dated 25 February 2022 provided clarification in relation to their consideration of the TRICS information provided by the applicant team in January 2022.
23. The advice explains that the TRICS database is the leading industry wide recognised tool used to analyse trip generation for a wide range of development types.
24. In this particular application it was used to provide trip figures firstly for the proposed development; and also secondly for the existing development, to enable a comparison.
25. To make the figures more robust, in the case of the proposed development the category considered was of a higher standard than that required; and for the existing development a lower threshold (retail, not including the warehousing) was used to generate trip numbers.
26. When compared it was noted that the number of trips associated with the application proposal were less than the figures associated with the existing development and therefore intensification of the existing access was not considered an issue.
27. It is DfI Roads' understanding that there was a previous history for retail development on this site. Whilst the Council clarify to DfI Roads that this decision is not an extant permission the policy circumstances are not changed in the intervening period and the TRICS analysis is therefore a material consideration to be weighed in the decision making process.

Traffic Safety

28. In response to concerns raised in relation to traffic safety, the applicant makes reference to proposed amendments to the existing access junction arrangement to include:
 - Existing right turning vehicles into the development site currently have no provision to wait clear of A24 southbound traffic and are forced to cross the segregation hatching between the northbound and southbound right turn lanes.
 - By implementing the changes proposed at the site access to accommodate a right refuge for turning vehicles into the site, this access arrangement will provide a betterment over existing provision.
 - The provision of a refuge will mean that traffic waiting to turn right will be off the mainline flow and will minimise vehicular conflict and accident risk over the existing situation.
29. A late representation from Merit Retail Ltd dated 1 November 2021 representing the owners of Brackenvale complex expresses concern that the Right turning pocket (RTP) was not shown accurately on the drawings.

30. Advice from DfI Roads dated 25 January 2022 confirms that the this matter has been further considered by an internal design consultancy and traffic section and that taking cognisance of the speed and volume of traffic on the A24 Saintfield Road and its downward gradient approaching Brackenvale from the south, it is not deemed acceptable to compromise the safety of the access to Brackenvale by making a reduction [of 8 metres] to the RTP.
31. DfI Roads has advised that no alterations to the RTP are required and no issues in relation to the operation of the existing access are raised.
32. The Agent on behalf of the applicant team provided a set of revised plans on 24 February 2022 comprising the following:
 - Proposed Site Plan
 - Proposed Block Plan
 - Proposed Section
33. Related correspondence advises that the plans have been amended to address the direction from DfI Roads that there should be no alterations to the existing Right Turn Lane on Saintfield Road.
34. The drawings now reflect the existing situation on the ground along Saintfield Road, proposing no changes to the existing arrangement. Confirmation is provided that no further amendments have been made to the plans.
35. A further letter is provided from the applicant's roads consultant, Kevin McShane Ltd. This letter provides a review of and response to the latest DfI Roads consultation response and Matrix Planning Consultancy correspondence.
36. The letter acknowledges the planning policy context against which DfI Roads assessed the application and that the view that has been expressed is that the application is not contrary to planning policy for the reasons outlined in their response dated 25 January 2022.
37. The letter also acknowledges that the response from DfI Roads takes into account a recent representation from a neighbouring landowner [Merit Retail Ltd dated 01 November 2021].
38. The letter recognises that DfI Roads are the overseeing authority responsible for determining the traffic and transport implications of prospective applications on the road network and that the advice provided by the Department should be considered as an independent assessment of the application.

Accident History

39. The applicant's submission makes reference concern expressed by Members in relation to a historic level of road traffic collisions along A24 Saintfield Road. The following comments are made:
- None of the fatal collisions were at the proposed site access;
 - While the 3 serious collisions along the Brackenvale frontage between 1 June 2011 and 31 May 2021 are unfortunate, this must be viewed in the context of the 11,000, 000 traffic movements which occur on this stretch of road every year [source DfI Traffic and Travel Information report 2014].
 - Police enforcement efforts continue to be focused on reducing speed in the area and improving driver behaviour;
 - Traffic flows at the proposed land use will be consistent with the established land use.
 - Accordingly, the development proposals are highly unlikely to contribute to a deterioration of road traffic collision statistics;
 - The development proposals include amendments to the existing site access design which will reduce the likelihood of road traffic collisions.
40. Advice from DfI Roads dated 25 January 2022 confirms that road traffic collision data was discussed further with the PSNI Traffic Management Branch and that the Traffic Branch has confirmed that records held by DfI Roads and the branch are the same.
41. DfI Roads in correspondence dated 25 February 2022 provided further comment in relation to a further representation from a third party in relation to traffic accident information.
42. DfI Roads confirm that they have no reason to doubt the veracity of the information provided by an Agent acting on behalf of third parties about Road Traffic Collisions occurring on the Saintfield Road on 29th September 2021 and the 31st January 2022.
43. The third party objectors provide no contrary evidence of a history of traffic accidents associated with the operation of the existing access.
44. However, they advise that DFI Road collision history information only goes up to the end of March 2021, with annual details being provided to DFI by PSNI Traffic Branch every September.
45. That said and having spoken to PSNI Traffic Branch about these particular incidents, they would not comment, as they have a requirement to verify Road Traffic Collisions and complete legal action where necessary, before releasing details into the public domain. For this reason, the location and causation of these two incidents are unable to be determined.

Proposed access impact on existing junctions

46. In response to concern expressed about the impact of the proposed development access improvements on adjacent junctions along A24 Saintfield Road, the submission from the applicant team makes reference to proposed alterations to road markings to accommodate a right turn refuge into the site.
47. These proposed amendments were based on traffic flow surveys carried out by the applicant team the results of which when analysed demonstrated that the reduction in queuing capacity into the Brackenvale site to accommodate a right turn provision into the site could be delivered without detrimentally impacting the existing right turn lane provision.
48. DfI Roads were initially content with this proposal based on a review of the evidence provided. That said and in light of concerns expressed by Members, the matter was further considered by an internal design and consultancy and traffic sections and taking cognisance of the speed and volume of traffic on the A24 Saintfield Road and its downward gradient approaching Brackenvale from the south advice received indicated that it is not deemed acceptable to compromise the safety of the access to Brackenvale by reducing the Right Turn Provision.
49. With regard to concerns expressed in third party representations, about the impact of the proposed development on the delivery of access arrangements to an approved Hotel to the north, the submission from the applicant advises that it is there understanding that the site access to the future hotel site was constructed in 2015. This access is onto the Knockbracken Road and that this includes the provision of a right turn lane ghost island into Knockbracken Road south to the immediate north of the Brackenvale junction.
50. The proposed development does not propose any changes that would impact on the future hotel access junction.

Capacity Model of Proposed Access

51. The applicant's submission provides further information based on a junction capacity model of the proposed site access layout. For convenience and ease of reference, the results of the assessment is set out in the tables below.

Table 4 - Proposed Site Access Future Operation 2022

Junction Arm	2022 B+D			
	AM Peak Hour		PM Peak Hour	
	Max RFC	Max Queue	Max RFC	Max Queue
B-C - Left Turn Out of Site Access	0.01	0.0	0.01	0.0
B-A - Right Turn out of Site access	0.11	0.1	0.10	0.1
C-AB - Right Turn into Site	0.02	0.0	0.01	0.0

Access				
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Table 5 - Proposed Site Access Future Operation 2022

Junction Arm	2032 B+D			
	AM Peak Hour		PM Peak Hour	
	Max RFC	Max Queue	Max RFC	Max Queue
B-C - Left Turn Out of Site Access	0.01	0.0	0.01	0.0
B-A - Right Turn out of Site access	0.17	0.2	0.12	0.1
C-AB - Right Turn into Site Access	0.02	0.0	0.01	0.0

36. The applicant advises that the assessment demonstrates that the proposed site access junction is anticipated to operate well within capacity to the future design year 2032.
37. Whilst the submission expresses the view that the queuing at the proposed right turn lane is anticipated to be accommodated within the junction layout with no knock-on impact/ blocking back onto A24 Saintfield Road.
38. As explained above, recent advice from DfI Roads indicates that alterations to the Right Turn Provision are not required and not additional adjustments are recommended.
39. This direction is acknowledged by the Agent in correspondence received on 24 February 2022 along with amended drawings.

Further Representations

40. A further representation from an Agent acting on behalf of third party objectors was received on 01 February 2022. The correspondence to the position of DfI Roads being undermined as a result of the latest advice.
41. The advice now received from DfI Roads is based on a review of additional information provided late in the application process and following discussion with both their internal design consultancy and traffic sections, revised advice was provided. Whilst it is changed in part the general thrust of the advice is not and the recommendation of DfI Roads is still to approve.
42. The advice from DfI Roads throughout the application process and indeed in relation to an earlier application has been that intensification of the existing access has not been demonstrated to their satisfaction and that in their opinion,

- the access arrangements as proposed provide for a safe access that will not prejudice road safety or significantly inconvenience the flow of traffic.
43. In the absence of any more robust evidence to the contrary being provided, officers have no reason to disagree with both the conclusions reached by the applicant team and advice provided by DfI Roads in relation to intensification.
 44. The representation is critical of traffic survey information provided by the applicant team having been taken during a period of 'lockdown'.
 45. The applicant's consultant team provide clarification in this regard. The letter dated 24 February 2022 explains that the survey information referred to was used to support the provision of an amendment to the right turn lane access into the Brackenvale development to then accommodate a right turn provision into the proposed site.
 46. Now that the amendments to the Brackenvale right turn lane are no longer requested, the survey information is not required to be used as an evidence base.
 47. The applicant's consultant team does however point out that the previous submission on behalf of third party representatives [20 January 2021] relied upon camera survey data for vehicle trips associated with the current occupier to argue an intensification point. This survey information was recorded in November 2022 during the 'lockdown' period.
 48. The view is expressed that a Transport Assessment is required to support the application.
 49. Paragraph 2.1 of the Department's Transport Assessment Guidelines for Development Proposals in Northern Ireland explains that purpose of a Transport Assessment is to provide enough information for the Department to understand how the proposed development is likely to function in transport terms.
 50. It also explains that assessing the transport impacts in a systematic manner contributes towards understanding how more sustainable travel patterns might be achieved through changing travel behaviour. Transport Assessment also subsumes the former process of Traffic Impact Assessment.
 51. Paragraph 2.2 explains that the preparation and detail of a Transport Assessment will vary depending on the location, scale and nature of the proposed development and that an Assessment should, where appropriate, propose a package of measures designed to promote access to the site by walking, cycling and public transport, while reducing the role of car access as much as possible.
 52. Advice received from DfI Roads on 25 January 2022 advised that a full transport assessment and safety audit would be superfluous in assessing this

- application in terms of planning policy as it would only address the non-intensified site access and the road layout as exist.
53. In the absence of any further robust evidence being provided, officers have no reasons to question the advice provided by Dfl Roads in this regard.
 54. In relation to additional traffic collision information, the matter has been considered by Dfl Roads and no further comment is provided.
 55. The representation makes reference to history appeal [2005/A885] whereby the view is expressed that the approach taken by officers was contrary to the PAC consideration and that the Committee had not been advised of this fact.
 56. The committee are advised of the appeal decision but it does not change the fact that this proposal was assessed on its merits taking into account the current situation, evidence provided by the applicant team and scrutiny and advice provided by Dfl Roads officials, the internal consultant and traffic sections.
 57. The representation fails to explain that the application to which these decision related was for the erection of a new build food store which by its very nature would attract higher numbers of visitors, result in intensification of the existing access and necessitate the need for a right turning lane. It also fails to highlight that the current approved business involve some direct sales to the public.
 58. The advice received from Dfl Roads in this case is that a Transport Assessment is not required and that the proposal will not result in the intensification of the existing access. In the absence of further evidence being provided to the contrary, officers have no reason to disagree with the position held in this regard.
 59. The additional representation received does not raise any new information and the application has provided amendments in response to direction from Dfl Roads that alterations to right turning lane into Brackenvale are not required.

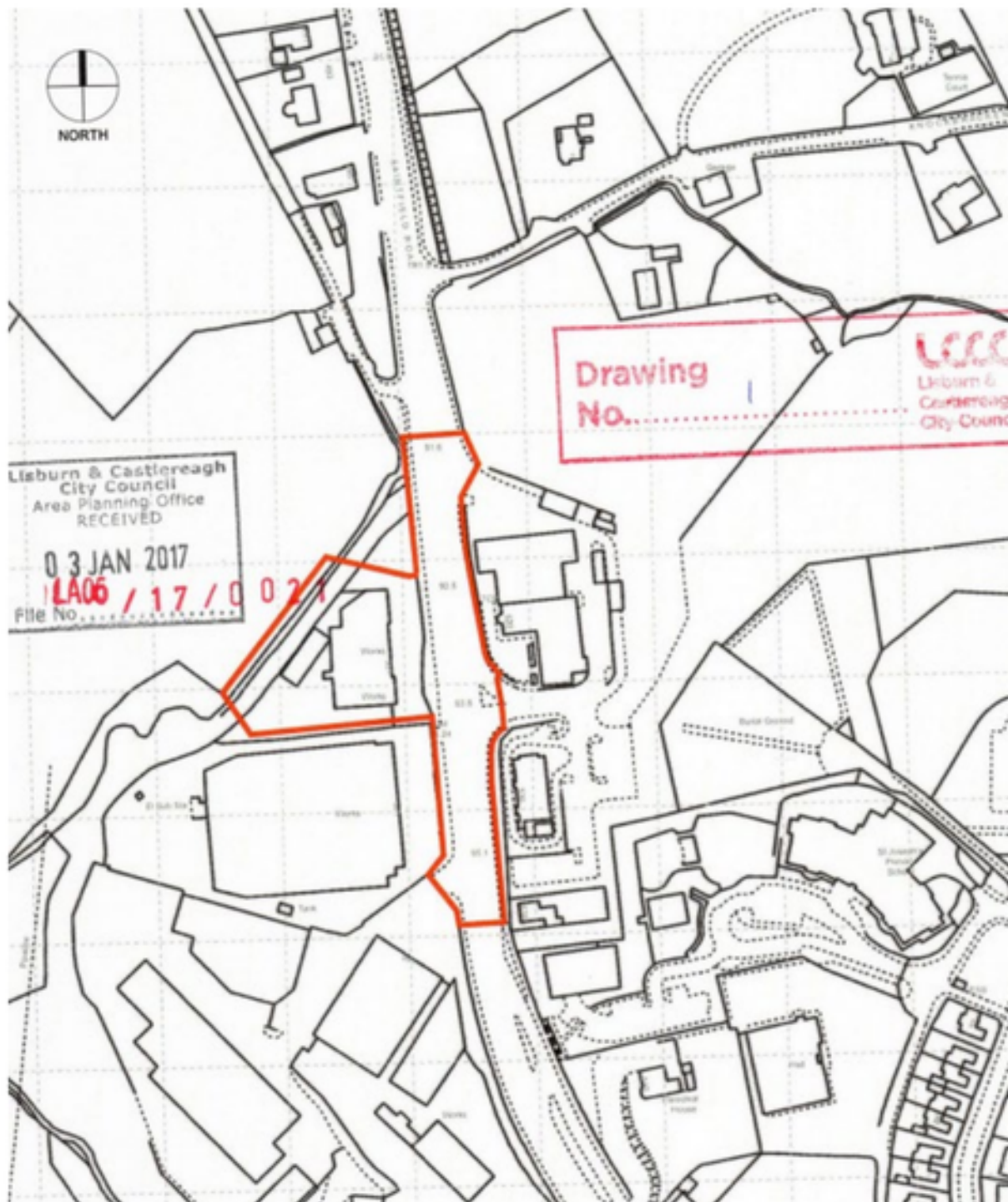
Conclusions

60. No new substantive evidence is provided that would change the recommendation set out in the composite report and the advice previously offered that planning permission be approved for the reasons indicated in the main officers report is not changed.
61. The detail of this second addendum report should be read in conjunction with the composite officers report previously presented to the Committee on 04 October 2021 and the addendum report presented on 1 November 2021.

Recommendations

62. It is recommended that planning permission is approved.

Site Location Plan – LA05/2017/0021/F



LISBURN & CASTLEREAGH CITY COUNCIL**Minute of a site visit by the Planning Committee held at 2.30pm on Friday 15th October 2021**

PRESENT: Councillor A Swan (Chairman)
Aldermen J Dillon, and O Gawith
Councillors DJ Craig, U Mackin and John Palmer

IN ATTENDANCE: Principal Planning Officer (RH)
Planning Officer (MB)
Member Services Officer (BF)

ALSO ATTENDED: Mr S Cash (Roads Service)

Apologies for non-attendance at the meeting were recorded on behalf of Aldermen A Grehan and J Tinsley.

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

- LA05/2017/0021/F – Demolition of existing buildings and erection of care home (Class 3(b) of the schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing at 531 Saintfield Road, Belfast, Belfast, BT8 8ES.

The application had been presented for determination at the meeting of the Planning Committee on 04 October 2021. The Committee had agreed to defer the application to allow for a site visit to take place to enable Members to view the site context and access arrangements to and from the Saintfield Road.

Members and Officers met at the site and, in accordance with the Protocol for the Operation of the Planning Committee, the Principal Planning Officer with the aid of site location and site layout plans, provided Members with overview of the application.

Members were reminded that the site was within the settlement limit for the Carryduff Local Plan zoned and zoned as an area of existing employment. The existing retail use was observed.

The Committee observed the site from the rear and noted its proximity to the Carryduff River and to an adjacent car workshop.

Members observed the current access arrangements to the site from the Saintfield Road. Reference was made to proposed enhancements to the existing right turning lanes and road markings.

Traffic turning right onto the Saintfield Road from the Knockbracken Road junction opposite was observed.

Members requested that details of proposed road enhancements associated with the proposed development, acoustic measures on the boundary with the car workshop and amenity provision be made available when the application was presented back to the Committee for determination.

There being no further business, the site visit was terminated at 3.10pm.

Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	01 November 2021
Committee Interest	Local Application (Called In)
Application Reference	LA05/2017/0021/F
Date of Application	10 January 2017
District Electoral Area	Castlereagh South
Proposal Description	Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing
Location	531 Saintfield Road, Belfast, BT8 8ES
Representations	Thirteen
Case Officer	Mark Burns
Recommendation	Approval

Summary of Recommendation

- Members will note that this application has been withdrawn from the schedule of applications as presented to the Committee on the following occasions:
 - 07 December 2020 – Initial DM Officer Report
 - 02 August 2021 – First Addendum Report
 - 06 September 2021 – Second Addendum Report
 - 04 October 2021 – Composite Report
- This composite report brings together the chronology of assessments as outlined in the other reports referred to above.
- A recommendation to approve planning permission was presented to the Committee on 04 October 2021 for the reasons outlined in a composite report.

4. At the request of members, it was agreed that consideration of the application should be deferred to allow for a site meeting to be arranged to enable Members to view the site within its surrounding context.
5. A site visit was facilitated on Friday 15 October 2021. A minute of the meeting was taken which informs the detail of this report. This is provided at **Appendix 1.2(b)**.

Further Consideration

6. Members were reminded at the site visit of the background to the application. The extent of the application site and its boundaries were outlined using a site location and site layout plan and had the opportunity to view the proposed development in the context of the existing buildings.

Road Enhancements/Modelling

7. Members having observed the current access arrangements to the site from the Saintfield Road sought clarification on the proposed enhancements to the existing right turning lanes and road markings.
8. Clarification on roads related concerns is provided in a supporting statement from Karen McShane Ltd on behalf of the applicant team dated 15 April 2021.
9. The document advises that implementing the changes proposed at the site access to accommodate a right refuge for turning vehicles into the site, will provide a betterment over existing access arrangements that will mean that traffic waiting to turn right will be off the main flow and will minimise vehicular conflict and accident risk over the existing situation.
10. Evidence in support of this conclusion advises that a review of existing right turning vehicles into both Brackenvale and the adjacent accident repair centre has been carried out to assist with our understanding of the potential impact on the introduction of the proposed site access arrangements on existing conditions.
11. A right hand turning pocket is not required for this or the neighbouring development as the scale of development in either site does not generate more than 500 vehicle movements.
12. That said advice is offered indicating that the existing right turn lane provision into Brackenvale is approximately 78 metres in length and can accommodate approximately 12 Passenger Carrying Unit (PCU) queuing before exceeding its capacity (PCU – Passenger Carrying Unit length 5.75m or approximately a car length). The existing right turn provision into the adjacent Accident Repair

Centre is 18 metres in length (excluding direct taper distance) and can accommodate approximately 3 PCU queuing before exceeding capacity. There is some capacity to alter the white lines on the road to allow for betterment in the access arrangements to this site.

13. The proposed site access arrangement aims to reduce the existing right turn lane capacity into Brackenvale by approximately one vehicle length to accommodate a right turn refuge into the development site. This leaves capacity for approximately 11 PCUs in the right turn lane to Brackenvale.
14. The right turn provision into the adjacent Accident Repair Centre will remain unaltered.
15. This evidence demonstrated that the proposed care home site access arrangement could be delivered without detrimentally impacting the existing right turn provision.
16. Advice received from DfI Roads remains as previously advised in that the proposed access arrangements are in accordance with prevailing guidance and that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.

Acoustic Barriers

17. Paragraph 222 of the composite officer report advises that triple glazing, acoustic ventilation and an acoustic barrier have been incorporated into the proposal to mitigate any potential impact from adjacent land uses.
18. The building is set back into the site from the Saintfield Road in order to minimise the impact on the residents from any traffic noise from the Saintfield Road. The proposed buffer planting along the site frontage will help to screen the development from the Saintfield Road.
19. The proposed acoustic barrier is shown to extend along the boundary of the site with the adjacent car repair business. A barrier is also shown to enclose the access into the underground parking area.
20. Whilst no specific details are provided of the materials to be used in the construction of the barrier, advice from the Councils Environmental Health Unit recommends that a 1.8 metre high acoustic barrier is erected along the sites boundary as presented on the site plan drawing prior to the commencement of any works and that this barrier should be constructed of suitable material (with no gaps), should have a minimum self-weight of 6 kg/m² and so retained thereafter.
21. The Council's Environmental Health Unit raise no objections to the proposal on the grounds of noise or nuisance associated with the operation of the vehicle repairs workshop.

Amenity Provision

22. Paragraph 121 of the composite officer report explains that amenity space for the development is proposed to the south and east of the building in the form of communal grassed courtyards. The provision is considered sufficient to meet the requirements of the future residents and will serve as a visual amenity more so than functional amenity space.
23. The DCAN does not specify a quantum of amenity space for this type of development. It does however advise that it is important to ensure that the design and layout of buildings on site are satisfactory in themselves and in relation to adjoining properties and regard is given to the provision of garden amenity space for use by residents.
24. The new landscaping proposed throughout the site in the form of new planting, green areas and a landscaped communal area to the front of the building is considered to be acceptable.

Residential and Nursing Home Use

25. Within the Use Classes Order 2015, Class C3: Residential institutions Use allows for
 - (a) for the provision of residential accommodation and care to people in need of care (other than a use within Class C1 (Dwellinghouses));
 - (b) as a hospital or nursing home; or
 - (c) as a residential school, college or training centre.
26. The Use Classes Order allows for a change of use to take place within the same class without the need for planning permission. That said, the certificate of lawful development process provides the mechanism for providing such formal confirmation.

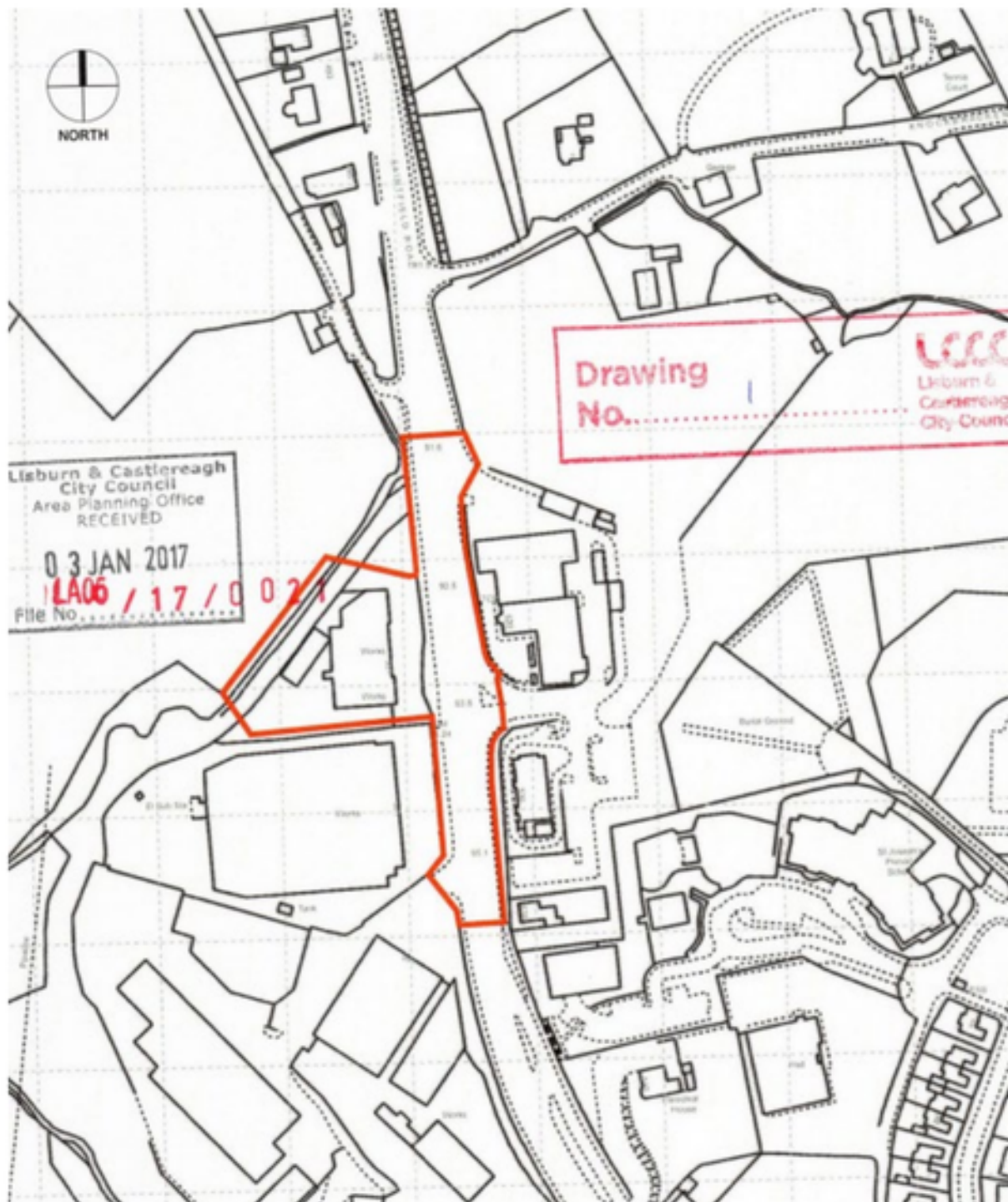
Conclusions

27. No new substantive evidence is available that would change the recommendation set out in the composite report and the advice previously offered that planning permission be refused for the reasons main indicated is not changed.
28. The detail of this addendum report should be read in conjunction with the composite officers report previously presented to the Committee on 04 October 2021.

Recommendations

29. It is recommended that planning permission is approved.

Site Location Plan – LA05/2017/0021/F



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	04 October 2021
Committee Interest	Local Application (Called In)
Application Reference	LA05/2017/0021/F
Date of Application	10 January 2017
District Electoral Area	Castlereagh South
Proposal Description	Demolition of existing buildings and erection of a Care Home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing
Location	531 Saintfield Road, Belfast, BT8 8ES
Representations	Thirteen
Case Officer	Mark Burns
Recommendation	Approval

Summary of Recommendation

1. This application is categorised as a local planning application. It is presented to the Committee 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 of approve as it is considered that greater material weight should be attached to the fact that this portion of the individual employment zoning has changed to retail use and that it is unlikely for the reasons set out in the report to revert back to employment uses as currently defined in Part B – Industrial and Business Use of the Planning (Use Classes Order) Northern Ireland 2015.

3. Members will note that this application has been withdrawn from the schedule of applications as presented to the Committee on the following occasions:
 - 07 December 2020 – Initial DM Officer Report
 - 02 August 2021 – First Addendum Report
 - 06 September 2021 – Second Addendum Report
4. This composite report brings together the chronology of assessments as outlined in the reports referred to above.
5. Addressing the substance of the submission whilst the proposal will result in the loss of a small portion of land zoned for economic development use the planning history carries weight in the assessment in that it demonstrates that the land use classification of this part of the site has through previous permissions allowed for A1 retailing uses.
6. The special circumstances of this case as demonstrated in the report are considered to outweigh the preferred policy option of retaining the land for economic development use.
7. Significant weight is also attached to other material considerations in respect of the current site and buildings not being fit for modern employment use; the associated economic benefits in terms of job creation; a commitment to employ skilled people; generate income locally and create additional expenditure in the supply chain.
8. The proposed development is considered to comply with the SPPS and Policy PED 8 of PPS 4 in that its location at the edge of the northern most edge of the employment zoning and the edge of the settlement limit along with the proposed mitigation demonstrate that the development is not likely to impact on the continued operation of adjacent businesses including those more distant from the site.
9. The proposed development complies with the SPPS and Policy NH2 of PPS 2 in that the detail submitted demonstrates that the proposed development is not likely to harm a European Protected Species.
10. The proposal complies with the SPPS and policies AMP 2 and AMP 3 of PPS 3 in that the proposed development will not prejudice road safety or significantly inconvenience the flow of traffic for the reasons detailed in the report.
11. The proposal complies with the SPPS and PPS 15 in that detail submitted with the application demonstrates that surface run off associated with the development when compared with existing run-off is considered to be negligible and mitigation measures outlined in the drainage assessment which include the provision of porous pavements, further drains and source control measures to allow rain water and run off to infiltrate into permeable material below ground and provide storage are acceptable.

Description of Site and Surroundings

12. The site is comprised of single storey buildings constructed of rendered block and corrugated metal cladding with hard standings to the east, west and south.
13. Ground levels within the site fall gradually from south to north and more markedly from east to west.
14. The eastern boundary is adjacent to the Saintfield Road and defined by a low wall.
15. The access is at the south eastern corner and car parking to the front of the buildings behind the wall.
16. The southern boundary is defined by a 2.5 metre brick wall and fence.
17. The western site boundary is defined by a small watercourse, its eastern bank, within the existing site is undefined but for scrub vegetation and deciduous trees over its northern half.
18. The northern site boundary is defined by a 2 metre chain link fence.
19. Industrial buildings are located adjacent and extend approximately 200 metres south of the site. The western extent of these buildings, and that of the application site demarks the settlement limit, with rural lands beyond. East of the site is Brackenvale Service Station and a fast food restaurant.

Proposed Development

20. The application is for the demolition of existing buildings and erection of care home Class 3(b) of the Schedule of the Planning (Use Class) order (NI) 2015, comprising 86 bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation (on three floors of accommodation), modification of an existing access to Saintfield Road and provision of car parking (in the basement), visitor parking and servicing.
21. The following documents were submitted in support of the application:
 - Planning Statement dated December 2016
 - Planning Statement – Amended Proposal – dated September 2018
 - Additional Supporting Statement – dated September 2019
 - Clarification Statement on Local Development Plan – October 2020
 - Design and Access Statement
 - Transport Assessment Form
 - Phase 1 – Site Investigation Report
 - Preliminary Ecological Appraisal and Assessment
 - Noise and Odour Impact Assessment

22. Inconsistencies in drawings whereby the footprint of the proposed nursing home had not been updated to match the drawing which provided details of visibility splays has been addressed with the submission of an amended plan.

Relevant Planning History

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

Application Reference	Proposal	Decision
Y/1990/0273/F	Extension to existing workshop and provision of additional storage facilities.	Approved 30/01/1991
Y/1992/0057/F	Extension to existing joinery and shop fitting premises	Approved 21/03/1992
Y/2002/0210/F	Change of use from existing workshop, stores, display showroom, and offices to provide furniture display/showroom, ancillary offices and storage	Approved 13/11/2002
Y/2003/0520/F	Variation of Conditions 2 and 3, removal of Condition 4 of approval Y/2002/0210/F.	Appeal Allowed 16/03/2004
Y/2004/0428/F	Alterations to Conditions 1 and 3 of Y/2003/0520/F.	Approved 05/07/2005
Y/2005/0429/O	Construction of food store and related works.	Appeal Dismissed 26/02/2007
LA05/2015/0726/F	Demolition of existing retail buildings and erection of building providing care to the elderly within Class 3(b) of the schedule to the planning (Use classes) Order (NI) 2015 comprising bedrooms, day rooms, kitchens, offices, stores and ancillary accommodation, modification of an existing access to a public road and provision of area for car parking and servicing.	Refused 04/04/2020

Planning Policy Context

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

- Regional Development Strategy (RDS) 2035
- Carryduff Local Plan
- Draft Belfast Metropolitan Area Plan (dBMAP) 2015

- Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development
- Planning Policy Statement (PPS) 2 – Natural Heritage
- Planning Policy Statement (PPS) 3 - Access, Movement and Parking
- Planning Policy Statement 4 (PPS 4) – Planning and Economic Development
- Planning Policy Statement 15 (PPS 15) – Planning and Flood Risk
- Planning Guidance –
 - Development Control advice Note 9 – Residential and Nursing Homes
 - Development Control advice Note 15 - Vehicular Access Standards

Consultations

25. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
NI Water	No objection
Environmental Health	No Objection
DAERA – Water Management Unit	No objection
DAERA – Natural Heritage Unit	No Objection
DfI Rivers Agency	No objection

Representations

26. Twelve letters of representation have been received in opposition to this proposal. The following issues are raised:

- Not Compatible with existing land use
- Repeat Application
- Traffic
- Noise Nuisance and Disturbance
- Design and Integration
- Natural Heritage
- Inconsistency/Incompatible drawings
- Neighbour Notification/Advertising
- Intensification and Road Safety

27. One letter of support was received from Killynure Community Association in recognition of the need for a nursing home in Carryduff and the economic benefits associated with the development in terms of job creation for the local community.

Consideration and Assessment

28. The main issues to consider in the determination of this planning application are:
- Environmental Impact Assessment
 - Regional Development Strategy
 - Local Development Plan
 - Principle of Development
 - Planning History
 - Economic Development
 - Other Material Considerations
 - Planning Guidance
 - Natural Heritage Considerations
 - Access, Movement and Parking
 - Flood Risk and Drainage
 - Contaminated Land

Environmental Impact Assessment

29. The application was considered to fall within Category 10 (b) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2015 in that it was considered that the application provided for an urban development project whereby the site area exceeded 0.5 hectares.
30. A determination carried out in April 2017 indicated that the likely environmental effects of the project were likely to relate to visual impact and impact on flora and fauna.
31. The view expressed in the determination was that the environmental effects were not likely to be significant and that an environmental statement was not required.

Regional Development Strategy

32. The Revised Regional Development Strategy (RDS) 2035 was published in 2010. It is the spatial strategy of the Stormont Executive and it seeks to deliver the spatial aspects of the Programme for Government (PfG).
33. Policy RG1 of the RDS requires there to be an adequate and available supply of employment lands to ensure sustainable economic growth. This policy

requires the protection of land zoned for economic use as it provides a valuable resource for local and external investment.

34. Regional policy directs that the protection of such zonings should ensure that a variety of suitable sites exists across Northern Ireland to facilitate economic growth.

Local Development Plan Context

35. 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.
36. The adopted BMAP 2015 was quashed by a judgement of the Courts on the 18th May 2017, as a consequence the Lisburn Area Plan 2001 is now the statutory up to date LDP. Draft BMAP remains a material consideration.
37. Within the Carryduff Local Plan the site is inside the settlement limit of Carryduff.
38. Within the draft BMAP 2015 the site is within the settlement limit of Carryduff on land zoned as existing employment land.
39. In November 2019 the Chief Planner for Northern Ireland issued a publication which advised that for those planning authorities subject to draft BMAP, that the draft plan along with representations received to the draft plan and the PAC inquiry report remains as material considerations to be weighed by the decision-maker.
40. In October 2020, the Agent submitted a statement in response to the direction provided by the Chief Planner.
41. It acknowledged at paragraph 3.7 that the site contained buildings that were currently in use for retail, that was located on unzoned land in the Carryduff Local Plan and that there are no local policies contained with the Carryduff Plan that would prohibit the redevelopment of the site as a nursing home subject to meeting all other planning and environmental considerations.
42. It was also acknowledged however that draft BMAP remains a material consideration in the assessment of the application. In this context, the statement recognised that the site lies within an area identified in draft BMAP as a major area of existing employment/industrial land and that draft BMAP does not identify any specific policy as to how to address the redevelopment of a site of non- employment use on zoned land to an alternate use.
43. It is stated in the 2015 revision to the draft BMAP that the developed portions of zonings from previous Area Plans and other lands currently in employment use are zoned in order to retain them for employment purposes.

44. This is not policy however and the weight to be attached to this statement in a draft Plan is limited and must be reconciled against prevailing and retained regional policy as directed in the relevant policy sections of the Plan.
45. Taking into account the Local Development Plan context, material weight is afforded to the draft plan and the PAC inquiry report and the principle of the development of this land is weighed primarily against those policies associated within the zoning in draft BMAP.
46. Whilst residential care facility falls under Class C3 (Residential Institutions) of Part C of the Planning (Use Classes) Order (Northern Ireland) 2015 it still falls within the general meaning of a residential. This is a use not normally found on zoned industrial land and the compatibility of the proposed development at this location is examined in detail in the following sections.

Principle of Development

47. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation.
48. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.
49. Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
50. Having considered the content of the SPPS against the retained policies set out in PPS 4 Economic Development; PPS3 Access, Movement and Parking; and PPS 2 Natural Heritage no distinguishable differences are found that should be reconciled in favour of the SPPS.
51. The application therefore falls to be assessed against prevailing policy tests taking into account the planning history and planning guidance associated Development Control Advice Note 9 in so far as it relates to Nursing Homes.
52. Acknowledging that a general policy presumption against the loss of this employment land in the SPPS and the retained policies in PPS4 the appropriateness of the development of a small proportion of the lands zoned for employment use for a residential development is considered in the next sections.

Planning History

53. The planning history is an important material consideration to be weighed in this assessment.
54. Planning permission was granted on this site in 2002 for a change of use from existing workshop, stores, display showroom, and offices plus alterations to provide furniture display/showroom plus ancillary offices and storage and alterations to the existing car park layout (Y/2002/0210/F).
55. Permission was subsequently granted on appeal to vary/remove conditions associated with this permission to effectively allow for the sale of goods from the site (Y/2003/0520/F - PAC Ref 2003/A281).
56. A subsequent appeal 2005/A885 sought permission for an open class retail food store on the site. Whilst this application was unsuccessful on appeal the report of the PAC noted that '...the Department has already approved retail development on the appeal site and although now zoned as employment/industrial land, the retail use has already been conceded on this particular plot which represents only a small portion of the overall land included within zoning CF11. On this basis, I do not consider that rejection of the appeal proposal on the basis of conflict with the proposed zoning would be justified.'
57. It is therefore concluded that the use of the land as employment/industry has been conceded to a use other than 'businesses' as defined in PPS4. Furthermore, the site remains in retail use today as a showroom for sale of kitchens to the general public.
58. The land use zoning does not logically follow the history of the site. However, for the purpose of consistency the proposal is considered within the same broad parameters as outlined in the PAC decision.

Economic Development

59. Paragraph 4.18 of the SPPS recognises that a modern, efficient and effective planning system is essential to supporting wider government policy, in its efforts to promote long term economic growth.
60. Strategic policy directs that planning authorities should take a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities.
61. PPS 4 Planning and Economic Development sets out the planning policies for economic development uses and indicates how growth associated with such uses can be accommodated and promoted in development plans.

Retention of Zoned Land and Economic Development Uses

62. Policy PED 7 Retention of Zoned Land and Economic Development Uses states that development that would result in the loss of land or buildings zoned for economic development uses in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless zoned land has been substantially developed for alternative uses.
63. The application insofar as it comprises a residential Nursing Home, is contrary to both the SPPS and policy PED7 of PPS4 in that it will result in the loss of a small portion of land zoned for economic development uses.
64. That said, and as the planning history demonstrates that the land use classification of this part of the site has through previous permissions allowed for A1 retailing uses and that retail is the current use.
65. With regard to the planning advice note on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses paragraph 16 requires that in the case of applications involving a departure from a development plan zoning (such as this application), planning officers should be 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.
66. At paragraph 21, the Planning Advice Note lists a number of other planning considerations which may be pertinent when making balanced judgements on the merits of a particular case of the potential loss of economic development including the views expressed by all other interested parties, accessibility to the regional transportation network, potential to regenerate existing urban areas, accessibility to every member of the community, consideration of why the site is no longer required or suitable, evidence of the availability of alternative sites for economic development use, compatibility with neighbouring land uses, views of statutory consultees and availability of adequate services and infrastructure. Further consideration of these issues are set out next sections.

Development incompatible with Economic Development Uses

67. 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 future operation will be refused.
68. Paragraph 5.33 of the justification and amplification to PED 8 states that such cases can arise 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.

69. The application site is located at the northern most edge of the employment zoning (CF09) just on the edge of the settlement limit of Carryduff as designated in draft BMAP.
70. It is acknowledged that a vehicle repair business operates on adjacent site to the immediate south. Whilst the characteristics of such a business are such that noise, particularly from the body repair workshop and emissions from the process of vehicle spray painting and testing may give rise to adverse effects upon the operation of a nursing home at this location.
71. That said, mitigations measures proposed as part of the application include:
- The repositioning of the proposed building away from the southern boundary of the site;
 - the closest residential room is sited 17 metres away from this boundary;
 - Addition of a 2.25 metre wide buffer of structured tree and shrub planting on the southern and eastern boundaries;
 - A 1.8 metre high acoustic fence along the entire southern boundary;
 - A 1.8 metre high acoustic fence around the basement access ramp;
 - A 1.8 metre high rendered wall along the eastern boundary with the Saintfield Road; and
 - A comprehensive landscape plan for the entire site along with a maintenance and management plan.
72. An amended noise assessment outlines the acoustic benefits of the amendments outlined above and the landscape plan serves to define the site and provide a distinction between it and the most immediate adjoining land use.
73. In light of the above, it is considered that the operation of a nursing home at this location is not likely to prejudice the use of the adjacent lands including those more distant from the application site for economic purposes.

Other Material Considerations

74. As indicated above, Section 6(4) of the Planning Act (NI) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination of applications must be in accordance with the plan unless material considerations indicate otherwise.
75. In this case, the agent has requested that a number of other material considerations be weighed in the assessment of this application including
- the current retail use;
 - the current site/ building not fit for purpose;
 - economic benefits; and
 - the need for the facility

Current Retail Use

76. As demonstrated above, the planning history and comments by the PAC in relation to Y/2003/0520/F (2003/A281) and Y/2005/0429/F (2005/A885) have removed the protection afforded by the employment zoning and has allowed for the lands to operate as a retail use.
77. The agent has confirmed in their statement that it is unlikely to ever revert back to employment use and no evidence is submitted to prove otherwise.

Current site/ building not fit for purpose

78. An argument is advanced supported with evidence set out in a report by Colliers International to demonstrate why the site is no longer fit for employment related purposes. A summary of the main points are outlined below:
 - The current site and building is second or third generation warehousing and is reaching the end of its economic lifecycle and needs investment.
 - The ability to service the site is difficult given its current configuration. There is no access to the rear of the existing building and no turning circle. It is impossible for 40 foot lorries to service the site.
 - The site is not large enough to create a footprint to make a new development economically viable.
 - The current building is not in an area where there are any inquiries for employment lands. Enquires are mainly for the existing industrial lands on the Comber Road in Carryduff.
 - New businesses are attracted towards sites in more established industrial areas to cluster and satisfy their key occupational requirements something which the subject site clearly cannot do.
79. Taking into account the existing use, the argument advanced in this regard is not unreasonable and robust evidence is provided to support a case that the existing building/land is unlikely to be developed in the future for an acceptable employment use particularly given the fact that the current use of the site is retail.

Economic Benefits

80. With regard to Economic Benefits to the immediate area, supporting information provided by the Agent identified the following benefits:
 - Job Creation
 - Commitment to People
 - Local Incomes and Expenditure
 - Wider Community Benefits

81. In terms of Job Creation, supporting documentation advises that
- 40/45 direct construction jobs based on a build cost of approximately £5.5 million will be created by the development.
 - Operational staff when nursing home is up and running will include 2 teams of 32 members based on a 12 hour shift pattern which equals 64 full time jobs.
 - At night time two carers and one nurse is required per unit which equates to 12 staff. Over a 7 days period 2 shifts are required to service when fully operational this equates to 24 full time equivalent jobs.
 - Over a 7 day period a total 88 full time jobs will be created with each job averaging 42 hours.

Commitment to People

82. In relation to commitment to people, supporting information indicates that the Macklin Group recognises the importance of cherishing and developing staff and that they have an award winning recruitment, training and staff development program. Evidence also demonstrates that the Group has a high proportion of long serving team members with over 55% of members having between 5 and 30 years of service.
83. Tenure and quality of employment are identified as critical elements of staff retention and business sustainability which is important in securing and sustaining such an important service within a local community.

Local Incomes and Expenditure

84. Supporting information includes details of salaries and total staff costs equating to direct salary payments of over £2 million per annum.
85. The view is expressed that it is expected that the majority of staff will be drawn from the local area and as such, a significant proportion of the spending power associated with salaries will be retained locally, supporting local shops and services.
86. In addition, the development will have supply chain benefits in the region of £1 million with all of the group supplies being based in Northern Ireland.

Wider Community Benefits

87. The statement provided indicates that high quality care home services is recognised as having a positive impact on NHS Services and the proposed development will assist directly in freeing up valuable local NHS resources and services.
88. Based on the evidence submitted in relation to the economic benefits, it is accepted that the proposed development in securing the delivery of 64 direct jobs at the site alone with potential gross total of 110 full time equivalent jobs in the local and wider economy once direct jobs and indirect employment in the supply chain of the business is taken into account contributes significantly to the local job targets for the Council area and carries significant weight in the assessment of the application.
89. It is also considered that the value that such an established Group will bring to the Council Area will in itself bring added benefits in terms of development and nurturing of people within the Council area.
90. The potential incomes offered and anticipated expenditure will without doubt bring benefits in terms of money being spent in the local economy.
91. Whilst the net benefit to the wider community is not quantified in financial terms, the benefits socially of a high quality nursing home are widely accepted.

Need for Nursing Home

92. Additional information provide in support of the application demonstrates the nursing home provision in the immediate area currently.
93. In summary, Carryduff has two nursing homes, Carryduff Nursing Home and Hollygate which between them have 37 single rooms and 7 shared.
94. Saintfield Lodge Care Home provides 51 single rooms and is on the road to Belfast.
95. The ageing population in the council area continues to rise and as such, the need in the future to meet demand of the area is recognised.
96. The nursing home proposed would provide an additional 86 rooms which would go towards meeting future demand for care home places in the area and relief some of the pressures faced by NHS staff and services.

Planning Guidance

97. Turning to the detail of the application itself and whilst there is no specific planning policy for residential care facilities the guidance contained in Development Control advice Note 9 – Residential and Nursing Homes (DCAN 9) is relevant to this assessment.
98. As explained above, this application is for full permission for a nursing home,
99. The guidance contained in DCAN 9 indicates that it is to be expected that, other than in exceptional circumstances that residential and nursing homes will be located in cities, towns and villages where services are readily and conveniently available.
100. Within this context, and as demonstrated above, the application site is within the settlement limit of Carryduff where it is envisaged that a building of the scale and massing proposed is acceptable as the buildings adjacent and opposite to the site are of large bulky proportions.
101. It is further indicated in the guidance that the Council will have regard to the following matters.

Siting

102. The Design and Access Statement submitted in support of the application demonstrates within a contextual analysis, how the proposed development sits within its immediate and surrounding context.
103. A kitchen business currently operates from the site and although the site is zoned for existing employment use planning approvals and PAC rulings over the years have allowed for A1 retail uses to operate from the site.
104. The buildings associated with the retail business are single storey in height and constructed in render block with corrugated metal cladding about with both conventional pitched and flat roofs.
105. Surrounding land uses are identified as mixed use in character with a Petrol Filling Station and Drive through restaurant to the east of the site and a further hot food takeaway bar beyond the site to the north.
106. To the south of the site is Brackenvale Business Park which comprises a number of industrial warehouse buildings and offices for an accident repair centre, an upholsterers an engineering firm and St. Johns Ambulance Headquarters.
107. The constraints of the site are the access onto a protected access and the neighbouring businesses and uses.

108. The extent of the site is capable of absorbing the size of the development stated which includes underground car parking and a landscaped area to the front and rear.
109. The plans submitted allow for a full and proper assessment of the capacity of the land to accommodate and absorb a building of three storey in height with a large footprint.
110. The drawings shows a three storey building with an open landscaped courtyard to the front and a landscaped area to the rear of the site.
111. Sections have been provided to establish the scale of the building within the site and this indicates that the proposal is relative in size as the Brackenvale complex which is directly opposite the site.
112. On this basis it is considered that the land does have the capacity to absorb a building of the bulk, scale and massing envisaged. It would not look out of place with the adjacent building or the Brackenvale complex on the opposite side of the road.

Locality

113. It is not considered that the development of a residential care facility which is sensitively designed would have a detrimental impact on the character of the area for the reasons already stated above.

Traffic

114. DfI Roads has no objection to the proposal. The existing access to the kitchen shop has been built to an acceptable standard and has more than sufficient capacity to absorb the number of trips generated by this type and scale of development.
115. Thirty seven car parking spaces are to be provided at basement level and will not be visible and two number disabled space have been proved adjacent to the entrance of the nursing home.
116. Two disabled parking space are provided adjacent to the front entrance of the building at ground floor level along with twelve cycle spaces.

Amenity

117. The Design and Access Statement submitted in support of the application demonstrates that due regard has been given to the effect of the proposed residential care facility on neighbouring land uses and the amenity of the wider area in general. It is not considered that the use as a nursing home would have a detrimental impact on the amenity of the adjacent buildings.

118. The main issue is in relation to the impact of adjacent land uses on the amenity of the proposed residential care facility with concern expressed in representations in relation to the impact of adjacent land uses in terms of noise nuisance and disturbance.
119. A noise impact assessment was submitted which demonstrated that there would be no detrimental impact to residents of the proposed development in terms of the loss of residential amenity by way of noise nuisance or disturbance.
120. Triple glazing, acoustic ventilation and an acoustic barrier have been incorporated into the proposal to mitigate any potential impact from adjacent land uses.
121. The amenity space for the development is proposed to the south and east of the building in the form of communal grassed courtyards. The provision is considered sufficient to meet the requirements of the future residents and will serve as a visual amenity more so than functional amenity space.
122. The arrangements of the building within the site also maximised views from the site to the open countryside which less mobile residents will be able to enjoy.

Design and Layout

123. The Design and Access Statement submitted in support of the application seeks to demonstrate how the proposed development responds to its surrounding context and how local development plan policies have been taken into consideration as part of the evolution of the detail of the design.
124. The building is to be three storeys in height with parking provided in the basement. The proposed building will have a main central section with a barrel shaped roof and wings either side of the central portion which will accommodate the bedrooms.
125. The materials to be used in the construction of the building will include white render walls, with grey timber cladding, grey window and a standing seam metal roof. These materials have an industrial style feel to them and will blend in with the other buildings in the area.

Landscaping

126. The Design and Access Statement explains that the site layout is arranged to create a significant buffer between the proposed building and the adjacent industrial unit through the siting of amenity space, the entrance ramp to the basement level car park and denser buffer planting towards the southern boundary of the site.

127. The new landscaping proposed throughout the site in the form of new planting, green areas and a landscaped communal area to the front of the building is considered to be acceptable.

Natural Heritage

128. PPS 2 – Natural Heritage, sets out the planning policies for the conservation, protection and enhancement of our natural heritage.
129. Policy NH 2 – Species Protected by Law covers both European Protected Species and nationally protected species. Policy states that planning permission will only be granted for a development proposal that is not likely to harm a European protected species.
130. A Preliminary Ecological Appraisal and Assessment is submitted by Ayre Environmental Consulting in May 2017 in support of the application. The following protected species surveys were undertaken to establish the presence or likely absences of such within the confines of the site area:
- Bat Roost Potential
 - Otter Assessment
 - Badger Survey
131. In relation to bats, results confirmed that the existing built structures on site had been assessed as having negligible roosting suitability due to the fact that their construction from corrugated metal sheets and metal frames means they are subject to large and rapid temperature fluctuations which are entirely unsuitable for roosting bats as they require environments with more stable temperature ranges.
132. The existing commercial building was likewise assessed as having negligible roosting suitability due to the presence of flat roof on rear portion whilst southern portion is formed by asbestos roof tiles with no roof void making it unsuitable.
133. Trees were also assessed as having negligible bat roost potential.
134. With regard to otters, the water course was subject to extensive examination for the presence of field evidence such as slides, holts, lays and prey remains. No evidence was identified.
135. With regard to badger surveys, the assessment confirms that no setts were recorded in any aspect of the site boundary or up to 25 metres outwith.
136. Natural Heritage Division having considered the detail of this Assessment along with amended drawings received in July 2017 which indicated a landscape buffer adjacent to the watercourse confirmed that they had no objections to the proposal subject to conditions in relation to lighting.

137. Information received late in the planning process made reference to a Preliminary Ecological Appraisal and Assessment being out of date.
138. A letter from the Agent received on 5 February 2021 enclosed further information which confirms that the situation on the site remains unchanged from the PEA previously submitted in support of the application and that this is informed by a site walkover undertaken on 14 January 2021.
139. The information from Ayre Environmental explains that the purpose of the return visit was to establish if there had been any material changes in the baseline ecological information as recorded in 2017.
140. It advised that the most recent return visit and updated ecological inspection noted that the site has partially deteriorated as a direct result of lack of site maintenance. Areas of scrub and all rural habitat have colonised the south and western extents of the site.
141. The existing building structures (Dutch-style barn; offices and workshops/warehouses) remain in the same condition as previously documented in 2017.
142. No field evidence is recorded during the return site visit to suggest any changes have occurred to the baseline ecology other than extant vegetation maturing with natural vegetation succession. Photographs dated 14 January 2021 are provided in support of this statement.
143. The information from Ayre Environmental concludes that the recommendations provided within the 2017 PEA report remain pertinent to the proposed development with particular emphasis on the retention of the existing tress located adjacent to the watercourse on the northwest boundary.
144. Natural Environment Division (NED) has considered this information and in advice provided on the 25 February 2021. It confirms that NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions recommended to minimise the impact of the proposal on the nature conservation value of the river corridor.
145. The response also confirmed that no material changes have occurred and refers to our previous response in relation to advised conditions.
146. Based on the information provided by the Agent and advice from NED, it is considered that the proposed development will not have an adverse impact on natural heritage features and that the proposed development complies with Policy NH2 in that it is not likely to harm a European protected species.

Access, Movement and Parking

147. 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.
148. 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.
149. The P1 form indicates that the access arrangements for this development involve the alteration of an existing access to a public road for both vehicular and pedestrian use.
150. Whilst the Saintfield Road is a protected route this access is to lands within the settlement limit of Carryduff. The following policies considerations apply.

Access to Public Roads

151. 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 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.
152. Details submitted with the application indicate that it is intended to use an existing access to the public road.
153. DfI Roads were consulted in relation to this proposal and are satisfied that the proposed access arrangements are in accordance with prevailing guidance.
154. Based on the information submitted and advice from DfI Roads it is considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.
155. Furthermore and as demonstrated below the proposal does not conflict with Policy AMP 3 – Access to Protected Routes.

Access to Protected Route

156. AMP 3 – Access to Protected Route states that planning authorities will restrict the number of new access and control the level of use of existing access onto Protected Routes.

157. With regard to Protected Routes within settlement limits, the policy directs 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.
158. Third party objections raise issues of intensification of the use of the access onto a Protected Route.
159. Paragraph 1.2 of DCAN 15 - Vehicular Access Standards advises that intensification is considered to occur when a proposed development would increase the traffic flow using an access by 5% or more.
160. The Design and Access Statement submitted in support of the application indicates that the A24 Saintfield Road is a Protected Route connecting Carryduff with Belfast. It acknowledges that the carriageway is four lanes wide and a right turn pocket to the petrol filling station is provided. Reference is made to the road being classified as an A Class Road where a 50 miles per hour speed limit applies.
161. The P1 Form provides details of the average number of existing vehicles at the premises daily along with details of the expected increase (change). It advises that there are 448 Visitors/Customers and four goods vehicles daily. The expected increase (changes) is shown to be a significant reduction to 147 and 1 respectively.
162. In terms of the number of persons attending the premises daily, the P1 form indicates figures of 485 compared with a figure of 234 associated with the proposed development (reduction of 251) persons attending daily.
163. A Transport Assessment form submitted with the application advises that the care home will have a compliment of 4 full time staff and 12 part time staff per shift and that an analysis of the proposed development indicates that this will generate 66% less traffic than the existing retail premises currently operating on the site.
164. The view is expressed that traffic generation will fall below the threshold for intensification as outlined in Development Control Advice Note (DCAN) 15.
165. The Design and Access Statement submitted in support of the application demonstrates that the site benefits from access to bus services which operate in both directions and a regular basis during the working day. Whilst there are

currently no dedicated cycle paths located on the Saintfield Road, pedestrian footways are located on both sides of the Saintfield Road.

166. Alterations proposed include the provision of 4.5 x 124 metre sightlines and a 6 metre access. This will result in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points by virtue of there being an access in situ.
167. Based on the information submitted and in the absence of any evidence to the contrary, it is considered that the proposed development is acceptable and meets the criteria of policy AMP 3 in that access cannot reasonably be taken from an adjacent minor road (criteria (a)) and that the alterations proposed will significantly assist in the creation of a quality environment without compromising standards of road safety (criteria (b)).
168. Intensification is not a matter to be weighed as significant as both criteria (a) and (b) are met which is more than required to meet the policy test.

Flooding and Drainage

169. 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.
170. A water course flows in a south western direction adjacent to the sites northern boundary.
171. As part of the planning application process, DfI Rivers Agency were consulted. In a response dated 3 February 2017 they stated that their comments of 7 March 2016 associated with the previous application (LA05/2015/0726/F) remained valid.
172. This response relied on an earlier Drainage Assessment for a similar proposal which indicated at paragraph 4.1.2 that discharge was proposed into watercourse where nearby surface water flooding is evident.
173. The view expressed was that the increase in surface water runoff associated with the proposed development is considered to be negligible and as such, there was no requirement to limit to pre-development conditions.
174. The earlier assessment advised that any storm water on site will primarily be infiltrated where possible, through grassland and landscaped areas. The Drainage Assessment provides the following conclusions:
 - The proposal include the demolition of existing retail buildings and erection of building providing care to the elderly.

- Infiltration will be used primarily for drainage and soft landscaped areas will be included in the design where possible in order to maximise infiltration rates;
 - The site will undergo adequate levelling and drainage designs to ensure no build-up of surface water remains on site; elevations and underground drainage will drop towards the discharge gathering points;
 - Increase in surface water discharge is considered negligible (0.031/s), and as such, it should be considered acceptable to discharge post development run-off rates of 12.91//s.
175. Mitigating measures identified include the provision of porous pavements, filter drains and source control measures to allow rainwater and run-off to infiltrate into permeable material below ground and provide storage if needed.
176. DfI Rivers advised that their earlier advice of 7 March 2016 remained valid and that the submitted Drainage Details only lacked a letter from Rivers Agency local area office for consent to discharge into the adjacent undesignated watercourse.
177. Late information from a third party in December 2020 expressed the view that there was a lack of drainage information submitted with the proposal. No further detail was provided in this regard.
178. A letter from the Agent received on 5 February 2021 advised that the Drainage Assessment submitted previously remained valid and that DFI Rivers provided a response offering no objection with the only matter to be resolved being securing Schedule 6 consent.
179. The letter advises that MCL Consulting have engaged with DfI Rivers directly in respect to Schedule 6 consent to an adjacent watercourse and that initial discussions indicate that the proposed method of discharge is agreeable in principle and that a further Schedule 6 consent application had been formally submitted in December 2020.
180. This information was considered by DfI Rivers and in a response received on 9 May 2021 advised that the following information was required to demonstrate the viability of your proposals by means of providing the following:
- Schedule 6 consent for discharge to the watercourse; and
 - Attenuation calculations that demonstrate that storm water discharge from the site does not exceed the consented discharge rate for all events up to and including a 100 year design rainfall event and climate change.
181. In an email dated 23 June 2021, the Agent makes reference to advice from DfI Rivers [first bullet point] which indicates that greenfield run-off rate could be consented and in doing so, expressed the view that discharging to the watercourse is acceptable in principle.

182. In response to this exchange, Rivers Agency explained that there would appear to be some confusion as the Schedule 6 response from our Area Office reads "unable to consent". In this case, the consent application was to discharge 22.6l/s which is over twice that proposed in the Drainage Assessment.
183. The advice provided explained that the applicant was required to obtain an approved discharge rate and based on the approved rate provide calculations and attenuation layout as part of a revised Drainage Assessment. This requirement was also discussed with the applicant's drainage consultant [MCL Consulting] at the time.
184. The Agent was advised on the 24 June 2021 that the Drainage Assessment associated with the planning application needed to be updated to take account of the agreed discharge rate.
185. It was also explained that it was this information along with the Schedule 6 consent confirmation from Rivers Agency that is required to allow the application process to be concluded.
186. An electronic copy of a revised Drainage Assessment prepared by MCL Consulting was provided on 9 July 2021.
187. The Drainage Assessment advises by way of conclusion that the infiltration will be used primarily for drainage and soft landscaped areas will be included in the design where possible in order to maximise infiltration rates.
188. It advises that a Schedule 6 Consent application has been submitted to Rivers Agency requesting discharge into the open watercourse flowing close to the sites northern boundary with the view expressed that this will replicate existing regimes at a lesser rate. Whilst reference is made to this detail following the drainage assessment as an addendum, no additional information has been provided to the Council in this regard.
189. An explanation is also provided that the site will undergo adequate levelling and drainage designs to ensure no build – up of surface water remains on site and that elevations and underground drainage will drop towards the discharge gathering points.
190. Finally, the view is expressed that there is a betterment in regard to surface runoff as peak runoff during Q100 (1hr) has been reduced from 28.35 l/s under existing conditions to 22.66 l/s.
191. Rivers Agency in a response received on 21 July 2021 confirmed that its response in relation to Policies FLD1, FLD 2, FLD 4 and FLD 5 remained as per advice provided on 9 January 2021.

192. In relation to Policy FLD 3, the response confirmed that the revised Drainage Assessment had been reviewed and that the information previously requested had not been provided.
193. The response advised that in order for Rivers Agency to fully assess this Drainage Assessment further information was required to demonstrate the viability of the proposals by means of providing the following:
 - Schedule 6 consent for discharge to the watercourse.
 - Attenuation calculations that demonstrate that storm water discharge from the site does not exceed the consented discharge rate for all events up to and including a 100 year design rainfall event + climate change.
194. Rivers Agency also provided confirmation that area office records showed that no further Schedule 6 application had been submitted with the required information and as of 21 July 2021.
195. A further revision of the Drainage Assessment was submitted to the Council on 27 July 2021 before the planning committee meeting in August 2021.
196. The assessment indicated at Appendix 1 that areas of hardstanding would be reduced and that the geology of the site underlain by boulder clay would generally have high rates of run off.
197. It was further indicated that the site was not at risk from fluvial flooding and that based on an area of 3378 metres squared and a 1:100 year event, the equivalent greenfield run off is equal to 5.15 l/s.
198. That said, the assessment also advised at section 2.1 that it is Rivers Agency's policy to accept a guideline figure of 10l/sec/ha which for this site, provides a greenfield runoff rate equal to 3.378l/s.
199. The Drainage Assessment provides calculation details of runoff assessments with reference made to pre-development runoff associated with rooftop and impermeable surfacing accounting for 2873 metres squared of impermeable surfacing and 465 metres squared of grass.
200. Post development runoffs are predicted to reduce with the development proposal reducing the hard standing on site to 2220 metres square, with 1118 metres squared of grass area provided.
201. Section 4 of the assessment provides details of how surface runoff will be managed. It advises that in terms of surface runoff management, any storm water on site will primarily be infiltrated where possible through grassland and landscaped areas with all remaining run off being adequately managed and discharged at the agreed rate into the adjacent water course.

202. Dfl Rivers in a response dated 6 August 2021 has confirmed that the revised Drainage Assessment has been considered and its logic accepted. No objection is offered.
203. A standard condition is however recommended requiring the submission of a detailed drainage network design prior to commencement of any approved development.
204. Based on the information submitted and the advice received from Dfl Rivers, it is considered that the applicant has now demonstrated that the proposed development will not cause present or exacerbate flood risk and that an acceptable drainage solution to agreed discharge rates can be provided and that the requirements of policy FLD 3 have been met in full.

Contaminated Land

205. Paragraph 3.6 of the SPSS emphasises that 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.
206. It continues at 6.321 to state when decision-taking important considerations will include: the types of waste to be deposited or treated and the proposed method of disposal; impacts on human health and the environment (including environmental pollution).
207. A phase 1 site investigation survey was submitted by Practical Waste Solutions in May 2017. The survey was undertaken to determine the likelihood of asbestos containing material contamination of the site.
208. The report concludes that the level of asbestos concentration in soil samples analyses demonstrated that there was no significant asbestos contained within the soil being less than the detection limit of the testing equipment.
209. The survey analysis also confirmed an unacceptable hydrocarbon level present in the soil at specified depths. A number of recommendations including further survey investigations, mapping and provision of cost effect remediation strategy are recommended.
210. NIEA – Land, Soil and Air Unit having considered the detail of the report have indicated that further information was required to enable them to provide a definitive comment.
211. That said, a condition that all contamination surveys are completed agreed and accepted by NIEA before works commence on site is recommended.

Consideration of Representations

212. Eight letters of objection had been received when the application was first presented to Committee in December 2020. A further two representations have been received from the same individual post December 2020. Consideration of the issues raised is set out below.

Not Compatible

213. An objection has been raised with regards the proposed use and conflict with the uses on other sites.
214. Other adjacent uses comprise a vehicle repair business, Jenkins auto paint and Carryduff upholstery. As demonstrated in the main body of the report, the proposed use is compatible and that there will be no detrimental impact on the proposed or existing uses.

Repeat Application.

215. Concern is expressed that the application was similar to a previous refusal on the site (LA05/2015/0726/F) and under section 46 of the Planning Act (NI) 2011 the Council could have declined to accept it as a repeat application.
216. Whilst it is accepted that the application is similar the differences including an amended red line, design changes and additional information are such that it is not considered to be a repeat application.

Traffic

217. An objection has been raised in relation to traffic issues both currently and how this will be intensified should the proposal be approved.
218. A transport assessment form accompanied the application. It demonstrated that the proposed use would generate 66% less vehicle trips compared to the existing retail use.
219. DfI Roads were consulted with the proposal and had no objection subject to conditions.

Noise /Nuisance /Disturbance.

220. Objections were raised that the use of adjacent lands would cause noise nuisance and disturbance to the residents of the proposed nursing home should it be approved.
221. A noise impact assessment was submitted which demonstrated that there would be no detrimental impact to residents of the proposed development in terms of the loss of residential amenity by way of noise nuisance or disturbance.

222. Triple glazing, acoustic ventilation and an acoustic barrier have been incorporated into the proposal to mitigate any potential impact from adjacent land uses.
223. Environmental Health were consulted with the proposal and had no objection subject to conditions.

Design and Integration of the proposal on edge of settlement.

224. Objections were raised that the proposal would fail to integrate into the surroundings at this location at the edge of the settlement.
225. The building is to be three story in height with a barrel shaped roof design. It is considered that this design along with the existing and proposed landscaping will allow the proposal to integrate into the surrounding and will not be detrimental to the character of the area.

Natural Heritage issues.

226. Objections were raised that the proposal would have an impact on natural heritage in the area.
227. NIEA Natural Heritage Division (NED) were content with amended drawings that were submitted and commented that an adequate buffer had been provided to the watercourse adjacent to the site.
228. Furthermore they advised that should the application be approved a condition should be attached to any decision notice to ensure that there is no lighting directed toward the watercourse.
229. A late representation made reference to ecology surveys being out of date. This is addressed in the main body of the report whereby updated information from an ecologist is provided to confirm that the situation on the ground is largely unchanged.

Inconsistency/Incompatible drawings

230. A representation made reference to the inconsistency and/or incompatible of the submitted drawings. Whilst no specific detail was provided, the Agent provided clarification in amendments and these were received on 06 September 2021 and the details are described at paragraph 21 of this report.

Neighbour Notification/Advertising

231. A representation later in the application process expressed the view that the application should have been re-advertised due to the passage of time. Amendments received in relation to the proposal have at intervals been neighbour notified to those individuals that have during the processing of the

application, expressed an interest. The Council is satisfied that adequate notification has been provided to neighbours and third parties.

Intensification and Road Safety

232. A representation received later in the application continues to express concern about intensification to a protected route. As demonstrated in the main body of the report, the proposed development involves the alteration of an existing access within the settlement limit.
233. There is no opportunity in this instance to access the site from an adjacent minor road. That said, detail submitted with the application demonstrates that the alterations include the provision of 4.5 x 124 metre sightlines and a 6 metre access.
234. DfI Roads are content that this will result in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points by virtue of there being an access in situ.

Conclusions

235. The application is presented with a recommendation to approve as it is considered that greater material weight should be attached to the fact that this portion of the individual employment zoning has changed to retail use and that it is unlikely for the reasons set out in the report to revert back to employment uses as currently defined in Part B – Industrial and Business Use of the Planning (Use Classes Order) Northern Ireland 2015.
236. Whilst the proposal will result in the loss of a small portion of land zoned for economic development use the planning history carries weight in the assessment in that it demonstrates that the land use classification of this part of the site has through previous permissions allowed for A1 retailing uses.
237. The special circumstances of this case as demonstrated in the report are considered to outweigh the preferred policy option of retaining the land for economic development use.
238. Significant weight is also attached to other material considerations in respect of the current site and buildings not being fit for modern employment use; the associated economic benefits in terms of job creation; a commitment to employ skilled people; generate income locally and create additional expenditure in the supply chain.
239. The proposed development is considered to comply with the SPPS and Policy PED 8 of PPS 4 in that its location at the edge of the northern most edge of the employment zoning and the edge of the settlement limit along with the proposed mitigation demonstrate that the development is not likely to impact

on the continued operation of adjacent businesses including those more distant from the site.

240. The proposed development complies with the SPPS and Policy NH2 of PPS 2 in that the detail submitted demonstrates that the proposed development is not likely to harm a European Protected Species.
241. The proposal complies with the SPPS and Policies AMP 2 and AMP 3 of PPS 3 the proposed development will not prejudice road safety or significantly inconvenience the flow of traffic. Access cannot be taken from a minor road and the requirements for access onto a protected route within a settlement are met in full.
242. The proposal complies with the SPPS and PPS 15 in that detail submitted with the application demonstrates that surface run off associated with the development when compared with existing run-off is considered to be negligible and mitigation measures outlined in the drainage assessment which include the provision of porous pavements, further drains and source control measures to allow rain water and run off to infiltrate into permeable material below ground and provide storage are acceptable.

Recommendations

243. It is recommended that planning permission is approved.

Conditions

244. The following conditions are recommended:
- As required by section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: Time limit
 - The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing no. 12 bearing the Lisburn and Castlereagh Council date stamp [insert date] prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sightline shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays should be retained and kept clear thereafter.
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

- The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No .13 bearing the Planning Office date stamp [insert date] to provide for parking and servicing within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.
Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.
- The gradient of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user
- All hard and soft landscape works shall be carried out in accordance with the approved details as indicated on drawing no 10 date stamped by Lisburn and Castlereagh City Council 17 July 2018 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of the building development.
Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.
- If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.
Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.
- If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that / those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.
Reason: To ensure the continuity of amenity afforded by existing trees.
- The proposal is in close proximity to a busy road and commercial unit and the applicant should ensure there is sufficient sound insulation, including acoustic glazing and ventilation, to ensure compliance with 'BS8233:2014 - Sound insulation and noise reduction for buildings'. Internal ambient noise level should not exceed $L_{Aeq(16hr)}$ 35dB(A) daytime in habitable rooms (including bedrooms) and $L_{Aeq(8hr)}$ 30dB(A) night time in bedrooms. Therefore, within 3 months of completion of the development an acoustic verification report shall be submitted to the Council to demonstrate compliance with BS8233:2014.

Reason: To ensure compliance with BS8233: 2014

- A 1.8m high acoustic barrier shall be erected along the site's boundary as presented on approved drawing A1 Site Plan date stamped 17 August 2018 prior to the occupation of the building. The barrier should be constructed of a suitable material (with no gaps), should have a minimum self-weight of 6 kg/m² and so retained thereafter.

Reason: To protect the amenity of neighbouring dwellings with respect to noise
- Following demolition and prior to any construction work the ground conditions on the site shall be subject to a detailed site investigation to establish the suitability of the development for the proposed end use. A site investigation shall be undertaken in sufficient detail to establish the previous uses of the land under consideration or land nearby or adjacent to it, and to identify potential sources of contamination. The above information should be used to produce a risk assessment addressing each potential source, pathway and receptor in turn and should indicate if any, what the risk of contamination is. The risk assessment shall be submitted to the Council for approval.

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
- Further to condition a detailed remediation scheme shall be submitted to the Council for approval to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

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
- Prior to occupancy of the development, the remediation scheme shall be validated in order to ensure and verify that the remediation scheme has been implemented in accordance with the scheme and the objectives have been met. Substantiating information shall be submitted to the Council in the form of a written validation report for approval.

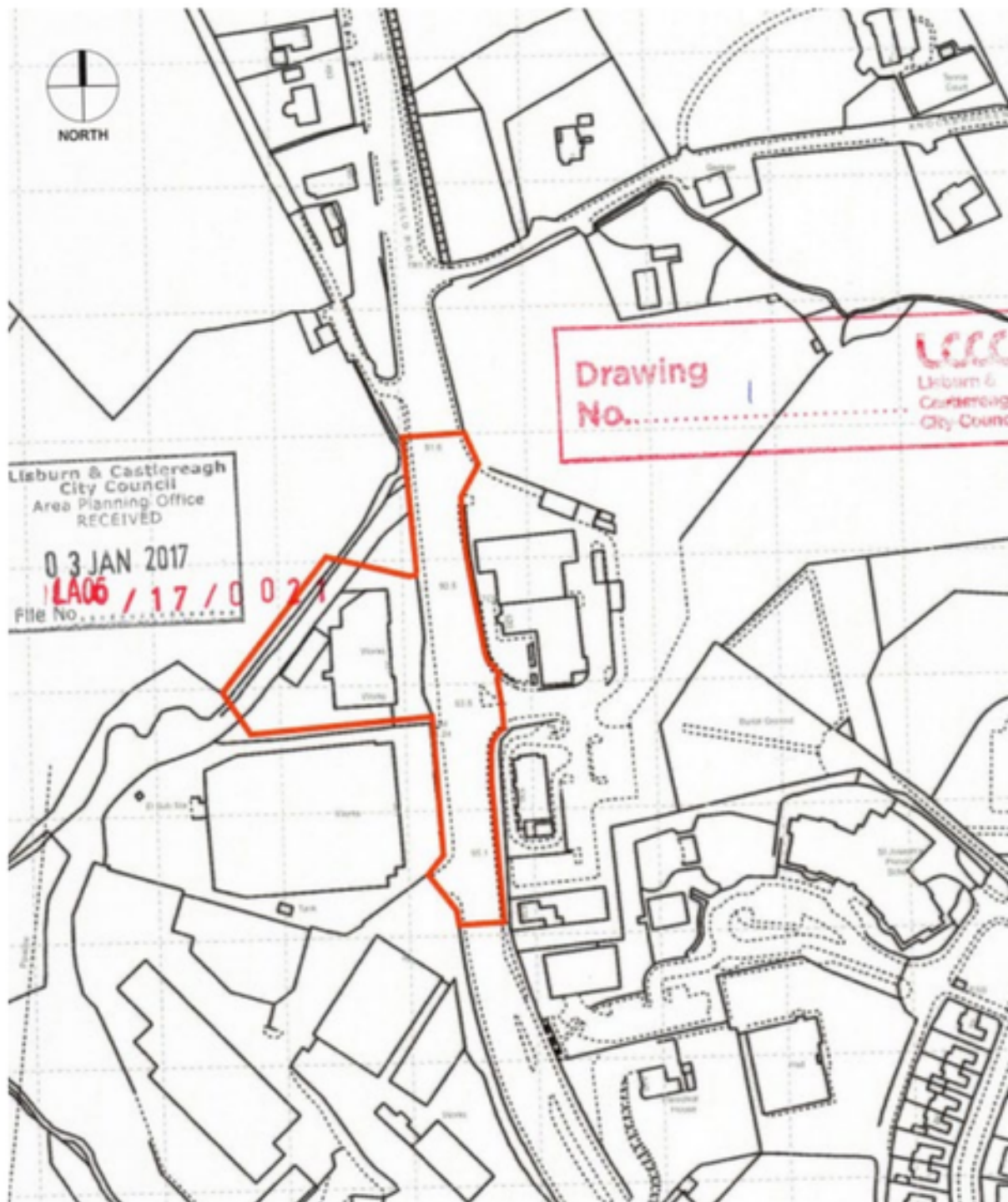
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors
- The applicant shall have full regard to all relevant and current guidance and standards during the sampling, remediation and validation processes and shall incorporate such detail within any report submissions.

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

- All fuel storage tanks (and associated infra-structure) must be fully decommissioned and removed in accordance with the Northern Ireland's Environment Agency Documents entitled; "Installation, Decommissioning and Removal of Underground Storage Tanks: PPG27" & "Above Ground Oil Storage Tanks PPG2". Any impacted soil in the vicinity of the storage tanks and associated infrastructure should be excavated and the quality of the surrounding soils verified. This process should be supervised by a suitably qualified Environmental Engineer.

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

Site Location Plan – LA05/2017/0021/F



Lisburn & Castlereagh City Council

Planning Committee Report	
Date of Committee	13 June 2022
Committee Interest	Local Application (Called In) - Addendum
Application Reference	LA05/2018/1030/F
Date of Application	27 September 2018
District Electoral Area	Castlereagh East
Proposal Description	Demolition of existing buildings and erection of service station associated forecourt and parking
Location	99 Moneyreagh Road, Moneyreagh
Representations	Ten [Nine Objections, One in Support]
Case Officer	Grainne Rice
Recommendation	Refusal

Background

1. A recommendation to refuse planning permission was included in the Schedule of Applications to be determined by the Committee on 09 May 2022 for the reason 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 not located on the trunk road network and fails to establish a clear indication of need and satisfactory access arrangements.
 - it has not been demonstrated that the development will not have an adverse impact on the vitality and viability of existing retail centres in the Council area or that suitable alternative sequentially preferable sites are not available elsewhere.
 - the proposed development would be unduly prominent as the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the development to integrate into the landscape and the proposal would rely primarily on the use of new landscaping for integration.
 - the development would, if permitted be unduly prominent, would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement

- exhibited in the area and would therefore result in a detrimental change to the rural character of the countryside.
- the development would if permitted mar the distinction between the defined settlement limit of Moneyreagh and the surrounding countryside and also result in urban sprawl.
 - insufficient information in respect of sewage and water quality has been provided to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.
 - if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction, namely Moneyreagh Road/Hillsborough Road where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
 - it would not be possible within the application site to provide an access with visibility, in accordance with the standards contained in the Department's Development Control Advice Note 15.
 - it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
2. Before the application was presented to the committee and at the request of Members, it was agreed to defer determination of this application to allow for a site visit to take place.
 3. A site visit was facilitated on Friday 27 May 2022. A separate minute of the meeting was taken and informs the detail of this report. This minute is provided as part of the Committee bundle.

Further Consideration

4. At the site meeting the location of the proposed kiosk, petrol forecourt and new access arrangement were described with the use of plans and the members were also able to observe the differences between what was existing and now proposed.
5. The changes to the layout of the road junction was also described and Members were able to observe the distance in the stagger between the two junctions and how traffic flowed into and out of the junctions..
6. The scale of the proposed retail element relative to the existing retail premises was explained with the aid of a site layout plan. With regard to the adjacent car sales business, Members were advised that there was no planning history relating to the use.
7. Clarification was sought from members on the application of regional planning policy detailed in the SPPS in respect of the need for sequential test and for alternative sites to have been considered as part of the application process. .

8. Additional clarification in respect of whether the impact of the new buildings compared with what was existing on the site had been properly considered and whether the reason for refusal in respect of integration was based on a reliance on new landscaping. It was clarified that no landscaping details were submitted.

Recommendations

9. No additional or new information was requested by any of the members in attendance at the site visit and officers are not requested to update or clarify their advice.
10. The purpose of the site visit was to provide opportunity for Members to observe the site and its immediate context.
11. The planning advice previously offered is not altered and the recommendation to refuse planning permission as outlined in the initial officer's report is not changed.
12. The recommendation to refuse planning permission for the reasons set out in that report remain valid. The information contained in this addendum should be read in conjunction with the main officers report previously presented to the Committee on 09 May 2022 which is provided as part of the papers for this meeting.

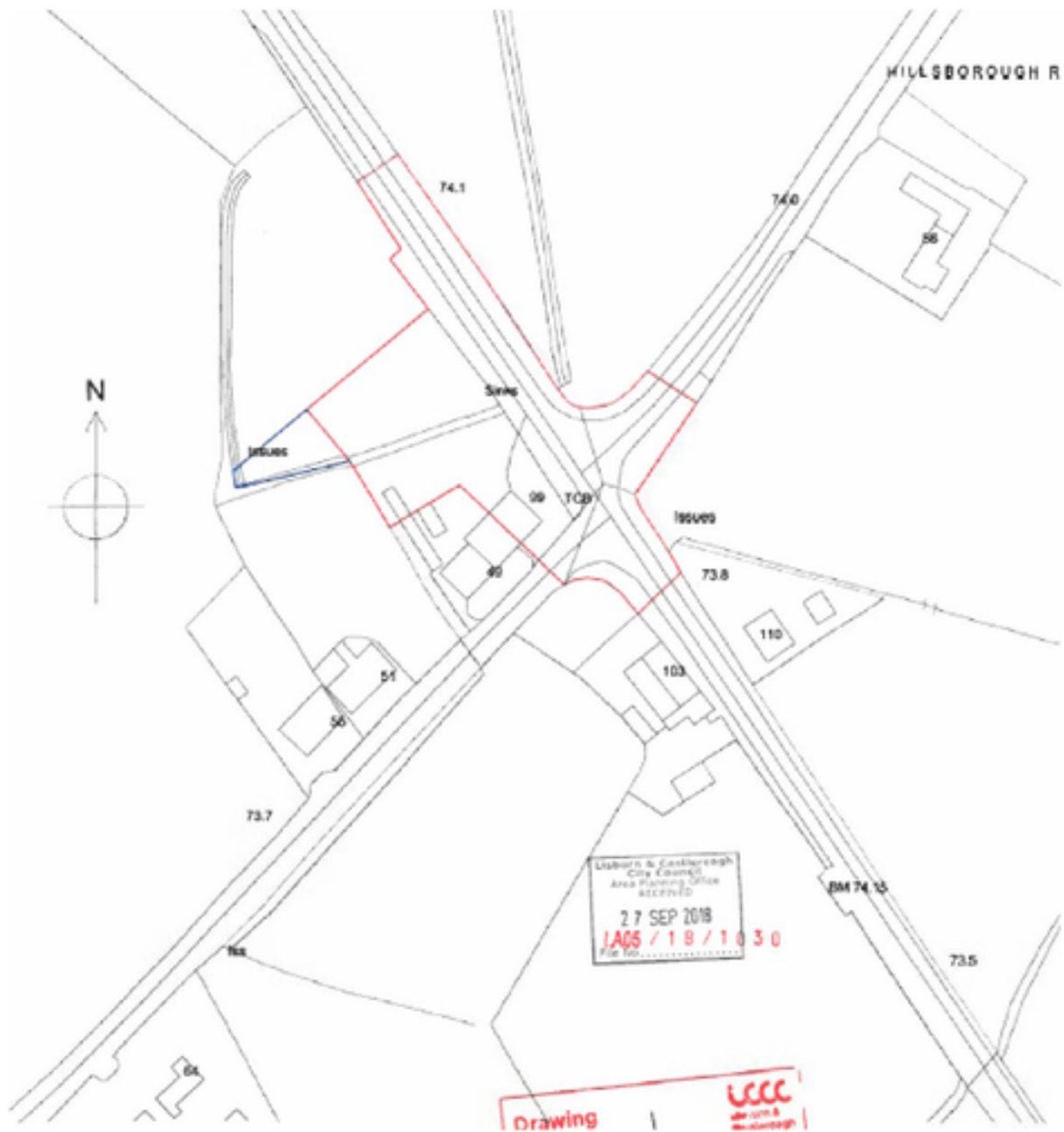
Refusal Reasons

13. The following refusal reasons are recommended:
 1. 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.
 2. The proposal is contrary to paragraphs 6.279 & 6.280 of the SPPS as it has not been demonstrated that the proposal will not have an adverse impact on the vitality and viability of existing retail centres within the local area or that suitable alternative sites are not available.
 3. The proposed development is contrary to the SPPS and Policy IC 15 of the 'Planning Strategy for Rural Northern Ireland' in that the proposal is not located on the trunk road network and fails to establish a clear indication of need and satisfactory access arrangements.
 4. The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that

the proposed development would be unduly prominent and the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the development to integrate into the landscape and the proposal would rely primarily on the use of new landscaping for integration.

5. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted be unduly prominent, would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to the rural character of the countryside.
6. The proposal is contrary to the SPPS and Policy CTY15 of the 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 Moneyreagh and the surrounding countryside and also result in urban sprawl.
7. The proposal is contrary to paragraph 4.12 of the SPPS and Planning Policy Statement 16, Development Relying on Non Mains Sewerage in that insufficient information in respect of sewage and water quality has been provided to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.
8. The proposal is contrary to the SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction, namely Moneyreagh Road/Hillsborough Road where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
9. The proposal is contrary to the SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 in that it would not be possible within the application site to provide an access with visibility, in accordance with the standards contained in the Department's Development Control Advice Note 15.
10. The proposal is contrary to the SPPS and the consequential amendment to policy AMP 3 of Planning Policy Statement 3 - Access, Movement and Parking, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Site Location Plan – LA05/2018/1030/F



LISBURN & CASTLEREAGH CITY COUNCIL**Minute of a site visit by the Planning Committee held at 3.00 pm on Friday 27th May 2022 at 99 Moneyreagh Road, Moneyreagh**

PRESENT: Councillor A Swan (Chairman)
Alderman D Drysdale
Councillors J Craig, O Gawith and U Mackin,

IN ATTENDANCE: Head of Planning and Capital Development (CH)
Principal Planning Officer (RH)
Member Services Officer (BS)

Apologies for non-attendance at the meeting were recorded on behalf of Aldermen W J Dillon, A Grehan and J Tinsley and Councillors John Palmer and M Gregg.

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

- LA05/2018/1030/F – Demolition of existing buildings and erection of service and associated forecourt and parking at 99 Moneyreagh Road, Moneyreagh

The application had been presented for determination at the meeting of the Planning Committee held on 9 May 2022. In advance of the application being presented to the committee it was agreed to defer consideration of the application to allow for a site visit to take place.

Members and Officers met at the site in accordance with the Protocol for the Operation of the Planning Committee. With the aid of a site location plan, the Principal Planning Officer provided an overview of the application site and surrounding context.

At the site meeting the location of the proposed kiosk, petrol forecourt and new access arrangement were described with the use of plans and the members were also able to observe the differences between what was existing and now proposed.

Clarification was sought from members on the application of regional planning policy detailed in the SPPS in respect of the need for sequential test and for alternative sites to have been considered as part of the application process.

Additional clarification in respect of whether the impact of the new buildings compared with what was existing on the site had been properly considered and whether the reason for refusal in respect of integration was based on a reliance on new landscaping. It was clarified that no landscaping details were submitted.

There being no further business, the site visit was terminated at 3.22 pm.

Lisburn & Castlereagh City Council

Planning Committee Report	
Date of Committee	09 May 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2018/1030/F
Date of Application	27 September 2018
District Electoral Area	Castlereagh East
Proposal Description	Demolition of existing buildings and erection of service station associated forecourt and parking
Location	99 Moneyreagh Road, Moneyreagh
Representations	Ten [Nine Objections, One in Support]
Case Officer	Grainne Rice
Recommendation	Refusal

Summary of Recommendation

1. The application is presented with a recommendation to refuse as it is considered that it is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 1 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. It is considered that the proposal is contrary to the SPPS and Policy IC 15 of the 'Planning Strategy for Rural Northern Ireland' in that the proposal is not located on the trunk road network and fails to establish a clear indication of need and satisfactory access arrangements.
3. It is also considered that the proposal is contrary to paragraphs 6.279 & 6.280 of the SPPS as it has not been demonstrated that the development will not have an adverse impact on the vitality and viability of existing retail centres in the Council area or that suitable alternative sequentially preferable sites are not available elsewhere.

4. Furthermore the proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed development would be unduly prominent as the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the development to integrate into the landscape and the proposal would rely primarily on the use of new landscaping for integration.
5. The proposal is also contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted be unduly prominent, would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to the rural character of the countryside.
6. It is considered the proposal is contrary to the SPPS and Policy CTY15 of the 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 Moneyreagh and the surrounding countryside and also result in urban sprawl.
7. Furthermore the proposal is contrary to paragraph 4.12 of the SPPS and Policy CTY 16 of PPS 21 - Development Relying on Non Mains Sewerage in that insufficient information in respect of sewage and water quality has been provided to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.
8. In addition, the proposal is contrary to the SPPS and Policy AMP 2 of Planning Policy Statement 3 - Access, Movement and Parking, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction, namely Moneyreagh Road/Hillsborough Road where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
9. The proposal is also contrary to the SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 in that it would not be possible within the application site to provide an access with visibility, in accordance with the standards contained in the Department's Development Control Advice Note 15.
10. Final, the proposal is contrary to the SPPS and the consequential amendment to policy AMP 3 of Planning Policy Statement 3 - Access, Movement and Parking, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Description of Site and Surroundings

Site

11. The proposed site is located to the west of Moneyreagh Road, Moneyreagh and is comprised of the buildings and curtilage of vacant shop (formerly a convenience store), garage used for the repair of motor vehicles and hardstanding used for the sale of cars.
12. It is accessed off the Moneyreagh Road and the land within is relatively flat throughout.
13. The site is bounded to the north and partially to the west by a 1.8 metre high wooden fence and in part along the western boundary by a 1 metre high wall, some hedging and fencing. The other boundaries are not defined as they have a frontage to the Moneyreagh Road and the Hillsborough Road.

Surroundings

14. Located to the west of the site are two residential dwellings at 53 and 55 Hillsborough Road beyond this is the settlement limit of Moneyreagh.
15. The surrounding lands to the north, south and east is predominantly rural in character and mainly in agricultural use. There is some evidence of a local build-up of development with single dwellings dispersed throughout the landscape.

Proposed Development

16. This is a full application for the demolition of existing buildings and the erection of petrol filling station with convenience store, associated forecourt and parking.
17. The following information is provided in support of the application:
 - Preliminary Bat Roost assessment;
 - Northern Ireland Biodiversity Checklist;
 - Outdoor Lighting Report(s);
 - Ground Investigation Report;
 - Drainage Assessment;
 - Noise Impact assessment;
 - Transport assessment Form;
 - Service Management Plan;
 - Bat Survey Report;
 - Preliminary and Generic Quantitative Risk Assessment;
 - Schedule 6 Consent;
 - Traffic Flow Analysis;

- Junction Model;
- Scheme Design Overview; and
- Supporting letters and Speed Survey.

Relevant Planning History

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

Application Reference	Description of Proposal and Address	Decision
Y/1979/0242	Erection of shopping complex – Rear of 49-55 Hillsborough Road and adj to 99 Moneyreagh Road	Refusal 31.08.1979
Y/1980/0090	Erection of shopping complex – Rear of 49-55 Hillsborough Road and adj to 99 Moneyreagh Road	Refusal 30.07.1980
Y/1986/0034	Extension to dwelling	Approval 21.03.1986
Y/1987/0204	Alterations to shop, 99 Moneyreagh Road	Approval 11.08.1987
Y/1987/0375	Provision of car sales, 99 Moneyreagh Road	Refused 06.01.1988
Y/1988/0089	Change of use to car sales (retention of use), 99 Moneyreagh Road	Refused 06.02.1989
Y/1989/0147	Change of use from shop forecourt to vehicle sales, 99 Moneyreagh Road	Approval 27.07.1989
Y/1990/0235	Erection of replacement store 99 Moneyreagh Road	Approval 06.08.1990
Y/1992/0434	Reinstatement of petrol filling pumps and petrol sales facility, 99 Moneyreagh Road	Withdrawn 17.02.1993
Y/1992/0274	Extension to dwelling, 99 Moneyreagh Road	Approval 03.09.1992
Y/1992/0435	Extension and alterations to shop, 99 Moneyreagh Road	Approval 29.03.1993
LA05/2015/0844/F	Lands immediately north of 61 Hillsborough Road and 10 Church Lodge, south east of 42 Church Road, south of Moneyreagh Community Centre and approximately 100 metres north west of 64 Hillsborough Road, Moneyreagh - Erection of 71 dwellings with single storey garages, landscaping, car parking, associated site works, access arrangements and highway infrastructure improvements comprising a realignment	Approval 14.09.2016

Application Reference	Description of Proposal and Address	Decision
	of Hillsborough Road and new junction arrangement at Moneyreagh Road (71 residential units in total)	

19. There is no specific planning history for the use of part of the site for car sales and vehicle repair workshop.
20. There is an historical reference to car sales on the former forecourt of the vacant retail unit. No material weight is afforded to the use of land for car sales or vehicles repairs in the absence of a history of planning permission or a Certificate of Lawfulness confirming an established use or immunity from enforcement action.

Consultations

21. The following consultations were carried out:

Consultee	Response
DfI Roads	Object on the grounds of road safety and traffic impact
NI Water	Insufficient information
Environmental Health	No Objection
NIEA Land Soil and Air	No Objection
NIEA NED	No Objection
NIEA Water Management Unit	Insufficient information
Rivers Agency	No Objection

Representations

22. Representations have been received from the occupiers of the following properties

Date Neighbour Comment Received	Neighbour Address
03/12/2018	6, Gortnamoyagh Road, Garvagh, Londonderry, Northern Ireland, BT51 5HA

Date Neighbour Comment Received	Neighbour Address
29/04/2019	Post Office, 1 Hillmount Drive, Moneyreagh, Down, BT23 6BE
29/04/2019	2 Chippendale Glen, Bangor, Down, BT20 4NU
21/08/2019	7 Wandsworth Dale, Bangor, Down, BT19 1UY
21/08/2019	47 Stonebridge Avenue, Conlig, Newtownards, Down, BT23 7QL
23/08/2019	47 Stonebridge Avenue, Conlig, Newtownards, Down, BT23 7QL
23/08/2019	4 Greer Park Drive, Ballydollaghan, Newtownbreda Belfast, Down BT8 7YQ
16/09/2019	Post Office, 1 Hillmount Drive, Moneyreagh, Down, BT23 6BE
11/02/2021	6A, NORTH STREET, NEWTOWNARDS, DOWN, Northern Ireland, BT234DE
07/04/2021	Post Office, 1 Hillmount Drive, Moneyreagh, Down, BT23 6BE

23. These representations are available to view on the Planning Portal via the following link

<https://epicpublic.planningni.gov.uk/publicaccess/applicationDetails.do?activeTab=externalDocuments&keyVal=PGDIB1SV30000>

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

Planning Policy Context

Relevant Policy and Guidance Documents

25. The relevant policy documents are:
- The Belfast Urban Area Plan
 - The draft Belfast Metropolitan Plan 2015
 - The Strategic Planning Policy Statement (SPPS), published in September 2015,
 - Planning Strategy for Rural Northern Ireland

- Planning Policy Statement 2 – Natural Heritage
- Planning Policy Statement 3 – Access, Movement and Parking
- Planning Policy Statement 3 – Clarification of Policy AMP 3: Access to Protected Routes
- Planning Policy Statement 21 – Sustainable Development in the Countryside
- Planning Policy Statement 15 - Planning and Flood Risk

26. The relevant guidance is:

- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
- DCAN 15
- Parking Standards

Local Development Plan Context

27. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.
28. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
29. As a consequence, the Belfast Urban Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
30. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit and as there is no difference in the local plan context.
31. Page 60 of the BUAP states that the objectives of the plan with regard to the Green Belt is to
- *Control expansion of urban development into the surrounding open countryside*
 - *To maintain the rural character of the countryside within the Green Belt and prevent its spoliation by ribbon development or scattered development;*
 - *To prevent the towns and settlement around Belfast from merging with the Belfast Urban Area or with each other.*
32. The policy in BUAP was to restrict the number of dwellings based on similar to prevailing regional policy for Green Belts contained in a Planning Strategy for Rural Northern Ireland. Ribbon development was one of the exceptions to the strict policy controls that applied in Green Belts.

33. In respect of draft BMAP, page 16 states that:

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

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

Regional Policy Context

34. The SPPS states that,

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

35. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
36. During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.
37. Paragraph 3.6 of the SPPS states that:
- when place-making, 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.*
38. 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.

39. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

40. Paragraph 6.71 states that development in the countryside must not mar the distinction between a settlement and the surrounding countryside, or result in urban sprawl.

41. Paragraph 4.11 of the SPPS states that

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

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

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

42. Paragraph 4.12 of the SPPS states that:

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

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

44. Paragraph 6.78 of the SPPS states:

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

45. Paragraph 6.267 of the SPPS states that:

Town centres are important hubs for a range of land uses and activities and can have a positive impact on those who live, work and visit them. They provide a wide variety of retailing and related facilities, including employment, leisure and cultural uses. Our town's high streets also play an important role in bringing people together and can foster a sense of community and place.

46. Paragraph 6.278 of the SPPS states:

that policies and proposals for shops in villages and small settlements must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (i.e. day-to-day needs), and be of a scale, nature and design appropriate to the character of the settlement.

47. Paragraph 6.279 states that:

Retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Such retail facilities should be required to be located within existing buildings. All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS.

48. Paragraph 6.280 states that:

A sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused.

49. Paragraph 6.281 states that:

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

- primary retail core;
- town centres;
- edge of centre; and

- out of centre locations, only where sites are accessible by a choice of good public transport modes.

50. Paragraph 6.282 states that:

In the absence of a current and up-to-date LDP, councils should require applicants to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites.

51. Paragraph 6.283 states that:

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

Planning Strategy for Rural Northern Ireland [PSRNI]

52. Policy IC 15 - Roadside Service Stations states that:

The provision of roadside service facilities on the trunk roads network in the open countryside may be considered acceptable where there is a clear indication of need.

53. The amplification states:

that it is important to secure the adequate provision of roadside services for long distance travellers using trunk roads network. As part of the upgrading of the network, many settlements have been by-passed. It is not always appropriate for travellers to divert off major routes for services. On the other hand there has been pressure for new development, particularly petrol fillings stations in the open countryside. The pressure if left unchecked could result in a proliferation of development resulting in a loss of environmental quality along major routes.

54. It also states that:

Proposals for roadside services may be considered along the trunk roads network. New facilities will not be permitted unless:

- *There is a clear indication of need. In normal circumstances it is considered reasonable to expect a driver to travel at least 12 miles along the main traffic route network before reaching a petrol filling station or service centre (on either side of single carriageway roads). Proposals for new facilities within 12 miles of existing services will therefore not normally be acceptable;*
- *The access arrangements are satisfactory. Proposals which lead to traffic hazards will not be permitted. Stations should be designed for one-way working and should be accessible without dangerous right-turning movements across traffic flows. The pairing of stations/services on either side of the road is always preferable – on both single and dual carriageways. In general, sites adjacent to the main routes but which have access to a minor route may be preferable to sites with direct access, provided the facility is clearly indicated to on-coming traffic. Where direct access is permitted, the applicant will normally be required to provide any necessary improvements to the road layout, such as deceleration lanes; and*
- *The proposal is satisfactory in terms of location, siting and design as set out in policy DES 5.*

55. The amplification also states that:

In normal circumstances, proposals for petrol filling stations, and roadside services are unlikely to be acceptable in Green Belts, areas of Outstanding Natural Beauty and Countryside Policy Areas.

Along the trunk road network the Department considers there is a need not only for fuel provision but also for a wider range of services including toilet and caterings services and picnic sites together with adequate parking. Favourable consideration will be given to applications for such service centres which meet the criteria outlined above. Where a route is already adequately serviced by existing petrol filling stations the creation of entirely new service centres will not normally be acceptable but proposals for the extension of facilities at existing filling stations may be considered. Such facilities will not be acceptable adjacent to existing filling stations – again a spacing of 12 miles between services is considered appropriate. Proposals for a grouping of services, by nature of their scale, can have a significantly greater impact on the rural environment. Proposals will therefore be carefully considered to ensure they can be satisfactorily integrated into the local landscape. Design should be of a high standard and landscaping used to screen the development, particularly any large areas of parking.

It is considered that on routes not forming part of the trunk road network there will normally be no necessity to locate petrol filling stations or roadside services in the open countryside. Such facilities will normally be directed to

existing settlements unless local circumstances indicate that such a policy would lead to undue hardship for the residents.

Upgrading of existing filling stations will normally be acceptable unless increased trade would create or exacerbate a road traffic hazard. Where a petrol filling station has been abandoned, the policy as set out above will be applied.

Most petrol filling stations now provide a wide range of retail goods in the associated shop. Many now function as the local shop or small supermarket serving the surrounding population. The important role of such retail provision is recognised such shops should however clearly remain secondary to the use of the petrol filling station. Proposals for larger units providing general retailing are not considered appropriate. Secondary uses such as vehicle sales or vehicle repairs will normally be unacceptable in countryside locations.

Where a new petrol station or roadside service centre is approved in a rural area conditions will normally be imposed to secure adequate parking and landscaping and to restrict the type of goods to be sold. The accumulation of signs will be resisted.

Sustainable Development in the Countryside

56. 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.

57. The preamble to the policy document states that

the policy provisions of this PPS will take precedence over PPS 4 insofar as it relates to proposals for farm diversification, and Policy BH 15 of PPS 6 insofar as it relates to buildings in the countryside.

58. It also states that

the policy provisions set out in Annex 1 of this PPS will also take precedence over the policy provisions of Policy AMP 3 – Access to Protected Routes of PPS 3 insofar as they relate to proposals seeking access to the category of roads highlighted as ‘Other Protected Routes – Outside of Settlement Limits’.

59. Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 – Access Movement and Parking states

Planning permission will only be granted for a development proposal involving access onto this category of Protected Route in the following cases:

- (a) *A Replacement Dwelling – where the building to be replaced would meet the criteria set out in Policy CTY 3 of PPS 21 and there is an existing vehicular access onto the Protected Route.*
- (b) *A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained 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.*
- (c) *A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development set out in Policy CTY 7 of PPS 21 and access cannot reasonably be obtained 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.*
- (d) *Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained 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. Access arrangements must be in accordance with the Department's published guidance.*
60. It advises that the remainder of Policy AMP 3 as set out in the October 2006 Clarification, including the justification and amplification, remains unaltered.
61. 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.*
62. Policy CTY 1 also states that:

planning permission will be granted for non-residential development in the countryside in the following cases:

- *farm diversification proposals in accordance with Policy CTY 11;*
- *agricultural and forestry development in accordance with Policy CTY 12;*
- *the reuse of an existing building in accordance with Policy CTY 4;*
- *tourism development in accordance with the TOU Policies of PSRNI;*
- *industry and business uses in accordance with PPS 4 (currently under review);*
- *minerals development in accordance with the MIN Policies of PSRNI;*
- *outdoor sport and recreational uses in accordance with PPS 8;*
- *renewable energy projects in accordance with PPS 18; or*
- *a necessary community facility to serve the local rural population.*

There are a range of other types of non-residential development that may be acceptable in principle in the countryside, e.g. certain utilities or telecommunications development. Proposals for such development will continue to be considered in accordance with existing published planning policies.

63. 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.

64. The policy also 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.*

65. 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.

66. The policy states that a new buildings 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.*

67. Policy CTY 15 – The Setting of Settlements states that:

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

68. Paragraph 5.83 - 5.85 of the justification and amplification of this policy states that:

A settlement's identity can be as much as a result of its setting within the surrounding countryside, as the quality of its buildings. Landscapes around settlements have a special role to play in maintaining the distinction between town and country, in preventing coalescence between adjacent built-up areas and in providing a rural setting to the built up area.

69. 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.

70. 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.

Building on Tradition

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

that regard must be had to the guidance in assessing the proposal. This notes with regards to policy CTY 14 at page 131 that:

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

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

72. With regards to Policy CTY16 it further states that:

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

Natural Heritage

73. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
74. Policy NH 1 – European and Ramsar Sites states that

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

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

75. The policy states:

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

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

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

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

76. 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); or*
- i. *other natural heritage features worthy of protection.*

77. The policy also states that:

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

Access, Movement and Parking

78. 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.
79. 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.*

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

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

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

81. 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.
82. 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.

83. As mentioned above, Annex 1 of PPS 21 supersedes the policy test above insofar as it relates to Other Protected Routes – Outside Settlement Limits

Development Control Advice Note 15 – Vehicular Access Standards

84. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 that:

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

Parking Standards

85. The purpose of this document is to clarify that the guidance contained in Parking Standards will continue to have effect (where relevant) unless and until such guidance is updated, revised or replaced by new Departmental guidance on this planning issue.
86. Paragraph 1 states:

that the document sets out the parking standards that the Department will have regard to in assessing proposals for new development. It includes parking standards for shops and petrol stations as detailed below.

Use Class ²	Description	Non-Operation Parking Space	Operational Parking Space	Cycle Parking Standard
Class A1: Shops	Food retail	1 space per 14 m ² GFA	1 lorry space per 750 m ² GFA	Minimum of 2 per unit or 1 per 500 m ² GFA which ever is greater
	Non food retail	1 space per 20 m ² GFA	1 lorry space per 750 m ² GFA	Minimum of 2 per unit or 1 per 500 m ² GFA which ever is greater
<i>Sui Generis</i>	<i>Petrol Filling Station</i>	<i>1 space per pump position, plus 1 waiting space per pump position not impeding entry or exit from the site or any other site facility plus appropriate located parking for retail shop as per shopping standard</i>	<i>Space of discharging petrol tanker. Retail as per shopping standard</i>	<i>Minimum of 2 per unit.</i>

Planning and Flood Risk

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

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

88. Policy FLD 2 - Protection of Flood Defence and Drainage Infrastructure states:

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

89. 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.*

90. It also states that:

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 flood plain, then Policy FLD 1 will take precedence.

91. Policy FLD 4 Artificial Modification of Watercourses states that:

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

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

92. Policy FLD 5 Development in Proximity to Reservoirs states:

New development New development will only be permitted within the potential flood inundation area of a "controlled reservoir"¹⁴ as shown on the Strategic Flood Map, if:

- *the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety, so as to enable the development to proceed;*
- *the application is accompanied by a Flood Risk Assessment which demonstrates:*
 1. *an assessment of the downstream flood risk in the event of: - a controlled release of water - an uncontrolled release of water due to reservoir failure - a change in flow paths as a result of the proposed development and*
 2. *that there are suitable measures to manage and mitigate the identified flood risk, including details of emergency evacuation procedures*

A proposal for the replacement of an existing building within the potential flood inundation area downstream of a controlled reservoir must be accompanied by a Flood Risk Assessment. Planning permission will be granted provided it is demonstrated that there is no material increase in the flood risk to the development or elsewhere.

There will be a presumption against development within the potential flood inundation area for proposals that include:

- *essential infrastructure;*
- *storage of hazardous substances;*
- *bespoke accommodation for vulnerable groups; and for any development located in areas where the Flood Risk Assessment indicates potential for an unacceptable combination of depth and velocity.*

Assessment

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

Roadside Service Station

Information from Applicant/Agent

94. Supporting information provided by the applicant set out that this proposal is consistent with the requirement of policy IC 15 of the PSRNI and argues that as the recommended 12 mile separation distance applies to service stations along the main traffic route the existence of a service station within 12 miles of the proposal but along a separate transport corridor is therefore irrelevant.
95. In addition, the view is expressed that the term 'normal' signifies that there is not a total embargo on the introduction of a new service station within the recommended 12 mile separation distance.
96. The supporting information submitted also states that

the application site is located along the A23 protected route and that a search on google maps shows that there are no other service stations along the entire A23 corridor stretching for 10 miles from Belfast to Ballygowan and then for another 6 miles along the entire Carrickmannon Road – a total of 16 miles.

97. The case is presented by the applicant/agent that this route is therefore not adequately served by existing service stations and that this signifies a clear indication of need.

Consideration of Road Side Service Station Evidence

98. It is agreed that as roadside services are proposed in the open countryside this part of the proposal must be considered against the policy tests associated with Policy IC 15 of the Planning Strategy for Rural Northern Ireland. However the policy only applies to proposals for new services on the trunk road network.
99. This site is located on the A23 Moneyreagh Road which is not identified in the Regional Strategic Transport Network Transport Plan 2015 as a trunk road this is distinguishable and different from the classification of the A23 as a protected route.
100. The policy is clear that roadside services are unlikely to be acceptable in the open countryside and the need test only bites if the proposed facility is on a trunk road. The applicant indicates an exception applies in respect of the distance between this site and other services.

101. It is advised that the proposal does not meet the first test and therefore an assessment of need and a consideration of the separation distance to other services is not applicable. Only very limited weight is attached to the need case as this is only relevant in the context of the retail unit which is considered later in this report.
102. The proposal is contrary to policy IC 15 as this is not a roadside service facility on the trunk road network.
103. In terms of access arrangements and as considered further below within the context of Access Movement and Parking considerations, DfI Roads have been consulted on the application and have found the access arrangements to be unsatisfactory. The reasons for this are dealt with later in this report.
104. The policy tests associated with DES 5 of the PSRNI are superseded by Policy CTY 13 of PPS 21 which is considered later in the report.

Retail and Town Centres

Sequential Test

105. Whilst it is accepted that there is an established retail use at the site as a much larger retail unit is proposed and the sale of petrol is a retailing activity this proposal is required to be tested against the policies specific to new retail proposals in the open countryside.
106. It outlined above it is stated at paragraph 6.279 of the SPPS that Retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities.
107. This is not a proposal for a farm shop, craft shop or a shop serving a tourist or recreational need albeit there is an existing building with an established retail use that could meet this test.
108. The applicant suggests that this proposal be treated as an exception to policy and the proposal must be tested to ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS.
109. Supporting information submitted by the applicant/agent advised that the scheme proposes demolition of existing buildings and erection of a service station and associated forecourt and parking at 99 Moneyreagh Road, Moneyreagh.

110. It also advised that the site was presently occupied by a car dealership/repair garage and a small vacant convenience store and that the site was previously used as a petrol filling station (PFS). The view was expressed that this scheme proposes to restore the former petrol filling station on the site.
111. The supporting statement explains that the retail store will be located to the northern end of the site and that it will be single storey with sales/retail floor space, toilets and general storage space and staff facilities. The shop will have 375 square metres gross floor space with approximately 275 square metres net retail area.
112. It confirms that the petrol station canopy is located centrally within the site and there will be two islands and four petrol pumps. Twenty Seven designated parking spaces are proposed throughout the site with a further space provide at each of the pumps for customers purchasing fuel.
113. The supporting information advises that it is also proposed to improve the existing point of access/egress to Moneyreagh Road as necessary.
114. It confirms that a convenience store is proposed to operate as an independent shop supporting the PFS selling a range of top-up convenience goods and some non-convenience goods. It has also been indicated the store will provide ancillary goods such as national lottery, household fuel such as gas, coal, peat and oil.
115. With regard to the need for a sequential test, the application site is not in an existing centre nor is it in accordance with an up-to date LDP and as such, a sequential test must be applied.
116. A Planning, Retail and Alternative Site Assessment was submitted by the applicant/agent in support of the application. A synopsis of the argument advanced in the assessment is detailed below.
117. In terms of the retail context, the study associated with the assessment assumed a local catchment extending to a 5 minute drive time for the proposal. The approach adopted is predicated upon the small-scale nature of the development and general convenience retail shopping patterns.
118. The statement acknowledged that service stations also have a transient catchment i.e. those that are drawn to the site as they move directly through the area but would otherwise leave their place of residence to specifically avail of the services on offer. The assessment identified the local catchment only.
119. In relation to the sequential test the assessment confirms that the only settlements that fall either wholly or partly within the catchment are Moneyreagh and Ballygowan. All other land within the catchment is expressly rural.

120. The assessment also confirms that the main convenience store that the proposal will compete with is *Your Store* located at 1 Hillmount Drive, Moneyreagh.
121. This store is described as a small 143 square metre gross convenience store and local post office. It is located in the centre of Moneyreagh Village and has limited retail offering. There are no petrol filling stations within or adjacent to the village of Moneyreagh.
122. The assessment expresses a view that there are no petrol filling stations along the entire A23 corridor from the Belfast City Centre (located 10 km to the northwest of the site) to the village of Ballygowan (located 4 km to the southeast of the site).
123. It also notes that there are no other petrol filling stations along the B178 corridor from Carryduff (located 5.5 km to the southwest of the site) to Comber (located approximately 7 km to the northeast of the site).
124. The statement looks at the settlement of Ballygowan which is 4km south of the site and details that Ballygowan village is a minor service centre providing a range of retail facilities and remains attractive as a commuter village to Belfast.
125. Most of the villages' commercial activity is centred on the Square and Belfast Road. Several other convenience retail stores located within the catchment are noted as follows:
 - The garage (Texaco), 2 Saintfield Road, Ballygowan. This PFS has three islands and six pumps. It is located on the southern side of the A21 Saintfield Road within the heart of Ballygowan village. It has a shop of approximately 280 square metres (gross)
 - Costcutter: Convenience store of approximately 200 square metres (gross) located on the northern side of the A23 within the village centre
 - Craigs: A very small convenience store of approximately 65 square metres (gross) located within the Square in the centre of the village.
 - Dalzells Grocers: Greengrocers of approximately 65 square metres (gross) located on the northern side of the A23 within the village centre
 - Davidsons Off-Sales: Small integral Off Sales within Davidsons public house/hotel of approximately 20 square metres (gross). Located at the corner of The Brae and Railway Terrace within the village centre"

Need

126. Information has been provided to indicate that the redevelopment represents and investment of about £1.5 million in Moneyreagh. It is estimated that approximately 35 part time/full time jobs will be created by this development.

127. The supporting information also advises that a PFS must be located close to the road to allow for the store to function properly and for this reason, it is best that it is not identified as a main town centre use.
128. It is also advised that when looking at a town centre or primary retail core where stores and developments are required to have flexibility in terms of car parking and access a PFS has unique characteristics in that it is fundamentally linked to accessibility by car and visibility from the main route of travel, in the absence of any reference to PFS the information submitted argues there is a case that the SPPS does not apply this approval.
129. The information notes that the proposed shop measures 375 square metres gross and that this is significantly below the 1000 square metres threshold for undertaking a full assessment of retail impact.
130. The view is also expressed that the neighbouring settlements of Moneyreagh and Ballygowan do not include any policy protected retail centres and as such, the assessment demonstrates a proportionate assessment of need, retail impact and sequential site assessment.
131. The information provided notes there are no sites zoned for employment, business or mixed use purposes within the Moneyreagh or Ballygowan designated settlement development limits as set out in BMAP 2015.
132. It also notes that there are no derelict brownfield sites within the settlement limits falling within the identified catchment. There are no other brownfield or greenfield sites that are available for development within the settlement limits falling within the identified catchment.
133. There are no derelict brownfield sites or previously developed land available for development within the catchment immediately adjacent to the Moneyreagh and Ballygowan settlement limits.
134. Supporting information notes Moneyreagh settlement sits between the A23 arterial route to the northeast and Hillsborough Road to the south. The application site is located 60 metres to the immediate east of the designated Moneyreagh development settlement limit.
135. Indeed the argument could be made for the application site and small cluster of neighbouring residential properties to be included within the settlement limit in the new local plan.
136. The assessment focused on the need for this development in this location with a 5 minute drive time catchment identified. An argument is advanced that there is an overriding need for a PFS/convenience store facility in the direct vicinity of Moneyreagh which presently has no petrol station within a 4km radius and is served by a single convenience store.

137. Within this context, it is considered that even if a suitable brownfield site was identified within Ballygowan it could be argued that it is sequentially less preferable on account of the overriding demand for this facility.
138. The supporting information expresses the view that the proposed site is the most sequentially preferable location. That said, no alternative available sites have been identified in sequentially more preferable locations within the proposals catchment that would require the proposed development to be refused.
139. A synopsis of the information provided by the applicant/agent is as follows:

Committed Convenience Retail Turnover

140. The agent advised that an examination of the planning database in June 2019 indicated that there were no extant planning permissions for retailing within the identified catchment.
141. There is an existing vacant convenience store on the site of approximately 103 square metre net retail floor space. However this store will be demolished to facilitate the proposed development and will therefore have no implications when considering the cumulative impacts of the proposed development alongside any committed retail schemes.

Proposal Convenience Retail Turnover

142. Supporting information advises that planning permission is sought for a PFS and shop with a net retail area of approximately 275 square metres.
143. Turnover of this floorspace using the Mintel retailer sales figures adjusted according to location and football of each individual store.
144. This has been forecast to the base and forecast years using the Pitney Bowes forecast of 0.8% per annum. The turnover of this floorspace will be £1929, 142 in 2021.

Qualitative Need

145. The supporting information expresses the view that Moneyreagh is presently only served by a small convenience store with a very limited retail offering and that this shop does not meet the convenience retail needs of the growing population of Moneyreagh and surrounding hinterland.
146. In addition to the identified quantitative need there is clearly a need for an improved convenience retail offering within the immediate vicinity of Moneyreagh.

Conclusion given in support of application

147. The statistical analysis has identified that there is a significant outflow of convenience retail spend from the catchment area, demonstrating a clear demand for additional convenience retail floorspace within the area.
148. Within this context, the view is expressed that the proposed floorspace will deliver a high quality retail offering which will partly claw back the loss of trade from the catchment area and promote less travel and more sustainable shopping patterns.

Committed and Planned Development

149. A section in the supporting statement submitted makes reference to there being no committed retail or PFS developments within the vicinity. It references planning application LA05/2018/0665/O - an application for a petrol filling station on land 75 metres south west of 84 Hillsborough Road.
150. Despite this application was refused planning permission on 03 February 2020, the statement expresses the view that its siting in very close proximity to the settlement limit, its brownfield status and the fact that a PFS previously operated here it was sequentially the most preferable location.

Consideration of evidence submitted in support of the application

151. The application seeks to provide a petrol station and shop in the open countryside outside of the preferred locations identified in the SPPS and concern is expressed by third parties in relation to the nature and scale of the retail offering.
152. The proposed site is located outside of the settlement limit of Moneyreagh and within the open countryside in a rural location which is contrary to the SPPS which advises that retailing will be directed to town centres and that development of inappropriate retail facilities in the countryside must be resisted.
153. The retail unit is not proposed to be located within an existing building on site nor is it considered that this independent shop is not amongst those facilities listed at paragraph 6.279 of the SPPS as appropriate retail facilities outside of settlements.
154. Indeed Ballygowan is only 4km from the site has a host of retail offerings including a petrol filling station (PFS) and no consideration has been given to reopening or extending the existing small convenience store building already on site.
155. Moneyreagh has no defined primary retail core or town centre in either local development plan and as such, it is not accepted that the impacts of the

proposal upon the existing village store and post office which is located within the settlement limits of Moneyreagh have been fully and properly considered.

156. Furthermore, it has not been demonstrated that the proposal will not have an adverse impact on the vitality and viability of existing retail centres within the local area.
157. Whilst it is acknowledged that the proposed site is a brownfield site and that it was formerly a PFS (based on a review of a historic photograph was submitted with the application), it is considered that the former use as a PFS has long been abandoned and cannot be given determining weight in this assessment.
158. Furthermore it is also noted that the legitimate fall back position to the development proposed under this application comprises a small convenience shop and car sales. The two proposals are not directly comparable and the fall back is of limited weight for the following reasons.
159. There is no planning history record for the repair garage or the extent of the spread of the forecourt located to the north west of the application site and no certificate of lawfulness is before the Council to establish the use. As such, no weight is given to these business in this assessment.
160. For the reasons outlined, the scale of the operation cannot be considered as a reinstatement of the previous convenience store. Instead it is considered to represent a significant expansion of the retail offering.
161. With regard to the alternative sites, information provided states:

that no alternative available sites have been identified in sequentially more preferable locations within the proposals catchment that would require the proposed development to be refused.
162. It is not enough to make such a statement without supporting evidence. In the absence of evidence being provided, it cannot be established if an alternative sequentially preferable site or sites exist within the proposals whole catchment. The SPPS stated an application which proposes development on a less sequentially preferred site should be refused.
163. For the reasons outlined, it is considered that the site chosen for the development is set outside of the defined settlement limits is contrary to paragraphs 6.279 & 6.280 of the SPPS and it has not been demonstrated that the proposal will not have an adverse impact on the vitality and viability of existing retail centres within the local area or that suitable alternative sites are not available.
164. Concerns raised in relation to the application expressed the view that longer term development projects could offer the existing village store/post office an opportunity to relocate to larger premises within the village centre and that the development if approved would negatively impact on such an opportunity.

165. This application is considered on its own merits and it is considered that the information fails to demonstrate that the development will not have an adverse impact on the vitality and viability of other retail centres in the area.

Sustainable Development in the Countryside

166. As explained above, this is a proposal for the demolition of existing buildings and erection of service station and associated forecourt and parking in the open countryside.
167. It is considered a non-residential form of development within the context of Policy CTY 1.
168. Other planning and environmental matters associated with integration and design of buildings in the countryside, rural character, non mains sewerage and the setting of settlements are considered in the paragraphs below.

Integration and Design of Buildings in the Countryside

169. With regard to Policy CTY 13 and 14 the agent argues the scheme proposes the regeneration of a brownfield site located within an existing development cluster (comprising residential and business uses) and adjacent to the Moneyreagh settlement limit.
170. The view is expressed that the proposal is representative of a typical PFS development commonly found along the main road network and that the development would represent an improvement to the present site conditions which include a vacant convenience store and two storey building of commercial appearance.
171. The supporting information contended the proposed development will have negligible impact upon the character of the area and would integrate acceptably within the receiving landscape.
172. The proposed service station building is 7.1 metres high and 30.8 metres long. The proposed finishes for the building are powder coated aluminium colour grey walls with dark grey roofing finish.
173. The proposed boundary treatment to the north details the retention of existing post and wire boundary fence with a 1.8 metre high close boarded fence along the western boundary. No boundary detail is provided along the Moneyreagh Road. The remainder of the site comprises a large area of hardstanding with 27 car parking spaces and the petrol filling point forecourt area.
174. The proposed site is a roadside plot and it is considered the proposed new service station building and associated forecourt and parking area would result in a development which is poorly integrated and unduly prominent in the

landscape due to lack of enclosure. New buildings on a cluttered site is not in its own right is not an exception to policy.

175. No planting has been proposed to aid integration (Adequate screening by landscaping will normally be required). Furthermore new planting to define the curtilage would take time to establish and mature in order to provide any suitable degree of enclosure or screening.
176. Given the design and function of the proposed petrol station and its roadside location it is considered the proposal would not blend sympathetically with the landscape and would have a detrimental impact on the visual amenity of the area.
177. It is contended that the site lacks the necessary attributes to satisfy the integration requirements of Policy CTY13 and related guidance set out in Building on Tradition.
178. For the reasons outline, it is considered that the proposal would not satisfy the requirements of criteria (a), (b) and (c) of Policy CTY13 of PPS 21.

Rural Character

179. For reasons set out above, the proposed scale and massing of the new building which is relocated within the site would be unduly prominent in the landscape. Despite the number of existing buildings the area remains predominantly rural in character.
180. The development of a service station and associated forecourt and parking would introduce a form of development more suited to an urban setting, would be out of keeping and would cause a detrimental change to its rural character.
181. The proposed new building in addition to the ancillary works would be unduly prominent and would not respect the nature and visual appearance of the land and buildings in the area resulting in a detrimental change to erode the character of the area.
182. Furthermore the proposal would if permitted result in a suburban style build-up of development when viewed with existing buildings and would therefore result in a detrimental change to (further erode) the rural character of the countryside.
183. For the reasons outlined above the proposal is considered to be contrary to criterion (a), (b) and (c) of Policy CTY 14.

The Setting of Settlements

184. The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so as to maintain a clear distinction between the built-up area and surrounding countryside.

185. As explained, the application site is located in the open countryside beyond the designated settlement limit of Moneyreagh.
186. The application site is located some 60 – 80 metres to the east of the designated Moneyreagh development limit. It is bounded to the west by the residential dwellings at 49 Hillsborough Road and 53 and 55 Hillsborough Road.
187. Beyond this is the settlement limit of Moneyreagh. To the east of the proposed site is the junction of the Hillsborough Road and Moneyreagh Road. Beyond this surrounding land is mainly agricultural in nature with dispersed single dwellings in the countryside.
188. Given the sites location outside of the development limit of Moneyreagh it is considered that the development taking into account the built for which has planning permission and the establish boundary treatment to aid integration would if permitted mar the distinction between the defined settlement limit of Moneyreagh and the surrounding countryside and also result in urban sprawl contrary to Policy.

Development Relying on Non-Mains Sewerage

189. The planning application form indicates that surface water will be disposed of via storm drains and that foul sewage will be disposed of via mains connections.
190. NIEA Water Management Unit were consulted on the application advice received confirms that they have considered the impacts of the proposal on the water environment and on the basis of the information provided they are unable to fully determine the potential to adversely affect the surface water environment.
191. NI Water has also provided advice in relation to the status of receiving waste water treatment works there is available capacity. They advise that although Moneyreagh WWTW is operating above capacity this proposal can be approved on the basis of *no additional loading*.
192. As such it is contended that insufficient information in respect of sewage and water quality has been provided to enable an informed decision in relation to potential impacts on the environment and amenity.

Access, Movement and Parking

193. Concern in relation to traffic safety and congestion are expressed in third party representations along with a view that the proposal presented a dangerous option for customers visiting on foot as no footpath was proposed.

194. The A23 Moneyreagh Road is a Protected Route and the development proposal involves a direct access onto this road. Subsequent amendments have connected a two-metre wide footpath along the site frontage at the Moneyreagh Road into the newly augmented Hillsborough Road and associated footpath.
195. The proposal includes 27 parking spaces, including two disabled spaces. There are two sets of two petrol pumps under a modest flat canopy. A one way system is proposed to be accessed off the Moneyreagh road including separated entrance and exit points. There is a subsidiary access point onto Hillsborough Road adjacent to number 49. A right hand turning pocket is also proposed.
196. The information submitted in support of the application states the scheme proposes to utilise and modify the existing access onto the A23 Moneyreagh Road.
197. It indicates that it is proposed to upgrade the existing access as necessary in line with DCAN 15 standards.
198. Reference is made to the only other minor road adjacent to the application site being the Hillsborough Road which runs along the sites south eastern boundary.
199. The Hillsborough Road formerly connected onto the A23, but this was stopped up as part of road improvement works undertaken in association with a neighbouring residential development LA05/2015/0844/F. The view is expressed that the only feasible point of access therefore is via the A23.
200. A Transport Assessment Form and Site Access Plan are submitted in support of this application. These documents and demonstrate that the proposed development would result in an overall increase in traffic on the surrounding road network, although there would be a decrease in vehicular trips at both AM and PM peak hours.
201. The information argues that it has been demonstrated that the highway network is capable of supporting the predicted trips resultant from the proposed development and that the proposed access arrangements will not compromise the free and safe movement of traffic along the A23.
202. The supporting information contends as per the car parking standards 1 space will be provided per pump position plus 1 waiting space. For the food store car parking standards ask for 1 space per 14m² as the store is 375m² there would be 27 spaces provided.
203. It is indicated that the layout will incorporate appropriate access facilities in compliance with DCAN 11 requirements and the Disability Discrimination Act to

ensure the site is easily accessed by disabled users. A minimum of 4 % parking will be classified as disabled parking.

204. In consideration of the Transport information, a design review was completed by AMEY on behalf of DfI Roads which commented within the application, there are proposals to alter the road layout on the A23 Moneyreagh Road to introduce a right turn pocket into the proposed development, and another into Hillsborough Road (eastbound).
205. DfI Roads - Eastern Division has commissioned DfI Roads Consultancy Services and its partner Amey Consulting to undertake a further design review on the revised and resubmitted information in response to Amey's Design Review Report CO401700-AMEY-13-XX-TN-00001 (01) to ensure the proposed highway alteration works are in full compliance with all relevant highway design standards.
206. The key findings from Amey stated that within the applicants response letter, it is stated that:

we acknowledge Amey's view ... that it has been assumed that the proposals would intensify the use of the existing access. We therefore provide a completed Scheme Design Overview form and additional information with this letter, based on Amey's assumptions on intensification." As Amey has not been advised otherwise, the design review continues to assume that the application site will be subject to intensification of usage. This assumption should be validated by the relevant planning authority.

207. Amey comments that the applicant has completed a speed assessment for the A23 at this location and concluded that the associated 85th% speeds are 76kph northbound and 80kph southbound; consequently, a design speed of 85kph has been specified for the proposals.
208. Advice is provided that this reduction in design speed impacts the geometrical requirements for the proposed ghost islands, right turning pockets and the visibility requirements to and from the proposed site.
209. It explains that DEM 118/16 Design Speed for Roads outlines the following policy for selecting design speeds for the design of both new roads and improvements / amendments to existing ones, stating "Unrestricted single carriageways i.e. those on which the National Speed Limit applies, shall be 100kph." DEM 118/16 goes further to state that "Where it is proposed that the Design Speed deviates from the above pre-set values, agreement should first be sought from the Divisional Client", whose responsibility is it to "ensure that the selected Design Speed is not too low".
210. It also explains that DEM 118/16 states that
- approval for both the Design Speed and the method of calculation must be obtained from the Divisional Client". In summary, the application site is on a*

non-trunk road and speeds have been measured in line with current guidance. The Divisional Client, DfI Roads Eastern Division should confirm that the proposed deviation from a design speed of 100kph for this scheme is acceptable.

211. Further comments from Amey advise that several aspects of the geometry of the proposed pockets are not in line with the standards outlined in CD 123 notwithstanding the specified design speed of 85kph (note the following standards are for a design speed of 85kph for demonstration purposes; the same for 100kph are more onerous in each case).
212. These substandard features include deceleration lengths of 52m and 29m rather than 55m for the proposed access and Hillsborough Rd respectively, width of right turn lane restricted to 2.5m rather than the 3.0m minimum, development taper limited to a:12.5 rather than the 1:25 and formation of the ghost island asymmetrically.
213. These aspects of the proposed design are constrained by land ownership and proximity to the existing Hillsborough Rd junctions. It is noted that the existing right turn pocket for the recently realigned Hillsborough Road junction to the north west of the site has been formed with a turning lane width of 3m, deceleration length of 55m, direct taper of 15m and development taper of 1:20.
214. Amey also advise that junction visibility from proposed facility exit cannot be achieved in line with DCAN 15, which states the required visibility for a major road of design speed 85kph shall be 4.5m x 160m and 4.5m x 215m for a design speed of 100kph.
215. It is permissible that y-distance visibilities are interpolated and for the measured speeds of 76kph northbound and 80kph southbound the corresponding y-distances would be 147m northbound and 136m southbound.
216. Based on DCAN15 the required minimum x-distance is 4.5m. The visibility which can be achieved from the proposed access is limited to 4.5m x 35.9m to the north and 4.5m x 120.6m to the south, as shown on drawing 18-029-SK06.
217. As explained, these aspects of the design are constrained by the positioning of the proposed garage building to the north and land ownership to the south. It is noted that the visibility splay to the south would be restricted further if a vehicle was parked at the first fuel pump in the forecourt.
218. For vehicles approaching the site on the A23 northbound, forward visibility to the site exit is restricted to 169.8m, which is in line with the minimum standard outlined in CD109 for a design speed of 85kph, but below the required 215m for a design speed of 100kph.
219. Forward visibility to the site's proposed entrance is not shown on drawing 18-029-P-105 rev B but would be critical for vehicles approaching this location in the northbound direction to have adequate visibility of vehicles making the right

- turn into the site from the proposed ghost island and to enable the drivers making the right turn movement to do so safely.
220. Relaxation of the required object height to 1.05m would not be acceptable in line with DCAN 15 given the access is forecasted to carry over 250 vehicles per day (ref DCAN 15 paragraph 4.2).
221. Amey notes that vehicle tracking and clarification on servicing movements has been provided. However they advise that this shows over-run in a number of areas on A23 main line e.g. drg 18-029-SK008 viewports 2 and 3, and drg 18-029-SK007 viewport 2.
222. Finally Amey confirm traffic modelling has been undertaken to demonstrate that the proposed minimum turning length of 10m is acceptable.
223. In consideration of the submissions, meetings and several amended drawings over the processing to try and address ongoing concerns DfI Roads offered the following refusal reasons:
- The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction, namely Moneyreagh Road/Hillsborough Road where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
 - The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 in that it would not be possible within the application site to provide an access with visibility, in accordance with the standards contained in the Department's Development Control Advice Note 15.
 - The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
224. Having considered the information submitted in support of the application and the advice from DfI Roads and their consultant team, there is no reason for the Council to disagree with the advice of the statutory consultee on road safety or traffic impact grounds. It is accepted that the proposal is contrary to policy AMP2 for the reasons stated above.
225. In respect of the access onto the protected route as an existing access onto a minor road exists and as there are road safety and traffic impacts associated with the operation of an access onto the A23 it is accepted that the policy criteria are not met and that there is no reason to treat this proposal as an exception to the consequential amendment to Policy AMP 3.

Natural Heritage

226. A Preliminary Bat Roost Assessment and Biodiversity Checklist were submitted in support of the application.
227. Advice from Natural Environment Division noted that within the Preliminary Bat Roost Assessment, the ecologist has assessed building 1 (the former shop) to be demolished as part of this application as having low bat roosting potential.
228. Building 2 (a commercial garage/office) is also identified to be demolished as part of this development, however the ecologist has assessed this building as having negligible bat roosting potential.
229. NED confirmed that it was in agreement with the ecologist that further survey work is required to assess whether building 1 is being utilised by roosting bats.
230. NED therefore requested a Bat Emergence/Re-entry Survey to NIEA specifications.
231. NED acknowledged receipt of a Bat Survey Report date stamped 31 July 2019 by Lisburn & Castlereagh City Council.
232. Based on a review of the additional survey information provided, NED confirmed that it was content that the buildings to be removed were unlikely to support roosting bats and therefore the proposed development is unlikely to significantly impact the local bat population.
233. Based on a review of the information and advice received it is accepted that the proposal is not likely to have an adverse impact on Natural Heritage features. The requirement of policy NH 5 are met.

Planning and Flood Risk

234. A Drainage Assessment carried out by Kevin McShane Limited was submitted in support of the application. The Drainage Assessment serves to provide an account of the sites existing and proposed surface water run-offs and the proposed drainage connections for the development. It also identifies potential impacts and mitigation for the development.
235. Section 2 advises that NI Water sewer record drawings indicate that there are no public foul or storm drains in the immediate vicinity of the site. It also indicates that there is a known undesignated water course culvert which passes through the site, and connect an existing open watercourse in the west to existing field drains in the east.
236. Section 3 provides details of drainage and flooding records. It indicates that no historical flooding has occurred at the proposed site and no present day floodplain river or sea flooding is shown in the vicinity of the site.

237. In terms of surface water mapping, the assessment indicates that the northern section of the proposed site is potentially subject to surface water ponding and as such, internal site drainage mitigation such as underground storm water attenuation is considered necessary.
238. Advice from Rivers Agency confirms that the site does not lie within the 1 in 100 year fluvial and as such, they have no specific reason to object to the proposed development from a drainage or flood risk perspective.
239. FLD 2 – Protection of Flood Defence and Drainage Infrastructure- Paragraph 6.32 states where a new development proposal is located beside watercourse it is essential that an adjacent working strip is retained to facilitate future maintenance by the riparian owners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.
240. Advice received also indicates that the indicative Drainage Layout appears to satisfy these requirements of Policy FLD 2 in that a working strip is retained to facilitate future maintenance by the riparian owners as necessary. Confirmation is also provided that Schedule 6 Consent to discharge surface water to the watercourse has been received and as such, the mitigation measure proposals are deemed to satisfy the policy requirements.
241. The proposal is to attenuate up to 24 cubic meters of surface water and limit/restrict the discharge rate to mimic the Greenfield run-off rate (using a vortex to 13 l/s) and discharge this surface water to the undesignated watercourse.
242. Evidence has been provided that a drainage system will be installed to meet the standards of the NI Water Sewers for Adaption 1st Edition for a 30 year storm events including an allowance for climate change.
243. DfI Rivers, while not being responsible for the preparation of the Drainage Assessment report accepts its logic and has no reason to disagree with its conclusions. It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors.
244. It is noted that there is an existing culverted undesignated watercourse flowing within the middle of the site. The drawings does not show any proposal to culvert any additional watercourses, therefore this would be acceptable.
245. The Development is not in the Proximity to Reservoirs and as such, no impact will arise.
246. Based on a review of the information and advice from Rivers Agency, it is accepted that the proposal satisfies the various policy requirements of PPS 15 - Planning and Flood Risk as detailed above are met in full.

Contaminated Land/Human Health

247. Advice received from DAERA – Regulation Unit [RU] on 2 November 2018 noted that previous activities at the application site and adjacent sites may have caused the land to be affected by contamination. They requested a comprehensive risk assessment is completed that identifies all unacceptable risks to the water environment given the proposed development plans for the site and if required, a remediation strategy should be agreed at the application stage to mitigate all risks.
248. A Ground Investigation Report provided by Causeway Geotech Limited was then submitted in support of this application on 19 March 2019. Comments from RU advised that this report provides geotechnical and basic environmental information for input to the design and construction of the proposed development. The potential risks to human health and environmental receptors associated with this development are not presented and are required.
249. A Preliminary and Generic Risk Assessment Report was submitted 9 August 2019
250. A further consultation with RU confirmed that the report identifies the underlying geology as unlithified peat deposits with the solid geology underlying this comprising of the Wacke and Mudstone of the Gala Group. It is confirmed that the Ballystockart River is located approximately 950 metres east of the site as the closest surface watercourse to the site
251. The report via the Conceptual Site Model identified potential on-site sources of contamination as reduced quality made ground / infilling and a former filling station and it identified potential off-site sources of contamination as a motor repair shop, a service station and a sewage works.
252. The GQRA is informed by site data from three boreholes (BH06, BH07, BH09) to a maximum depth of 4.00 metres below ground level (bgl). WYG in their GQRA report also refer to a Causeway Geotech ground investigation report from the subject site dated July 2018. This report is informed by five site boreholes (BH-01-BH05) which were advanced to depths between 2.50m and 4.50m bgl.
253. In total six soil samples (BH06, BH07 and BH09) and six groundwater samples (BH01, BH02, BH03, BH06, BH07 and BH09) were obtained by WYG for laboratory analysis.
254. In relation to groundwater the report confirms that no exceedances of the relevant screening values were identified from the six groundwater samples obtained and that the proposed development is unlikely to pose unacceptable risks to environmental receptors.
255. The Land and Groundwater Team within the RU note that reference is made in the report that the main structures associated with the former petrol filling station at the site may still be present. As a precaution, a condition associated

- with potential historical fuel tanks has been recommended should planning permission be granted.
256. RU concluded based on the information contained within the reports that they were content subject to conditions. This advice is accepted. .
 257. The Councils Environmental Health Unit also provided advice with regards potential impact on amenity and human health by way of noise and lighting for the proposal.
 258. In relation to contamination and in receipt of the reports mentioned above and also commented upon by RU, Environmental Health were content with similar conditions and informatives in this regard.
 259. At the outset Environmental Health also raised issue of potential loss of amenity due to noise and lighting.
 260. Through 8 separate consultations with Environmental Health and a number of amended plans, the final responses in relation to a letter dated 10 June 2019 and accompanying Lighting Reports which identify that the pre-curfew vertical lux values to the south/south-western boundaries of the site adjacent to residential/sensitive receptors are within the requirements of the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone – E2 (Rural) contained within Table 2 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011. The proposed lux levels are therefore acceptable in terms of impact of light spill on the neighbouring properties subject to conditions.
 261. Environmental Health advised that the applicant should liaise with the Petrol Licencing Officer to ensure the proposal meets the requirements set out in the Association for Petroleum and Explosive Atmospheres (APEA) Blue Book 4th Edition. Thereafter, the application should provide an annotated drawing to address the points outlined above.
 262. Environmental Health also noted that the application does not include any external plant. External plant has the potential to impact on amenity with respect to noise, therefore, if external plant is required a subsequent application may be necessary.
 263. A Noise Impact Assessment was received and reviewed and Environmental Health noted that the only external equipment onsite are the fuel pumps and two external refrigeration units, and that the boundary shown as dashed on Drawing 03 date stamped 27 September 2018 is an acoustic barrier.
 264. Conditions in relation to acoustic barriers, hours of operation and hours of activities are recommended.

Conclusions

265. The application is presented with a recommendation to refuse as it is considered that it is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 1 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
266. It is considered that the proposal is contrary to the SPPS and Policy IC 15 of the 'Planning Strategy for Rural Northern Ireland' in that the proposal is not located on the trunk road network and fails to establish a clear indication of need and satisfactory access arrangements.
267. It is also considered that the proposal is contrary to paragraphs 6.279 & 6.280 of the SPPS as it has not been demonstrated that the development will not have an adverse impact on the vitality and viability of existing retail centres in the Council area or that suitable alternative sequentially preferable sites are not available elsewhere.
268. Furthermore the proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed development would be unduly prominent as the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the development to integrate into the landscape and the proposal would rely primarily on the use of new landscaping for integration.
269. The proposal is also contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted be unduly prominent, would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to the rural character of the countryside.
270. It is considered the proposal is contrary to the SPPS and Policy CTY15 of the 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 Moneyreagh and the surrounding countryside and also result in urban sprawl.
271. Furthermore the proposal is contrary to paragraph 4.12 of the SPPS and Policy CTY 16 of PPS 21 - Development Relying on Non Mains Sewerage in that insufficient information in respect of sewage and water quality has been provided to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.
272. In addition, the proposal is contrary to the SPPS and policy, Policy AMP 2 of Planning Policy Statement 3 - Access, Movement and Parking, in that it would, if permitted, prejudice the safety and convenience of road users since the

proposed access is located in close proximity to a road junction, namely Moneyreagh Road/Hillsborough Road where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.

273. The proposal is also contrary to the SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 in that it would not be possible within the application site to provide an access with visibility, in accordance with the standards contained in the Department's Development Control Advice Note 15.
274. Finally, the proposal is contrary to the SPPS and the consequential amendment to Policy AMP 3 of Planning Policy Statement 3 - Access, Movement and Parking, , in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Recommendations

275. It is recommended that planning permission is refused.

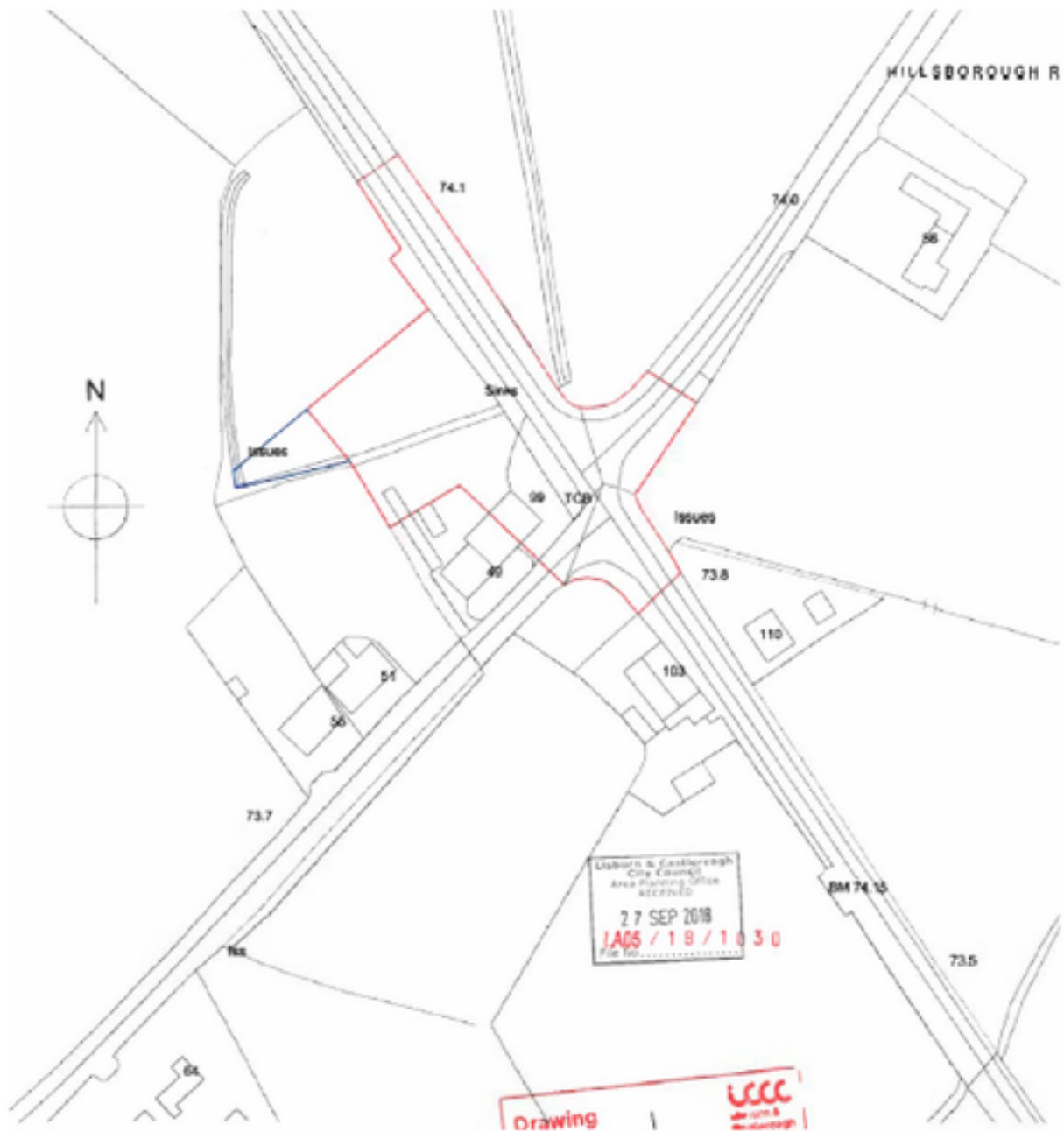
Refusal Reasons

276. The following refusal reasons are recommended:
1. 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.
 2. The proposal is contrary to paragraphs 6.279 & 6.280 of the SPPS as it has not been demonstrated that the proposal will not have an adverse impact on the vitality and viability of existing retail centres within the local area or that suitable alternative sites are not available.
 3. The proposed development is contrary to the SPPS and Policy IC 15 of the 'Planning Strategy for Rural Northern Ireland' in that the proposal is not located on the trunk road network and fails to establish a clear indication of need and satisfactory access arrangements.
 4. The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed development would be unduly prominent and the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the development to integrate into the landscape

and the proposal would rely primarily on the use of new landscaping for integration.

5. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted be unduly prominent, would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to the rural character of the countryside.
6. The proposal is contrary to the SPPS and Policy CTY15 of the 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 Moneyreagh and the surrounding countryside and also result in urban sprawl.
7. The proposal is contrary to paragraph 4.12 of the SPPS and Planning Policy Statement 16, Development Relying on Non Mains Sewerage in that insufficient information in respect of sewage and water quality has been provided to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.
8. The proposal is contrary to the SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction, namely Moneyreagh Road/Hillsborough Road where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
9. The proposal is contrary to the SPPS and Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 in that it would not be possible within the application site to provide an access with visibility, in accordance with the standards contained in the Department's Development Control Advice Note 15.
10. The proposal is contrary to the SPPS and the consequential amendment to policy AMP 3 of Planning Policy Statement 3 - Access, Movement and Parking, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Site Location Plan – LA05/2018/1030/F



Lisburn & Castlereagh City Council

Planning Committee Report	
Date of Committee Meeting	13 June 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2018/0862/F
Date of Application	15 August 2018
District Electoral Area	Downshire East
Proposal Description	Proposed infill site for 2 dwellings with detached garages
Location	Between 26 & 30 Magheraconluce Road, Hillsborough
Representations	Eleven
Recommendation	APPROVAL

Background

1. A recommendation to approve planning permission was previously presented to the Committee in September 2021.
2. The Committee, having considered the information provided within the Report of Officers, and by those making representations, agreed by a unanimous vote to approve the application as outlined in the report and subject to the conditions stated therein.
3. The decision in relation to the application issued on 09 September 2021.
4. A Pre-Action Protocol Letter ("PAPL") from a Mr. G. Duff indicating an intention to challenging the decision of the Council was received on 30 September 2021. An Order 53 Statement issued out of the High Court and grounding affidavit seeking leave to apply to judicially review the decision of the Council to grant planning permission was received on 01 October 2021 from Mr. Duff.
5. The said PAPL, Order 53 Statement, grounding affidavit, and documents exhibited thereto are within the documents to be considered by the members and have been uploaded to the Planning Portal.

6. There were a number of grounds of challenge outlined in the papers. One of which related to the Planning Advice Note on the Implementation of Regional Policy for Development in the Countryside, issued on the 2nd August 2021.
7. The decision of the Council was subsequently quashed by Scoffield J. on the application of the Chief Executive of the Council on the grounds that no weight was given to the PAN, which was a material consideration at that time.
8. When quashing the previous permission, on the Council's application, Scoffield J stated as follows in his judgment ([2022] NIQB 10) at paragraph 9:

The Council has also indicated that, in the course of its reconsideration, it will take into account the points which have been raised by [name redacted] in his pre-action correspondence and/or in any proceedings he has issued challenging the permission and treat those as points which have been made by [name redacted] as an objector in the course of the planning process.

9. The issues raised in Mr. Duff's PAPL and proceedings have been considered as part of the assessment of this application.
10. As Members will be aware, the Planning Advice Note issued on 2nd August 2021 was subsequently withdrawn by the Department on 15 October 2021 and as such, is not required to be considered.

Summary of Recommendation

11. The application is presented to the Planning Committee with a recommendation to approve as the proposal is considered to comply with the SPPS, Policy CTY 1 and Policy CTY 8 of PPS 21 in that there is a gap within an otherwise substantial and continuously built up frontage that can accommodate two dwellings with associated garages.
12. In addition, it is considered that the proposal will also comply with the SPPS and Policy CTY 13 and 14 of PPS 21 in that the development can be visually integrated into the surrounding landscape and it will not cause detrimental change to or further erode the rural character of the area.

Description of Site and Surroundings

Site

13. The site is located to the western side of the Magheraconluce Road, Hillsborough and is a rectangular plot cut out of a larger agricultural field.
14. The land rises quite steeply towards the west and is bound by hedging to the north and east, post and wire fencing to the south. The remaining boundary to the west is undefined.
15. The site is situated between 26 and 30 Magheraconluce Road. The property at 26 is a single storey dwelling with a detached garage and 30 is a single storey dwelling with integral garage.

Surroundings

16. The surrounding area is rural in character and the lands are mainly in agricultural use. There is evidence of a build-up of residential development along the road frontage with the majority of the surrounding dwellings either side of the site and in the immediate surrounding area all being single storey.

Proposed Development

17. This is a full application for proposed infill site for two dwellings with detached garages.
18. A design and Access statement is submitted in support of the application.

Relevant Planning History

19. The planning history associated with this site is set out in the table below:

Application Reference	Site Address	Proposal	Decision
S/1987/1178	Adjacent to 30 Magheraconluce Road	Dwelling	Application Withdrawn
S/1988/1456	Adjacent to 30 Magheraconluce Road	Dwelling and garage	Application Withdrawn

Application Reference	Site Address	Proposal	Decision
LA05/2016/1080/O	Between 26 and 30 Magheraconluce Road	Proposed site for 2 infill dwelling under PPS 21	Permission Granted 08/03/2017

20. As demonstrated above, the principle of an infill dwelling at this location was conceded with the granting of planning permission within the context of planning application LA05/2016/1080/O.
21. This decision was not subject to any judicial review proceedings and the time for challenge is expired.
22. The period for submission of an application for approval of reserved matters is also time expired. If a full application was submitted, complying with all planning conditions before March 2020, significant weight would be attached to the outline permission.
23. In this case, the only condition not complied with [when first submitted] was the ridge height restriction.
24. As the principle of two dwellings is previously conceded and that there was an extant planning permission at the time of submission, significant weight is attached to the planning history.

Consultations

25. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
Environmental Health	No Objection
Water Management Unit	Refers to standing advice
NI Water	No Objection
Historic Environment Division	No Objection

Representations

26. Representations have been received from the occupiers of the following properties

Date Neighbour Comment Received	Address
02/09/2018	31 Magheraconluce Road, Growell, Hillsborough, Down BT25 1EE
05/09/2018	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
06/09/2018	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
29/11/2018	26 Magheraconluce Road, Growell, Hillsborough, Down BT25 1EE
04/12/2018	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
05/12/2018	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
27/06/2019	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
28/06/2019	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
28/06/2019	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
05/02/2021	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
05/05/2021	30, Magheraconluce Road, Dromore, Down, Northern Ireland, BT25 1EE
31/08/2021	73 Palmerston Road, Belfast, BT4 1QD

27. These representations are available to view on the Planning Portal via the following link

<https://epicpublic.planningni.gov.uk/publicaccess/applicationDetails.do?activeTab=externalDocuments&keyVal=PD18JESV30000>

28. The issues raised in these representations have been considered as part of the assessment of this application.
29. In summary, the issues raised in those representations were as follows:

- Planning permission was refused previously
 - The proposal is not an infill
 - Precedence
 - Previous ridge height restriction
 - Prominence
 - Traffic impact and road safety
 - Consultation on the application
 - Accuracy of the plans
 - Land ownership issues and implementation
30. As noted above, the issues raised in the PAPL and proceedings have also been considered. In summary, the challenge associated with the PAPL and proceedings was based on the following grounds;
- (i) Immaterial Considerations
 - (ii) Material Considerations
 - (iii) Planning Policy
 - (iv) Breach of Statutory duty/requirements
 - (v) Irrationality
31. The issues raised in the PAPL, Order 53 Statement and Affidavit are engaged with and considered in this redetermination. Extracts from relevant sections are included with the report for Members consideration.

Planning Policy Context

Relevant Policy and Guidance Documents

32. The relevant policy documents are:
- The Lisburn Area Plan
 - The draft Belfast Metropolitan Plan 2015
 - The Strategic Planning Policy Statement (SPPS), published in September 2015,
 - Planning Policy Statement 21 – Sustainable Development in the Countryside
 - Planning Policy Statement 2 – Natural Heritage
 - Planning Policy Statement 3 – Access, Movement and Parking
 - Planning Policy Statement 6 – Archaeology and Built Heritage
 - Planning Policy Statement 15 – Planning and Flood Risk
33. The relevant guidance is:
- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
 - Development Control Advice Note 15 – Vehicular Access Standards

Local Development Plan Context

34. 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.
35. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
36. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
37. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit.
38. The application site is within a buffer zone surrounding an archaeological site and monument – DOW021:025 (Enclosure).
39. Page 49 of the Lisburn Area Plan 2001 states

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

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

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

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

Regional Policy Context

41. The SPPS states that,

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

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

44. 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.

45. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

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

47. By way of example, it explains that

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

48. It also states

that the planning system can also positively contribute to improving air quality and minimising its harmful impacts.

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

50. Paragraph 4.12 of the SPPS states:

that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations,

impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.

51. It also advises:

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

52. 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. Paragraph 6.78 of the SPPS outlines that supplementary planning guidance contained within Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside must be taken into account in assessing all development proposals in the countryside.

Sustainable Development in the Countryside

54. 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.
55. Policy CTY 1 –states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy states:

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

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

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

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

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

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

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

58. 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.

59. A building is defined in statute to include a structure or erection, and any part of a building as so defined; see section 250 of the Planning Act (Northern Ireland) 2011 which states:

a building includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.

60. Regard is also had to the following paragraphs of the justification and amplification of CTY 8 that state:

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:

61. Whilst not policy, and a guidance document, the SPPS states that regard must be had to this 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.*
62. The guidance also suggests:
- a. *It is not acceptable to extend the extremities of a ribbon by creating new sites at each end.*
 - b. *Where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill.*
 - c. *When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.*
 - d. *Some ribbon development does not have a consistent building set back. Where this occurs the creation of a new site in the front garden of an existing property is not acceptable under CTY 8 if this extends the extremities of the ribbon.*

- e. *A gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.*
63. It also notes at the following paragraphs that:
- 4.5.0 *There will also be some circumstance where it may not be considered appropriate under the policy to fill these gap sites as they are judged to offer an important visual break in the developed appearance of the local area.*
- 4.5.1 *As a general rule of thumb, gap sites within a continuous built up frontage, exceeding the local average plot width may be considered to constitute an important visual break. Sites may also be considered to constitute an important visual break depending on local circumstances. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings.*
64. In the assessment below, 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.
65. 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
66. Policy CTY 13 – Integration and Design of Buildings in the Countryside states:
- that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*
- The policy directs that a new building will be unacceptable where:*
- (a) *it is a prominent feature in the landscape; or*
 - (b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
 - (c) *it relies primarily on the use of new landscaping for integration; or*
 - (d) *ancillary works do not integrate with their surroundings; or*
 - (e) *the design of the building is inappropriate for the site and its locality; or*
 - (f) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*

- (g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

67. 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.

68. 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.*

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

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

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

70. 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.

71. 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.

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

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

Natural Heritage

73. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
74. Policy NH 1 – European and Ramsar Sites states:

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

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

75. The policy directs that:

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

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

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

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

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

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

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

77. The policy directs that:

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

PPS 3 - Access, Movement and Parking

78. 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.

79. 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.*

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

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

Development Control Advice Note 15 – Vehicular Access Standards

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.

Archaeology and Built Heritage

82. PPS 6 – Planning, Archaeology and the Built Heritage makes provision for the protection of our archaeology and built heritage.
83. Policy BH 2 - The Protection of Archaeological Remains of Local Importance and their Setting states:

that development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question.

Planning and Flood Risk

84. 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.
85. Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains states:

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

86. Policy FLD 2 - Protection of Flood Defence and Drainage Infrastructure states:

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

87. 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.*

88. It also states:

that 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 flood plain, then Policy FLD 1 will take precedence.

89. Policy FLD 4 Artificial Modification of Watercourses states that

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

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

90. Policy FLD 5 Development in Proximity to Reservoirs states

New development New development will only be permitted within the potential flood inundation area of a "controlled reservoir"¹⁴ as shown on the Strategic Flood Map, if:

the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient

- *assurance regarding reservoir safety, so as to enable the development to proceed;*
- *the application is accompanied by a Flood Risk Assessment which demonstrates:*
 1. *an assessment of the downstream flood risk in the event of: - a controlled release of water - an uncontrolled release of water due to reservoir failure - a change in flow paths as a result of the proposed development and*
 2. *that there are suitable measures to manage and mitigate the identified flood risk, including details of emergency evacuation procedures*

A proposal for the replacement of an existing building within the potential flood inundation area downstream of a controlled reservoir must be accompanied by a Flood Risk Assessment. Planning permission will be granted provided it is demonstrated that there is no material increase in the flood risk to the development or elsewhere.

There will be a presumption against development within the potential flood inundation area for proposals that include:

- *essential infrastructure;*
- *storage of hazardous substances;*
- *bespoke accommodation for vulnerable groups; and for any development located in areas where the Flood Risk Assessment indicates potential for an unacceptable combination of depth and velocity.*

Assessment

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

Ribbon Development

92. The first step of the policy test is to demonstrate that **an otherwise substantial and continuously built up frontage** exists. As mentioned, a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
93. The assessment that follows outlines those buildings that are considered to form part of the frontage. As explained above, for the purpose of the policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along the road frontage without accompanying development to the rear.
94. In consideration of these points, a building is defined in statute to include a structure or erection, and any part of a building as so defined at paragraph 59 of this report. The policy does not specify what type or size of building is to be considered as part of the substantial and continuously built up frontage.
95. Some assistance is however provided in the two worked examples set out at the left hand side of page 71 of the Building on Tradition document. The sketch drawings show buildings of different size of footprint within the same curtilage as having frontage to the public road and being counted towards the assessment of whether the land between is a gap that accommodate up to two dwellings consistent with the established pattern of development.
96. The application site lies between properties 26 and 30 Magheraconluce Road and it is the buildings in these two plots that are considered to make up the substantial and closely built up frontage – See **Annex A**.
97. The property at 26 Magheraconluce Road is comprised of two buildings which are a dwelling and a separate detached garage – See **Annex B**. Whilst there is only approximately two metres separation between these two buildings, the garage can be distinguished as a separate building in the landscape along the road frontage as it is stepped back slightly from the elevation of the dwelling, part of the roof is flat and recessed which means that the principal elevation (the gable of the garage) reads as a separate distinguishable building in its own right within the plot.
98. The property at 30 Magheraconluce Road has only one building which is comprised of a detached dwelling and integrated garage – See **Annex C**.
99. The first part of the of the policy is engaged and there is line of three buildings is comprised of the two dwellings and the detached garage all which have a frontage to the Magheraconluce Road as described above and when observed

standing at the middle of the site looking west towards 26 Magheraconluce Road and east towards 30 Magheraconluce Road.

100. This is consistent with assessment in the previous outline application in which it was accepted that the site lay within an otherwise substantial and continuously built up frontage comprised of the same three buildings with a frontage to the road without any accompanying development to the rear. The assessment was not challenged and a relevant material consideration for the reasons detailed earlier in this report.
101. The second step of the policy test is to demonstrate if a **small gap site sufficient only to accommodate up to a maximum of two houses** exists.
102. The application site frontage is approximately 90 metres wide (measured from the gable of the garage of 26 Magheraconluce Road to the gable of the dwellings at 30 Magheraconluce Road). The adjoining plot widths either side are measured as approximately 48 metres and 65 metres. The average plot width is 56.6 metres and the two sites at 45 metres are considered broadly in keeping with the other two plots making up the substantial and continuously built up frontage and are consistent with the established pattern of development by reason of the width of the frontage that they occupy. The site is a small gap big enough to accommodate a maximum of two dwellings.
103. Consistent with the advice detailed at paragraph 4.5.1 of the Building on Tradition document the size of the gap in the Magheraconluce Road frontage does not exceed the average plot frontage of 56.5 metres. There are no local feature recorded or observed to indicate the gap frames a viewpoint or provides an important setting for the amenity and character of the existing dwellings. The site is not comprised of a woodland or other feature that means the site is an important visual break in the developed appearance of the landscape at this location.
104. Guidance in Building on Tradition does state at paragraph 4.5.0 that it **may** [my emphasis] not be appropriate to fill gaps with development that are important visual break. This is not one of these gaps for the reasons set out in the preceding paragraph.
105. Integration and Design considerations judged from critical viewpoints are considered later in the report where it is demonstrated how the development is sited and designed to respect the existing contours and pattern of development along this section of the Magheraconluce Road consistent with guidance outlined at paragraph 4.2.1 of Building on Tradition.
106. For the reasons outlined above, the development comprises the development of a small gap within an otherwise substantial and continuously built up frontage and as such, the exceptions test applies.
107. The final step of the policy test is to demonstrate that the proposed development **respects the existing development pattern along the frontage in terms of size, scale, siting and plot size.**

108. In terms of plot sizes, an amended site layout plan demonstrates a layout consistent with an earlier outline approval [LA05/2016/1080/F] whereby the plot sizes are broadly comparable with adjacent sites.
109. The plot sizes associated with number 26 Magherconluce Road and 30 Magherconluce Road are approximately 3264 metres squared and 2762 metres squared respectively.
110. The application site is approximately 4888 metres squared which indicates an average plot size of 2444 metres squared. Whilst slightly smaller in size they are not significantly different in terms of frontage width and depth and the general layout and arrangement of the buildings is broadly consistent with the established pattern of development. The buildings are sited roughly at the same level of elevation as the existing buildings on this side of the Magheraconluce Road and the building line is respected.
111. The form, size and scale of the proposed buildings and how they are arranged in each plot is also consistent with the built form locally. The pattern of development is also respected in terms of the detailed layout, design, finishes and arrangements of the buildings.

Integration and Design of Buildings in the Countryside

112. Turning then to policy CTY13 it is recognised that the site levels rise steeply from the road to the rear of the site. There is also a difference in height from of approximately 12 metres.
113. That said, amended plans received during the processing of the application demonstrate better how the proposed development makes the best use of the site and how it minimises the amount of cut and fill to allow the proposed dwellings to respect the existing contours and pattern of development along this section of the Magheraconluce Road consistent with guidance outlined at paragraph 4.2.1 of Building on Tradition which encourages applicants to work with the landscape avoiding prominent and elevated locations and retaining as many hedgerows, trees and stone walls as possible.
114. In this case and having regard to the guidance the single storey dwellings are positioned to be in line with the adjacent dwellings and should blend unobtrusively into the landscape. The rising land to the rear provides enclosure and a backdrop.
115. The design is considered to be simple in nature with small front and rear porch element and a side projection. The windows are vertical in emphasis and the chimneys are on the ridge. There is an appropriate solid to void ratio.
116. The proposed external material finishes are as follows: Roof to be blue/black flat profile concrete tiles/natural slate; the walls are to be grey render and dark grey natural stone to the front porch and side projection; windows to be white

upvc double glazed; fascia and bargeboard to be white upvc and rainwater goods to be black aluminium.

117. These finishes are considered to be acceptable for the site and location and will not impact on the overall character of the area.
118. A two metre high retaining wall comprised of buff interlocking block will extend along the back of each site with the bank sloped beyond at a gradient 1:2.
119. A double garage is also proposed to each site positioned to the rear corner. It measures 8.1 metres by 6.6 metres and has a proposed ridge height of 5.5 metres above the finished floor level. The material finishes are to match that of the dwelling houses and are considered acceptable.
120. It is considered that the design of the proposed dwellings and their orientation within the site adhere to the principles outlined in Building on Tradition and that they are acceptable for the site and its location.
121. Retaining existing vegetation as shown in the application and the proposed landscaping will also help aid the proposal's integration without reliance on new landscaping for integration purposes.
122. For the reasons outlined, the proposal complies with the requirements of policy CTY 13.

Rural Character

123. In terms of policy CTY 14 the proposed development is considered to meet the exception test set out in policy CTY 8 for the reasons outlined above and as such it is considered that it would not create or add to a ribbon of development or create a sub-urban style of build-up.
124. Given the single storey nature of the buildings and the existing vegetation the proposal would not be prominent in the landscape and that the ancillary works associated with the access arrangements which involve construction of a double access point from the Magheraconluce Road positioned towards the northern end of the frontage of the site and entrance pillars of simple design with a render finish to match the proposed dwellings would not damage rural character.
125. It is considered that the proposal meets the requirements of policy CTY 14 and would not have a detrimental impact on the rural character of the area.

Development Relying on Non-Mains Sewerage

126. Detail submitted with the application indicates that surface water will be disposed of via soakaways and that foul sewage will be disposed of via septic tank both of which are located to the front of the site.

127. Both Environmental Health and NI Water have considered the detail of the application and offer no objections.
128. Based on an assessment of the detail and the advice received, it is considered that the applicant has demonstrated that the proposal will not create or add to a pollution problem.

Access, Movement and Parking

129. Detail associated with the application indicates that access arrangements for the development will involve construction of a double access point from the Magheraconluce Road positioned towards the northern end of the frontage of the site. Entrance pillars are simple in design with a render finish to match the proposed dwellings.
130. DfI Roads had initially raised concerns that forward sight distances had not been indicated on the plan and that a proper ordnance survey of the road specifically in the vertical plane was required to demonstrate that all visibility lines could be achieved. A clear fully dimensioned engineering drawing showing the access, driveways and parking details along with access width dimensions was also required.
131. A number of amendments were submitted during the processing of the application. Plans received in April 2021 included the relocation of the access points and provision of visibility splays of 2.4 metres by 87 metres to the southern side and 3.4 metres by 90 metres to the northern side are now proposed.
132. DfI Roads having assessed the detail of the most recent amendments confirmed in a response dated 14 June 2021 that they have no objection to the amended proposal or plans subject to standard conditions aimed at ensuring that there is a satisfactory means of access in the interest of road safety and the convenience of road users.
133. Based on a review of the detail and advice from DfI Roads, it is considered that the application is in accordance with the requirements of policy AMP 2 of PPS3 and that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

Natural Heritage

134. There are no works on site that would lead to concerns over the impact of the proposal on any natural heritage and a biodiversity check list was not considered necessary.
135. To accommodate the proposal a small amount of vegetation needs to be removed to provide for a safe access and visibility to the northern side of the site. The existing verge planting to the southern side of the site is to be

reduced in level as necessary to provide sight line and forward distance sightline as shown on related drawing.

136. Additional planting is also proposed to all undefined boundaries to include structure planting, shrub planting, new hedgerows, grass seeding in accordance with the landscape specification notes.
137. It is considered that the proposal would not have a negative impact on any natural heritage and complies with policy NH 5 of PPS 2.

Archaeology and Built Heritage

138. As explained above, the application site is within a buffer zone surrounding an archaeological site and monument – DOW021:025 (Enclosure).
139. Historic Environment Division have been consulted and advice received confirms that on the basis of the information provided is content that the proposal does not impact on an archaeological remains in or adjacent to the site and the requirements of the SPPS and PPS 6 are met.
140. It is considered that the proposal would not have a negative impact on any archaeology or built heritage. No conditions were recommended.

Planning and Flood Risk

141. From the site inspection it can be seen that there are no watercourses within or adjacent to the application site. A review of the Rivers Agency flood maps also confirms that the application site is not located within a flood plain or near a watercourse.
142. The submission of a drainage assessment is not required for this proposal.
143. It is therefore considered that the proposal would not cause any concerns with regards to flooding and it is considered that it complies with policies FLD1 and 4 of PPS 15.

Consideration of Representations

144. The issues raised by way of third party representation as part of the planning application process are considered below:
145. The view is expressed that the planning permission was previously refused in 1987/88. As demonstrated in the main body of this report, the planning history is an important material consideration in the assessment of this application.

146. An outline approval issued in 2017 accepted the principle of two infill dwellings at this location. The policy context is not changed and the application is assessed on its merits and is found to be acceptable.
147. With regard to the view expressed that the proposed site is not an infill opportunity, the assessment above demonstrates how the application complies with key policy tests set out in PPS 21 and how the siting and design is consistent with guidance set out in Building on Tradition so as to respect the pattern of development in this rural area.
148. With regard to the concern expressed that the proposal could set a precedent for more development under policy CTY 8 it is important to note that each application is required to be assessed on its own merits taking into account the site context and surroundings. In this case and for the reasons outlined above, the application site is considered to represent a small gap within an otherwise substantial and continuously built up frontage.
149. The view is expressed that the surrounding dwellings are all single storey and the applicant is proposing a split level dwelling which is not in keeping with the previously approved ridge height.
150. Whilst it is acknowledged that the outline permission approved has a ridge height restriction of 6.0 metres above the finished floor level, the design of the proposed dwellings have been amended as part of the application process taking into account the topography of the site as advised in guidance.
151. The proposed dwellings are single storey and have a proposed ridge height of 6.4 metres above the finished floor level. The design of the proposal is considered to be acceptable for the site and its location.
152. Concern is raised in relation to prominence. As explained above, the design of the proposal has been amended. Given that the proposal will have a ridge height of 6.4 metres, and existing vegetation is to be retained with additional planting proposed, it is considered that the amended scheme would not be prominent in the landscape.
153. Concerns are raised about traffic impact and road safety with the view expressed that the required visibility splays cannot be achieved and that a fully dimensioned engineering drawing clearly showing visibility splays and forward sight lines properly dimensioned and accurate has not been provided as it is clearly obvious that these are unattainable.
154. Concerns are also expressed that two more dwellings would be added to a very dangerous stretch of road and about the possible accident potential.
155. As explained above, the scheme has been amended during the processing of the application and the concerns raised by DfI Roads initially have now been addressed and DfI Roads offer no objection to the latest plans.

156. The view is expressed that the consultation dates are excessively short. The dates provided in initial notification letters and advertising consistent with legislative requirements. That said, representation can be made to a planning application up until a decision is has been issued by the Council.
157. The view is expressed that the site location plan outlined in red (13.6.19) varies greatly from that originally submitted to council (16.8.18) and appears to include land not currently owned by the applicant.
158. The red line of an application can be extended for access purposes as was the case in this instance. Planning permission does not confer title and land ownership is a legal matter.
159. The onus is on the applicant/developer to ensure that he has ownership/control of all lands necessary to implement a planning approval. If a planning approval has not been implemented in accordance with the approved plans, the Councils enforcement team can take action if/when required.
160. The issues raised by Mr. Duff as part of the Judicial Review process are considered below:

Immaterial considerations

161. Section 5(i) of the Order 53 Statement states that:

The applicant contends that the impugned decision is vitiated by the proposed Respondent having taken into account the following inaccurate or immaterial facts/considerations:

- (a) *That the domestic garage at number 26 Magheraconluce Road is a substantial building that contributes to a substantial built up frontage.*
- (b) *That there is a 'continuously built up frontage.*
- (c) *That the proposal is considered to comply with the SPPS and policy CTY 1 and CTY 8 of PPS21 in that there is a gap within an otherwise substantial and continuously built up frontage that can accommodate two dwelling and associated garages. This is an incorrect policy test as policy uses the word gap site not gap. Building on tradition identifies that gaps are not gaps sites if the gap is a visual break. The gap is therefore immaterial.*
- (d) *That the planning history of a prior application LA05/2016/1080/O is relevant and means significant weight is attached to it when considering the impugned decision. This prior application was on a different site, on a smaller site that did not trigger an EIA determination, was potentially biased, was considerably flawed and has lapsed so granting it is an immaterial consideration.*

- (e) *There is no conflict between the SPPS and the retained policy – the SPPS is worded differently and represents a clarification of CTY8 especially by the SPPS removing the word exception which is used in CTY8. The exception is nearly always misinterpreted to mean that ribbon development can be added to or created if there is deemed to be a small enough gap in a substantial and continuously built up frontage. The SPPS brings in outright prohibition to adding to or creating ribbon development and this is an essential clarification which means that a qualifying gap site is limited to the rarer occasions where the gap with a substantial and continuously built up frontage can be infilled without registering as adding to or creating ribbon development.*
- (f) *That the Planning Advice Note published by the Department of Infrastructure on the 02 August provides little by way of assistance to the consideration of the principle of development.*
- (g) *Two houses would be acceptable and would respect the existing pattern of development.*

162. The assessment sets out in paragraphs 92 to 125 how the detail of these points of objection were considered.

163. The domestic garage is counted as a separate building and the frontage is substantially and continuously built up for the reasons outlined above. The question of the gap site and whether it represents a visual break is fully and properly considered.

Material considerations

164. Section 5(ii) of the Order 53 Statement states that

the applicant further contends that the impugned decision is vitiated by the proposed Respondent having failed to take into account the following material facts/considerations:

- (a) *That the infill opportunity is not on a gap site as defined by policy.*
- (b) *There is not substantial and continuously built up frontage at this location.*
- (c) *This infill will add to or alternatively create a ribbon development containing four houses and three garages.*
- (d) *That the planning permission granted will allow suburban build-up.*
- (e) *That the new development will not integrate well into this rural location and will erode the rural Character.*
- (f) *That the proposed Respondent's decision does not respect the essential guidance within Building on Tradition.*

- (g) *That failure to take Building on Tradition properly into account is a breach of the SPPS.*
- (h) *That the Planning Advice Note issued 2 August 2021 is a material consideration and should have been taken into account.*
- (i) *That the proposed Respondents draft Policy COU8 from its draft Local Development Plan is a material consideration which should have been taken into account.*
- (j) *That an Environmental Impact Assessment determination was required to be carried out.*
- (k) *That this is an application on a different site from the prior application LA05/2016/1080/F.*
- (l) *That prior application LA05/2016/1080/F was potentially biased and should not be given material weight.*

Planning Policy

165. Section 5(iii) of the Order 53 Statement states that

The applicant contends that the impugned decision is in breach of Planning Policy in the following ways:-

- (a) *It is in breach CTY 1 as there is no justification for this development in the countryside.*
- (b) *The impugned decision fails to comply with the requirements for a legitimate*
- (c) *The Impugned decision fails to comply with the guidance in Building on Tradition and failure to take this guidance into account is in breach of the Policy directions within the SPPS.*
- (d) *The impugned decision allows the creation of or addition to a ribbon of development and this is prohibited by CTY 8, CTY 14 and the SPPS.*
- (e) *The impugned decision allows suburban build up contrary to CTY 14.*
- (f) *The impugned decision allows a development which will not integrate well into the countryside and is thus in breach of CTY 13.*
- (g) *That the proposed Respondent did not adequately investigate if the site represented a visual gap.*
- (h) *That the proposed Respondent did not adequately investigate if the domestic garage relied on a 'building' was substantial enough a building or qualifying building to comply with CTY 8.*

166. Paragraph 6 (a) – (n), of the GD1 PAPL [The errors in the Impugned Decision] states that

- (a) *The impugned decision does not represent a genuine infill opportunity.*

- (b) *The site is not a small gap in a substantial and continuously built up frontage.*
- (c) *The proposed Respondent did not properly assess in its report (par 43) how the application site represented a small gap in a substantial and continuously built up frontage.*
- (d) *The proposed Respondent erred by attaching significant weight to a previously flawed and lapsed planning permission. This previous application is flawed because it makes significant errors in interpreting planning policy and it is also a potentially biased approval as it the planning applicant was Edwin Poots and the approval was granted by a DUP dominated planning committee on the 6th March 2017. This combination means that any new application must stand on its own merit.*
- (e) *The planning applicant, Glebe Homes Ltd would normally have been to expected to submit a Reserved Matters application and once submitted it would have gained protection under Section 62(2)(b)(ii) of the Planning Act (Northern Ireland) 2011. The Planning Applicant did not do that and unfortunately for the planning applicant its prior planning permission lapsed and it is too late to now apply for reserved matters pursuant to that.*

The planning applicant possibly submitted the new planning application rather than a reserved matters application because it applied with a considerably extended site bringing the site area from .39 hectares in the previous approval up to .53 hectares in the current approval. As this application is on an extended site it is a new application entirely and now, little if any material weight can result from a different previous application.

- (f) *This new application now has a site area which is in excess of .5 Ha and thus triggers an EIA determination but under 10(b) of the second schedule of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. This EIA category of urban development applies to housing development regardless of whether it is located within a settlement or the countryside. The proposed Respondent failed to carry that out and this means the impugned decision is unlawful.*
- (g) *The impugned decision does not remotely comply with the essential guidance in Building on Tradition (BOT) and it is illogical to argue that it has been taken into account as is required by the SPPS.*
- (h) *There is a physical barrier between numbers 26 and 30 Magheraconluce Road because of the terrain and the dense hedge at number 30. Neither house can view the other from within their curtilage. The High hedgerow along the roadside of the approved site means that it is extremely difficult to view the two houses together from any point on the road apart from one very small gap in the foliage when viewed from in front of Nos 30. This physical gap is a break in the frontage which means that there cannot be a substantial and "continuously" built up frontage at this location.*

- (i) *There is a visual break between and around each of numbers 26 and 30 Magheraconluce Road as the rural landscape provides the essential setting for these individual rural homes. According to CTY8 and BOT visual breaks should not be infilled.*
- (j) *The visual break also means the frontage is not a substantial and "continuously" built up frontage.*
- (k) *There is no definition of buildings in CTY8. A frontage cannot however not be a substantially built up frontage if comprised of unsubstantial buildings. An ancillary garage is not a substantial building. Three domestic garages along a road frontage would not read as a substantial frontage. The two large approved houses also have large 25ft wide garages and these 4 buildings nearly fill the gap with little amenity space between them. This is overdevelopment of the sites in comparison to the existing sites and in any event would dwarf the domestic garage at number 26 which the proposed Respondent wrongly regards as a qualifying building.*

CTY8 requires the development in any gap site to respect the existing development pattern in terms of size, scale, siting and plot size. If the domestic garage is regarded as a building in its own right this policy requirement will be impossible in relation to the new development respecting and reflecting the dimensions of a garage.

Ancillary buildings such as garages are ignored in the examples in BOT. The examples are between plots and a gap site is between plots which include a principle building and can include a shed or a garage as well. Likewise a two house infill allows ancillary garages and is not regarded as invalidated by being classed a 4 building infill.

It is also very clear from BOT that a gap site in a substantial and continuously built up frontage is located between a minimum of three plots each with their own frontage. The domestic garage at 26 Magheraconluce Road does not have its own curtilage or frontage.

CTY8 requires the plot size along the frontage to be taken into account but not the plot size of the houses on the other side of the road. The proposed Respondent has erred in considering 4 plot sizes two of which are on the other side of the road. The only two plots which can be taken into account are those of 26 and 30 which the proposed Respondent records as 48 and 65 metres respectively. In this assessment the domestic garage within the grounds of Nos 26 has not been allocated a portion of this frontage and clearly is an irrelevant ancillary building sitting in the same plot as number 26.

The Policy doesn't directly define "buildings" but all the extrinsic evidence is that the domestic garage at number 26 is not a qualifying building for the purposes of CTY8.

- (l) *The SPPS is different and condenses infill development into a compact essential form and doesn't mention any exception, or number of buildings or respecting the existing frontage.*

At 6.73 it simply states- "provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. Planning permission will be refused for a building which creates or adds to a ribbon of development". (A ribbon of development is defined in CTY8).

At 6.77 it also states- " In all circumstances proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, must not have an adverse impact on the rural character of the area, and meet other planning and environmental conditions...."

The proposed Respondent has erred because the impugned decision will absolutely destroy the rural character of this area. An agricultural field with beautiful substantial hedgerow will be suburbanised and create a line of 4 detached houses in a row. Because of the 12m rise in the elevation of the site from the road level the developed sites would be very prominent in the landscape.

The words in the SPPS must be given their normal straightforward meaning and therefore common sense must prevail and the opinion of a reasonable man is sufficient to decide whether the rural character is adversely affected and whether four detached houses in a row is regarded as adding to or creating a ribbon of development.

- (m) *The Impugned Decision is in breach of Policies CTY1, CTY8, CTY13, CTY14 and the SPPS*
- (n) *The proposed Respondent in par 37 and 38 errs in its appraisal of the Planning Advice Note issued by the DfI on the 2nd August 2021 and errs because it attached no weight to it particularly as was very necessary to consider what it advised in relation to buildings and not adding to ribbon development.*

167. Paragraph 23 of the GD1 Affidavit states

*I also exhibit 2 sketch plans of elevations and internal layouts of the house and garage in my **GD1 Tab6**. I note the internal area of the garage shown is 450sq ft. Given that there appears to be some 1st floor usable accommodation as well, this approved house is very substantial in size and does not at all reflect the 3 buildings between which it sits especially as one of those regard as a building is an ancillary building.*

I believe this is why the PAN regards a domestic garage to be ignored in terms of this policy. It is not to be dismissed on the basis of it being a building but must be dismissed because a domestic garage is an unsubstantial building which will fail the policy test of harmonising the scale of the existing buildings with the new development.

168. Paragraph 24 of the GD1 Affidavit states

I exhibit a Google Earth satellite photo and two Google Maps screenshots as my GD1 Tab7. All are dated 2021 and all relate to the approved site. The satellite photo confirms that Nos. 26 and 30 Magheraconluce Road are individual rural dwellings surrounded on either side by rural countryside and separated by a 100 metre gap between them. In the circumstance, each house sites within a protected visual setting and there is also visual break between them. Neither house has views of the other from within their own curtilage. These houses are obviously not part of a continuously built up frontage. There is no gap site between these two houses.

The first screenshot shows the view from number 26 looking towards number 30 and the one which the driver will see when travelling east. The curve in the road, the rising topography and vegetation result in no awareness of another house at number 30, 100m away. The second screenshot is from number 30 looking towards number 26 and shows the rural scene including the dense roadside vegetation much of which will be lost if the impugned decision goes ahead. It also shows a slight glimpse of the rooftops of number 26 but I believe that this glimpse falls far short of proving a substantial and continuously built up frontage.

169. Paragraph 25 of the GD1 Affidavit states

I note the rising topography of the roadside hedge to provide sightlines will leave the proposed new houses elevated and highly prominent. This will read as sub-urban build-up and destruction of rural character and fail both CTY 13 and CTY 14 and also the SPPS.

170. The assessment sets out in paragraphs 91 – 125 demonstrates how the detail submitted in support of the application was considered by officers and how the policy and guidance associated with this form of development was taken into account of. The buildings comprising the frontage are identified and described.

171. The countryside is not static and a sequential awareness of a build-up of development along a frontage is evident when travelling along the Magheraconluce Road in both directions. The gap is not considered to be a visual break as described in the Building on Tradition document for the reasons specified earlier in this report. The proposal does not fall short of the required policy test and the objection relies heavily on a document that is withdrawn. The points of objection are of limited material weight and not sufficiently robust to justify a refusal of permission.

172. As explained at paragraph 42 of the report, the local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.

173. As explained in the report, the earlier decision was not challenged and as such remained a valid permission. Furthermore, there is no requirement on an applicant to submit a full application as there were conditions associated with the previous outlined permission that they did not want to comply with.

Breach of statutory duty/requirement

174. Section 5(iv) of the Order 53 Statement states that

The applicant contends that the impugned decision is vitiated by the proposed Respondents failure to comply with the following statutory duty/requirements.

To notify objectors and interested parties to the planning application of the date of any planning committee meeting at which the matter would be determined, to give these parties an opportunity to make a representation or to observe the planning committee meeting.

175. Linked to this point is paragraphs 26 and 27 of GD1 affidavit makes reference to the neighbour notification process and that Communication from the Council gave no indication of the Planning Committee meeting. Reference is also made to minutes not being available as follows:

26. *I exhibit my letter of objection in this matter dated 31 August 2021 as my **GD1 Tab 8** and the correspondence in response later the same day as my **GD1 Tab9**. The response may have been generic but it still gave me until the 14 September to respond to amended plans. This initially gave me the sense of time to deal with this matter but I now realise those were much earlier amended plans. This response gave me no indication of the imminent planning committee meeting of the 6 September at which the proposed Respondent was due to determine the matter. I would of course have asked for speaking rights but was denied these by lack of information of the matter going to the planning committee and notification of the date of the meeting.*

27. *I exhibit correspondence dated 13 September 2021 from the proposed respondent as my **GD1 Tab10**. This letter informed me that the decision had been approved. The planning report and decision notice were then available to me on the planning portal which indicated a planning committee decision. At present, I have not seen minutes of the meeting but will include these in a further affidavit in due course.*

176. Paragraph 34 and 35 of the GD1 affidavit also make reference to a failure of the Council to notify third parties of the Committee meeting date and time as follows:

34. *I have talked to Mrs Dykes who informed me that she and her husband had been objectors in this matter and I have seen numerous objections made by them on the Planning Portal. She informed me that they were not informed about the date of the planning committee meeting either and*

she thought the matter seemed to be approved in a rush because of my late objection.

35. *Given that neither the Dykes nor I were informed of the planning committee meeting and correspondence gave me until the 14 September to respond to new plans, I believe it is unlikely that the proposed Respondent panicked when I submitted my letter of objection on 31 August and expedited the planning committee meeting without informing us. This deprived us both of making our objections known to the committee and attending and observing the debate.*
177. In consideration of these points, the communication referred to [dated 31 August 2019] was a notification letter advising that amended drawings had been received. This letter provided further opportunity for third parties to make representation.
178. The Council is not required to give notice to third parties as to when an application is being presented to the Planning Committee. In accordance with its Protocol for the Operation of the Committee, the application is listed on a Schedule of Applications to be determined. This Schedule is posted to the Council website 5 days prior to the meeting. The onus is on interested parties to check the website.
179. The minutes of a Planning Committee meeting are posted to the Council website after they are ratified [the following month].

Irrationality

180. Section 5(v) of the Order 53 Statement states that

The applicant contends that the impugned decision was irrational in the Wednesbury sense in the following respects:

That the proposed Respondent has instructed its planning committee in the following terms 'the development can be visually integrated into the surrounding landscape and it will not cause detrimental change to or further erode the rural character of the area.

181. In consideration of this points, it is a matter of the courts to determine whether the conclusions reached by officers in the assessment of the application is irrational in the Wednesbury sense.
182. That said, integration is considered above at paragraphs 80 – 90 and for the reasons outlined, the detail submitted with the application demonstrates that the development can be visually integrated into the landscape and that it will not cause detrimental change of or further erode the rural character of the area.

Other matters raised

183. Paragraph 29 of the GD1 affidavit alleged that the current application relates to a different site and as such, material weight should not be given to the history. It states

I exhibit the first page of application form (P1) for the prior application LA05/2016/1080/O as my GD1 Tab12. This application was made by [Edwin Poots and was a different site from the impugned decision as it measures 0.38 hectares compared to 0.53 hectares compared with the impugned decision site. I believe this is significant as the difference in site means they are two different applications and must be treated as different applications. I believe the increase in size triggers an EIA determination which the proposed Respondent failed to carry out. Failure to carry out an EIA determination is unlawful.

184. Whilst a larger red line boundary is presented, it extends around the same portions of the fields albeit that it is increased in size to better respect the existing plot sizes within the identified frontage.
185. The application is assessed on its own merits and the policy in relation to ribbon development is not changed in the intervening period.
186. Whilst the site area exceeds 0.5 hectares [0.53], an application of this nature does not fall within any of the descriptions of development set out in Schedule 2 of the EIA regulations 2017 and as such, a formal determination is not required. An application for two dwellings is not likely to have significant environmental effects.
187. With regard to the reference made to 10(b) of the second schedule of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 this category falls under the main category heading of Infrastructure projects. The specific detail associated with category 10(b) is as follows *Urban development projects, including the construction of shopping centres and car parks.*
188. This category cannot be taken to relate to a development proposal for two dwellings in the open countryside.
189. Paragraph 30 of the GD1 Affidavit makes reference to the applicant's supporting statement. It states that
- My next exhibit **GD1 Tab13** is the planning applicant's supporting statement that accompanied the 2018 application. This supporting statement is misleading as it states that 'outline planning permission has been approved for two infill dwellings on the site'. This is not accurate because planning permission was approved on a different significantly smaller site which didn't trigger an EIA Assessment.*
190. The earlier application was considered on its own merits and it was considered that a gap in an otherwise substantial and continuously built up frontage existed. Whilst the red line boundary associated with the current application is

increased, the context on the ground is not changed in that three buildings exist along a road frontage.

191. Paragraph 31 of the GD1 Affidavit expresses the view that the planning committee was misled. It reads as follows:

I am not sure if the planning officer dealing with the application was misled by the applicant or thought that the sites were 'similar enough' but I regard the proposed Respondent has made a seriously misleading statement in its report to the planning committee that the 'principle of an infill dwelling at this location was conceded with the grant of planning permission within the context of planning application LA05/2016/1080/O'. A flawed prior decision is simply that – it is a mistake. It is not a current concession of fact or that the principle of an infill dwelling is now alive and established at this location. I am sure this advice to the planning committee will have misled the decision.

The planning officer further advises wrongly 'as the principle of two dwellings is conceded and there is a live planning permission' significant weight is attached to the planning history in respect of this application'. The previously outline planning permission was granted on the 7th March 2017 and as no reserved matters application was submitted it lapsed on the 7th March 2020 and the date is long since past. This error is the status of the prior planning permission is highly significant and will definitely have misled the proposed Respondents planning committee.

192. In consideration of these points, no seriously misleading statement was provided to the Committee previously and the issue raised in relation to the change in site size is considered above at paragraphs 26 - 30.
193. No seriously misleading statement was provided to the Committee previously. The earlier application was considered on its own merits and it was considered that a gap in an otherwise substantial and continuously built up frontage existed. Whilst the red line boundary associated with the current application is increase, planning judgement is applied and the context on the ground is not considered to be changed in that three buildings exist along a road frontage.
194. Paragraphs 32 and 33 of the GD1 affidavit state

*32. I exhibit a letter from the proposed respondents Head of Planning and Corporate Development to Mr Dykes of 30 Magheraconluce Road and dated 24 February 2021 at **GD1 Tab14**. This letter states 'whilst the period for submission of an application for approval of reserved matters has time expired on 07 March 2020. This outline planning permission remains a material consideration for the duration of the permission which is five years'. I believe this is categorically wrong as the duration of an outline permission is 3 years and when an outline application lapses and no reserved matters is submitted, the duration of the permission is definitely not 5 years.*

This is written as if the Head of Planning really believes his own juvenile mistake. It does not read like a slip of the pen. That is quite a serious issue if the proposed Respondent is making big decision but doesn't understand the basics of planning law such as this. This will have had a serious knock on effect on misleading a planning objector and a more junior planning officer who then made the same mistake when compiling the report to present to the planning committee.

33. *The court must examine whether or not the proposed Respondents Head of Planning and the planning officer have deliberately misled the objector and its own planning committee.*

The facts of this case are that the planning applicant submitted its application on 15 August 2018 approximately 19 months before the outlined planning permission lapsed. The faces of the case as exhibited also warranted an early refusal within a few months maximum. By not issuing an early refusal and delaying the planning decision, the application period extended and passed the point at which the outline approval lapsed.

Depending on the correspondence between the planning applicant and the proposed Respondent the proposed Respondent may now carry some liability for the predicament that the planning applicant found itself in. The planning applicant has now not fall-back position of applying for reserved matters. I believe that this 2 sites much be worth in the region of £200,000 plus. This value was in jeopardy and the proposed Respondent must have been conscious of this when it made the impugned decision. The prospect of a refusal could have raised the prospect embarrassing scrutiny if appealed to the Planning Appeals Commission. I therefore believe there is the possibility that the proposed Respondent has been deliberately biased in making the impugned decision with an approval being the option that would best make the matter disappear.

195. In consideration of these point, it is noted that condition 1 of the outline permission [LA05/2016/1080/F] reads as follows:

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which the 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*
- j. The expiration of 2 years from the date of approval of the last of the reserved matters to be approved*

196. Within this context, it is not considered unreasonable to give weight to an outline permission when the 5 years from the date of that permission has not yet expired. In making the statement referred to, the Council has not mislead a third party.
197. The personal views expressed at paragraph 33 are not material planning considerations given weight in this assessment. Professional officers within the

Council act with integrity and in accordance with professional codes of conduct at all times.

198. Paragraphs 39 of the GD1 Affidavit makes reference to the Committee decision in respect of planning application LA05/2016/1080/O. The view is expressed that the permission was flawed and potential biased.

199. Paragraph 6(d) of the GD1 PAPL states that

The proposed respondent erred by attaching significant weight to a previously flawed and lapsed planning permission. This previous application is flawed because it makes significant errors in interpretation policy and is also potentially biased approval...

200. Paragraph 6(e) of the GD1 PAPL states that

The planning applicant, Glebe Homes Ltd would normally have been expected to submit a Reserved Matters application and once submitted it would have gained protection under Section 62(2)(b)(ii) of the Planning Act (Northern Ireland) 2011. The planning applicant did not do that and unfortunately for the planning applicant, its prior planning permission lapsed and it is too late to now apply for reserved matters pursuant to that.

201. In consideration of this point, it is noted that this earlier decision was not challenged and as such, remained a valid permission. Furthermore, there is no requirement on an applicant to submit a reserved matters application and in this case, the applicant chose to submit a Full application as there were conditions associated with the previously outline permission that they did not wish to comply with.

Conclusions

202. The application is presented to the Planning Committee with a recommendation to approve as the proposal is considered to comply with the SPPS, and policies CTY 1 and CTY 8 of PPS 21 in that there is a gap within an otherwise substantial and continuously built up frontage that can accommodate two dwellings with associated garages.

203. In addition, it is considered that the proposal will also comply with the SPPS and policies CTY 13 and 14 of PPS 21 in that the development can be visually integrated into the surrounding landscape and it will not cause detrimental change to or further erode the rural character of the area.

Recommendations

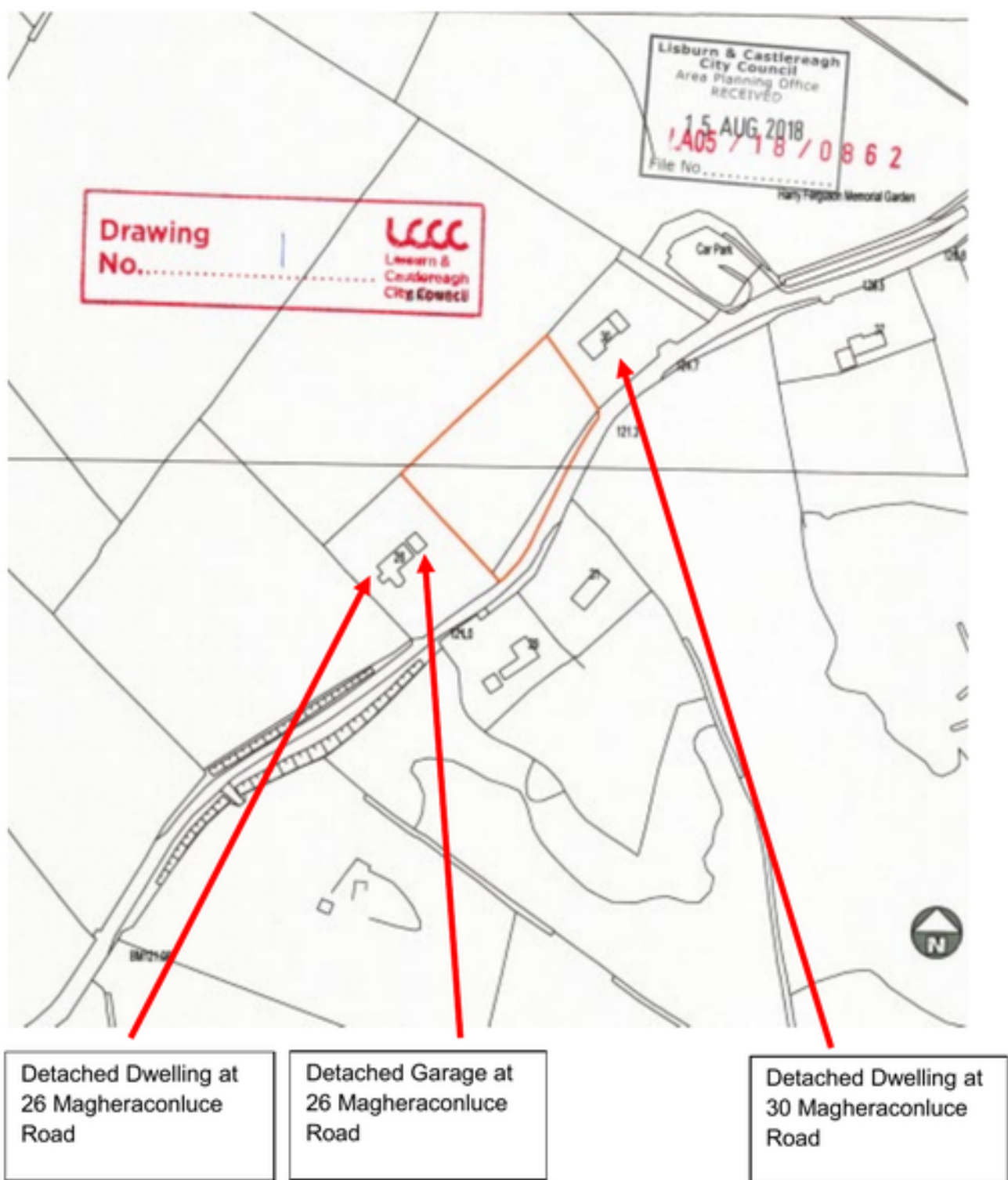
204. It is recommended that planning permission is approved

Refusal Reasons/Conditions

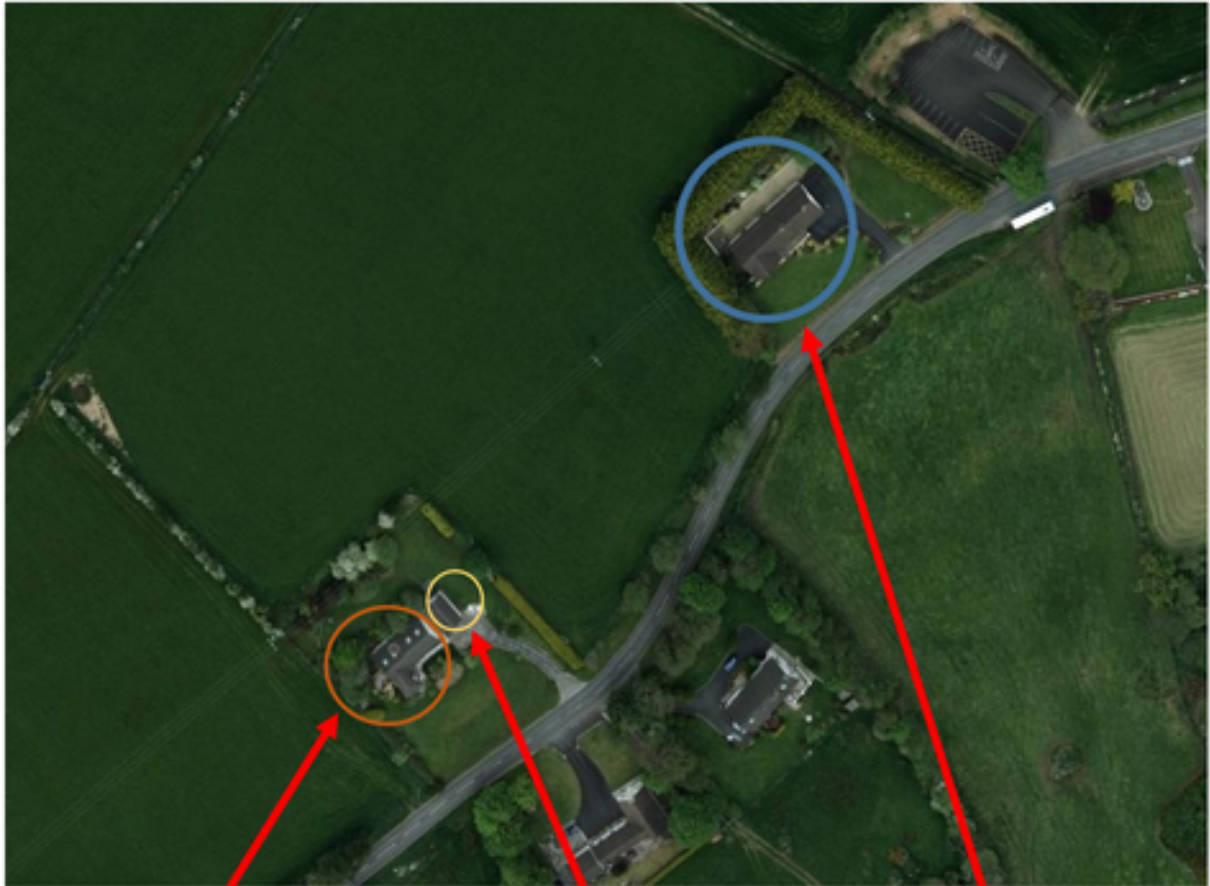
205. The following conditions are recommended:

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: Time Limit.
2. The vehicular access, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 05 bearing the date stamp 19 April 2021, prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
Reason: To ensure there is a satisfactory means of access in the interest of road safety and the convenience of road users.
3. The access gradient to the dwellings hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
4. No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved Drawing no. 05 bearing date stamp 19 April 2021 to provide adequate facilities for parking and circulating within the sites. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.
Reason: To ensure that adequate provision has been made for parking.
5. Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility splays, forward sight lines or access shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant's expense.
Reason: In the interest of road safety and the convenience of road users.
6. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development.
Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

Site Location Plan – LA05/2018/0862/F



Annex A – Spatial NI Map with buildings in frontage identified



Detached Dwelling at
26 Magheraconluce
Road

Detached Garage at
26 Magheraconluce
Road

Detached Dwelling at
30 Magheraconluce
Road

Annex B – Detached Dwelling and Detached Garage at 26 Magheraconluce Road



Annex C – Detached Dwelling at 30 Magheraconluce Road



Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	13 June 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/0944/F
Date of Application	26/08/2021
District Electoral Area	Downshire East
Proposal Description	Dwelling under Policy CTY 6
Location	Land 35 metres South East of 252 Hillhall Road, Lisburn
Representations	None
Case Officer	Cara Breen
Recommendation	Refusal

Summary of Recommendation

1. The application is presented to the Committee with a recommendation to refuse as, it is considered that the proposal is contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is also considered to be contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 6 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that;
 - the applicant has not provided satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and
 - it has not been satisfactorily demonstrated that there are no alternative solutions to meet the particular circumstances of the case.

Description of Site and Surroundings

Site

3. The 0.17 hectare application site is located at land 35 metres south east of 252 Hillhall Road, Lisburn. The site is accessed via an existing private driveway which provides vehicular access to the dwelling and associated buildings at 252 Hillhall Road from Glen Road.
4. The land within the site is flat throughout, in agricultural use and accessed from a private driveway bound on either side by established mature trees and planting. The remainder of the application site is primarily enclosed by a 1.2 metre high post and wire fence.

Surroundings

5. In terms of the surrounding context, the application site forms part of land associated with the dwelling and associated outbuildings of 252 Hillhall Road immediately to the north west of the site.
6. The property at 252A is located to the north west of the application site also. The area is rural in character and predominantly agricultural in use (although it is acknowledged that there is a commercial premises at 252 Hillhall Road.

Proposed Development

7. The application seeks full planning permission for a proposed dwelling to meet the personal and domestic circumstances of the applicant.
8. A Design and Access Statement (as per Article 6 of the Planning (General Development Procedure) Order (N.I) 2015) and a Landscape Analysis (as per Policy COU 7 of draft BMAP) have been provided in support of the proposal as the site is located in an areas of high scenic value.

Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2016/1258/O	Replacement Dwelling	Land 20m East of 252 Hillhall Road, Lisburn	Planning Permission Refused
S/1997/0639	Replacement Dwelling	252 Hillhall Road, Lisburn	Planning Permission Granted

Consultations

10. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
NI Water	No Objection
DAERA - WMU	No objection
DfI Rivers Agency	No Objection
Environmental Health	No Objection

Representations

11. No representations in opposition to the proposal have been received.

Planning Policy Context

Relevant Policy and Guidance Documents

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

Local Development Plan Context

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.
15. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
16. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
17. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit.
18. Within the Belfast Metropolitan Area Plan (Draft) 2004, the application site also falls within a designated Area of Outstanding Natural Beauty (Lagan Valley AONB) and a designated Area of High Scenic Value (AoHSV) (Castlereagh Slopes) and an Area of Constrain on Minerals Development.
19. Page 49 of the Lisburn Area Plan 2001 states

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

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

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

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

21. Policy COU6 of the dBMAP refers to Areas of High Scenic Value. It states

Planning permission will not be granted for development proposals that would be likely to have a significant adverse effect on the quality, character and features of interest in Areas of High Scenic Value. Any assessment of quality and character in the Area of High Scenic Value shall include consideration of:

- *location of the site within the landscape & positioning of the proposal within the landscape;*
- *undue prominence, particularly in more open and exposed landscapes;*
- *integration of development into the landscape including degree of natural enclosure and relationship with surrounding buildings; and*
- *design, including form, scale and massing.*

A Landscape Analysis must accompany development proposals in these areas to indicate the likely effects of the proposal on the landscape.

22. Draft BMAP confirms this is the Castlereagh Hills area of High scenic Value. Policy COU7 of draft BMAP states that

Planning permission will not be granted for development proposals that would adversely affect the quality, character and features of interest in Areas of High Scenic Value. Proposals for mineral working and waste disposal will not be acceptable.

A Landscape Analysis must accompany development proposals in these areas to indicate the likely effects of the proposal on the landscape.

23. In respect of policy COU 8 Area of Constraint on Minerals Development policy COU 8 Area of Constraint on Mineral Development states that

Planning permission will not be granted for the extraction and/or processing of minerals within Areas of Constraint on Mineral Development.

Exceptions may be made where the proposed operations are short term and the environmental implications are not significant. In such cases the on-site processing of the excavated material is unlikely to be permitted.

Regional Policy Context

24. The SPPS states that

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

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

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

27. Paragraph 3.8 of the SPPS states

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

28. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

29. Paragraph 4.11 of the SPPS states that

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

30. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on

sensitive receptors by means of its influence on the location, layout and design of new development.

31. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.
32. Paragraph 4.12 of the SPPS states
that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.
33. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.
34. This application is for a dwelling in accordance with Policy CTY 6 of PPS 21 – Personal and Domestic Circumstances.
35. Paragraph 6.73 of the SPPS states that
A dwelling where there are personal and domestic circumstances: provision should be made for a dwelling to meet the long terms needs of a person where there are compelling and site specific reasons related to the person's personal or domestic circumstances, and where there are no alternative solutions to meet the particular circumstances of the case.
36. Paragraph 6.78 of the SPPS states that
supplementary planning guidance contained within Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside must be taken into account in assessing all development proposals in the countryside.

Sustainable Development in the Countryside

37. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.
38. Policy CTY 1 states 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.

39. 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.*

40. As explained above, this application is presented as one for a dwelling in the countryside with personal and domestic circumstances cited.

41. In addition to CTY 6, there are other CTY policies that are engaged as part of the assessment including CTY13, 14 and 16, and they are also considered.

42. Policy CTY 6 – Personal and Domestic Circumstances states:

Planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

- (a) *the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that*

genuine hardship would be caused if planning permission were refused; and

- (b) *there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.*

All permissions granted under this policy will be subject to a condition restricting the occupation of the dwelling to a named individual and their dependents.

43. Regard is also had to the justification and amplification which states:

5.28 *There may be cases where special personal or domestic circumstances require a new house in the countryside. Such cases will include instances where a young adult who requires a continuing and high level of care, but who could also benefit from a greater degree of independent living.*

5.29 *Applicants will be expected to provide sufficient information to allow a proper assessment of each specific case. Such information should include:*

- *a statement detailing the special personal or domestic circumstances supported if appropriate by medical evidence from a medical or health professional.*
- *details of the level of care required in relation to any medical condition again supported by the appropriate health professional, the identity of the main carer, their current address and occupation.*
- *an explanation of why care can only be provided at the specific location and how genuine hardship would be caused if planning permission were refused.*
- *details of what alternatives to a new dwelling have been considered e.g. extension / annex to an existing dwelling and why such alternatives are not considered practical to meet the site specific need.*
- *any other information considered relevant to the particular case.*

44. 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.

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

46. In regard to the justification and amplification of the policy 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 That 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.

47. Whilst not policy, and a guidance document, the SPPS states that regard must be had to the guidance in assessing the proposal. This states the following

*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.

48. The guidance also explains at criteria that:

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

49. It further explains at the following paragraphs 4.5.0 and 4.5.1 that:

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

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.

50. 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.

51. 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.*

52. 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.

53. 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.*

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

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

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

55. 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.

56. 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.

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

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

Natural Heritage

58. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
59. Policy NH 1 – European and Ramsar Sites states

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

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

60. The policy also states that

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

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

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

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

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

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

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

62. The policy also states that

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

63. Policy NH6 – Areas of Outstanding Natural Beauty states that

Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

- a) *the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and*
- b) *it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and*
- c) *the proposal respects:*

- *local architectural styles and patterns;*
- *traditional boundary details, by retaining features such as hedges, walls, trees and gates; and*
- *local materials, design and colour.*

Access, Movement and Parking

64. 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.

65. 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

66. 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.

Planning and Flood Risk

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

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

68. Policy FLD 2 - Protection of Flood Defence and Drainage Infrastructure states that

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

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

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

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

70. It also states that

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 flood plain, then Policy FLD 1 will take precedence.

71. Policy FLD 4 - Artificial Modification of Watercourses states that

the planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:

- *Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;*

- *Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.*

72. Policy FLD 5 Development in Proximity to Reservoirs states:

New development New development will only be permitted within the potential flood inundation area of a "controlled reservoir"¹⁴ as shown on the Strategic Flood Map, if:

- *the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety, so as to enable the development to proceed;*
- *the application is accompanied by a Flood Risk Assessment which demonstrates:*
 1. *an assessment of the downstream flood risk in the event of: - a controlled release of water - an uncontrolled release of water due to reservoir failure - a change in flow paths as a result of the proposed development and*
 2. *that there are suitable measures to manage and mitigate the identified flood risk, including details of emergency evacuation procedures*

A proposal for the replacement of an existing building within the potential flood inundation area downstream of a controlled reservoir must be accompanied by a Flood Risk Assessment. Planning permission will be granted provided it is demonstrated that there is no material increase in the flood risk to the development or elsewhere.

There will be a presumption against development within the potential flood inundation area for proposals that include:

- *essential infrastructure;*
- *storage of hazardous substances;*
- *bespoke accommodation for vulnerable groups; and for any development located in areas where the Flood Risk Assessment indicates potential for an unacceptable combination of depth and velocity.*

Archaeology and the Built Heritage

73. PPS 6 – Archaeology and the Built Heritage sets out planning policies for the protection and conservation of archaeological remains and features of the built heritage.
74. Policy BH 11 Development affecting the Setting of a Listed Building states that:

The Department will not normally permit development which would adversely affect the setting of a listed building.

Development proposals will normally only be considered appropriate where all the following criteria are met:

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;*
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and*
- (c) the nature of the use proposed respects the character of the setting of the building*

Assessment

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

Personal and Domestic Circumstances

76. No information/evidence was submitted with the original submission in support of the application that addresses the requirements of policy CTY 6. .
77. A Planning Supporting Statement and associated medical information/records was submitted for consideration on 06 October 2021.
78. The applicants are identified as per the P1 Form and it is acknowledged that Certificate A of the P1 Form has been completed.
79. The supporting documentation provided by the agent states that the proposed dwelling is to accommodate the elderly dependant parents of the applicant.
80. The information provided by the agent explains that the applicant's parents who occupy an address at Creevy Road, Lisburn (approximately 15 minutes away from the application site – by car), are entirely dependent on the applicants who live at 252 Hillhall Road, Lisburn.
81. The supporting information states that due to ill health and the increasing level of care that is required in their daily routines they **wish** (my emphasis) to relocate closer to family members.
82. It is acknowledged that the information states that the applicant's parents are unable to drive. The information notes that they require daily assistance with activities such as; general care, housework, shopping, washing and cooking. This care is predominantly provided the applicants wife as the applicant is in full-time employment.

83. Whilst the accompanying information provided by the agent notes that applicants are the sole carers, no formal documentation has been provided to verify this.
84. The information details that the applicants and their three remaining children all currently reside at 252 Hillhall Road and that the applicant's wife also looks after her three young grandchildren at the property during the day.
85. It is stated that she cannot look after them at another location as her youngest daughter requires transport to and from school (post-primary). It is stated that applicants wife cannot continue to provide the current level of care for the applicants parents whilst looking after her grandchildren also, and that if the applicants parents were on site this would alleviate the issue.
86. The statement provided by the agent states that applicant's parents would require two ground floor bedrooms, a large ground floor bathroom and a separate ground floor living area.
87. With regards to site specific reasons, the agent outlines that applicants parents would benefit from reduced travel times to hospitals than they currently do.
88. The information notes that the closest hospital is Lagan Valley at 15 minutes travel time from the applicants parents current address, with the Royal Victoria Hospital being 20 minutes travel time, the Ulster Hospital being 30 minutes travel time and Craigavon Area Hospital being 33 minutes travel time.
89. The information states that the travel times from 252 Hillhall Road would be as follows;
 - 8 mins travel time to Lagan Valley Hospital,
 - 15 minutes travel time to the Royal Victoria Hospital,
 - 23 mins travel time to the Ulster Hospital and
 - 28 mins travel time to Craigavon Area Hospital.
90. Another site specific reason which was given was that in the event of an emergency the applicant's parents could be reached by relatives more easily and transported to hospital without delay.
91. Whilst the medical records for the applicants parents have been provided to the Council for consideration (attached to file), it is acknowledged that no supporting letters outlining any required need for a specific type/location of accommodation or level of care required for the applicants parents have been provided by any medical or health professional or practitioner.
92. No persuasive evidence that the care named in the supporting statement (provided by the agent) could only be met at the application site and not a move closer to the family.

93. It is acknowledged that the settlement of Hillhall is only 0.3 miles away and the large settlement of Lisburn is only 1.3 miles away.
94. It is contended that the particular circumstances could be addressed by relocating the applicant's parents to a dwelling in one of these nearby settlements. While it is noted that the agent carried out a search of available sites/properties in nearby settlements, this was based on a very specific criteria (outlined in accompanying information) and was based on a short snapshot in time and notably it did not include the large nearby settlement (city) of Lisburn.
95. Furthermore, it is also noteworthy that whilst the evidence associated with the applicants father primarily gives an address at Creevy Road (although it is acknowledged that this information is only from November 2019), the majority of evidence (medical letters etc.) for the applicants mother (from May 2006 to January 2021) gives an address at 252A Hillhall Road, which is located only some 40 metres away from the application site.
96. Considering all of the information presented, it is not accepted that a new dwelling is a **necessary** (my emphasis) response to the particular circumstances of the case, nor is there any persuasive evidence that genuine hardship would be caused by the refusal of Planning permission. For the reasons outlined, it is considered that the proposal fails to meet criterion (a) of Policy CTY 6.
97. Whilst it is considered that the proposal does not meet criterion (a), for the purposes of completeness criterion (b) will also be assessed.
98. Criterion (b) of Policy CTY 6 requires that alternatives to a new dwelling such as; an extension or annex attached to the existing dwelling, the conversion or re-use of another building within the curtilage of the property, or the use of a temporary mobile home for a limited period are considered.
99. With regard to consideration of alternatives such as an extension or annex to the existing dwelling or to the potential for conversion or re-use of another building within the curtilage, the submission from the agent discounts all of these options.
100. Within this context, it is noted that the land owned by the applicants includes a modest sized outbuilding and whilst previously refused planning permission for a replacement dwelling within the context of planning application LA05/2016/1258/O in July 2017, the potential for this outbuilding to be converted or re-used is not considered.
101. This land also includes a large private amenity space to the south of the dwelling at 252 which equates to approximately 400 metres squared.
102. An extension into this area was discounted by the agent on the basis that it would be contrary to Planning Policy Statement 7 (Addendum): Residential Extensions and Alterations, in that it states that the garden space around a

residential property should not be reduced to a point where it is out of scale or fails to meet the present or future occupiers private amenity needs.

103. The view expressed in this regard is not accepted as an extension to 252 could be accommodated on site whilst maintaining a sufficient sized private amenity space to meet both the recreational and domestic needs of 252.
104. Furthermore, it is acknowledged that paragraph 2.7 of Planning Policy Statement 7 (Addendum): Residential Extensions and Alterations, that sympathetic consideration will be given to proposals whereby accommodation is required to facilitate an individual with a disability.
105. It is recognised that it is generally possible to provide a satisfactory solution in line with policy requirements if an imaginative and innovative design is fully explored.
106. There is also a caveat within the policy that states that
the specific needs of a person with a disability are an important material consideration and exceptionally the policy criteria may be relaxed to meet these needs.
107. Taking the above into consideration, it is not accepted that the applicant/agent has exhausted all available options and in concluding (for the reasons outlined above) that the construction of a dwelling on the site is not the only feasible solution, and as such, the criterion (b) of Policy CTY 6 is not met.
108. For the reasons outlined, the proposal as presented fails to comply with both criterion (a) and criterion (b), it therefore does not find support in Policy CTY 6 of Planning Policy Statement 21.

Ribbon Development

109. Taking the proposed siting of the dwelling into account, it is considered that it would cluster with the existing buildings within the site and would not create or add to a ribbon of development.
110. The site does not occupy a roadside location and is set several fields back and for this reason, it is not considered to give rise to concerns regarding ribbon development.

Integration and Design of Buildings in the Countryside

111. Turning then to policy CTY13, the proposed dwelling is single storey, linear in form and simple in design (dual pitch). It would present an external footprint of 18 metres x 7.5 metres with a centrally positioned single storey mono pitch storm porch to the front elevation.

112. It would have a ridge height of approximately 5.2 metres above finished floor level (FFL). An integral chimney with chimney stack to ridgeline has been illustrated. The window openings are primarily vertical in emphasis.
113. The proposed schedule of external finishes includes; smooth render (painted white) and natural stone facing (storm porch) for the external walls, UPVC double glazed window units, blue/black flat/non-profiled smooth eternity slate for the roof and black UPVC rainwater goods.
114. Taking the modest scale/single storey stature of the proposed dwelling, the proposed distance from the Glen Road [approximately 98 metre] and the Hillhall Road [approximately 160 metres], the cluster of existing buildings (including 2 storey buildings) in the immediate vicinity of the application site at 252, the back drop of mature trees/hedgerow and the secluded nature of the site provided by a copse of mature trees, particularly to the roadside boundary/section of the Glen Road into account, it is not considered that the proposed dwelling would be a prominent feature in the surrounding landscape.
115. Furthermore, it is not considered that there would be any long distance views of the proposed dwelling from a public/critical viewpoint and as such it is not considered that the proposed dwelling would be unduly prominent in the landscape.
116. The application site essentially forms part of the larger site owned by the occupiers of 252 Hillhall Road which is enclosed by established mature vegetation.
117. It is acknowledged, as per the Site Plan, that the existing mature trees which bound the laneway and form part of the eastern and western boundaries of the application site (as outlined in red on the submitted Site Location Plan) and provide substantial screening of the site are to be retained.
118. It is considered that the existing buildings (some two storey) within the 252 site would also provide a degree of enclosure and the proposed dwelling would group with said buildings. It is considered that these features would adequately assist with the integration of the proposed dwelling.
119. Whilst it is acknowledged that new landscaping is proposed, particularly around the immediate vicinity of the proposed dwelling (which is currently primarily enclosed by 1.2 metre high post and wire fencing), taking the above into account, it is not considered that the proposed dwelling would rely primarily on it for the purposes of integration.
120. In terms of ancillary works, it is acknowledged that vehicular access to the application site would be provided by way of the existing driveway which serves 252 from Glen Road.

121. This driveway would be extended modestly to the east (at a distance of approximately 88 metres from Glen Road) to serve as the driveway of the proposed dwelling.
122. This proposed new section of driveway would run adjacent to the proposed southern boundary of the application site (timber post and wire fence with Hawthorne hedgerow to inside).
123. It would not be sweeping in nature and aside from 1.6 metres high stone built circular entrance pillars with wrought iron entrance gates, no ornate features (walls, pillars, kerbing etc.) have been proposed. No large retaining structures have been proposed.
124. Taking the existing and proposed ground levels into account it is not considered that the proposal would involve excessive cut and fill (excavation). Overall, it is considered that the proposed ancillary works are in general conformity to Building on Tradition guidance. It is also considered that those existing features which would aid with the integration of the proposed dwelling would also assist with the integration of ancillary works.
125. The design of the proposed dwelling has been detailed above. It is considered to be simple in design (single storey, linear in form, dual pitch) and would be largely unobtrusive in its setting. The design, including proposed external finishes, is considered to be in general conformity to Building on Tradition design guidance.
126. It is also noted in the Planning Supporting Statement that the dwelling has been designed in accordance with Building on Tradition. There would be no concerns with regards to the inappropriateness of the proposed dwelling in terms of the site and locality.
127. It is contended that the proposed single storey dwelling would blend unobtrusively with the backdrop of mature trees which enclose the larger site and the existing buildings to the north west.
128. As confirmed by Q20 of the P1 Form, the proposal does not relate to a proposed dwelling on a farm (Policy CTY 10) and therefore criterion (g) is not applicable in this instance.
129. Taking all of the above into account, there are no concerns with regards to the proposed scheme insofar as it pertains to Policy CTY 13 of Planning Policy Statement 21: Sustainable Development in the Countryside.

Rural Character

130. In terms of policy CTY 14 and taking into account the modest scale/single storey stature of the proposed dwelling, the proposed distance from the Glen Road (approx. 98m) and the Hillhall Road (approx. 160m), the cluster of

existing buildings in the immediate vicinity of the application site at 252, the back drop of mature trees/hedgerow and the secluded nature of the site provided by a copse of large mature trees, particularly to the roadside boundary/section of the Glen Road into account, it is not perceived that the proposed dwelling would be an unduly prominent feature in the surrounding landscape. It is not contended that there would be long distance views of the proposed dwelling from a public viewpoint.

131. As per the assessment under Policy CTY 8 above, taking the proposed siting of the proposed single dwelling into account, it is not contended that it would result in the addition to or creation of a ribbon of development. It is not considered that it would result in a suburban style build-up of development when viewed with existing buildings nor would it not respect the traditional pattern of settlement exhibited in the area.
132. In terms of ancillary works, it is acknowledged that vehicular access to the application site would be provided by way of the existing driveway which serves 252 from Glen Road. This driveway would be extended modestly to the east to serve as the driveway of the proposed dwelling.
133. This proposed new section of driveway would run adjacent to the proposed southern boundary of the site (timber post and wire fence with native species hedgerow to inside).
134. It would not be sweeping in nature and aside from 1.6 metre high stone built circular entrance pillars with wrought iron entrance gates, no ornate features (walls, pillars, kerbing etc.) have been proposed. No large retaining structures have been proposed either.
135. As explained above, taking the existing and proposed ground levels into account, it is not considered that the proposal would involve excessive cut and fill (excavation). Overall, it is considered that the proposed ancillary works are in general conformity to Building on Tradition guidance. It is not considered that said works would damage rural character.
136. Taking the above into account, there are no concerns with regards to the proposed scheme in regards to Policy CTY 14 of PPS 21.

Development Relying on Non-Mains Sewerage

137. Detail submitted with the application indicates that the method of sewage disposal proposed is via septic tank.
138. The Council's Environmental Health Unit advised in a response dated 14 January 2022, that they no objection to the above proposed development subject condition requiring the septic tank/sewage treatment unit shall be sited as indicated with suitable levels and adequate area of subsoil irrigation for the disposal of effluent (if appropriate).

139. Based on a review of the information and advice received it is considered subject to compliance with condition that it is demonstrated that the proposal will not create or add to a pollution problem.

Natural Heritage

140. Within the context of PPS 2 policy tests the proposed dwelling is considered to be simple in design (single storey, linear in form, dual pitch roof) and relatively modest in scale. The design, including proposed external finishes are considered to be appropriate to the locality.
141. The proposed dwelling would be sited to cluster with an existing group of buildings and given the mature vegetation in the immediate vicinity it is considered that it would blend unobtrusively into the Area of Outstanding Natural Beauty.
142. The proposal would not result in the demolition of any existing building or manmade feature of importance to the character, appearance or heritage of the landscape.
143. It is contended that the proposed simple rural design (including materials) would respect local architectural styles and patterns.
144. The Proposed Site Plan indicates that the proposed development would not encompass notable vegetation clearance, with the majority of existing mature vegetation noted as being retained.
145. No demolition works (in terms of any existing building) would be required to accommodate the proposal either and new planting in the form of approximately 119.5 metre of Hawthorne hedgerow, in addition to proposed Ash and Rowan trees is also proposed to further enhance integration and as such, it is not considered that there will be an adverse impact on protected habitats or species.
146. For the reasons outlined, the proposed development is considered to comply with the SPPS and Policy NH 5 and NH 6 of PPS 2.

Access, Movement and Parking

147. Detail submitted with the application indicates that the proposed access is via an existing access off Glen Road.
148. Whilst the address of the application site is Hillhall Road, a designated Protected Route, the proposed vehicular access is by way of the existing access to the site and 252 Hillhall Road from Glen Road.
149. Visibility splays of 2 x 58 metres to each side of the proposed access have been demonstrated on the Proposed Site Plan.

150. DfI Roads in a consultation response dated 26 October 2021 offer no objection to the proposal subject conditions aimed at ensuring the visibility splays are implemented.
151. Based on a review of the information and advice received, it is considered that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic nor does it conflict with Policy AMP 3 – Access to Protected Route for reasons outlined.

Conclusions

152. For the reasons outlined above, it is considered that the proposal is contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
153. The proposal is also considered to be contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 6 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that;
- the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if Planning permission were refused; and
 - it has not been satisfactorily demonstrated that there are no alternative solutions to meet the particular circumstances of the case.

Recommendations

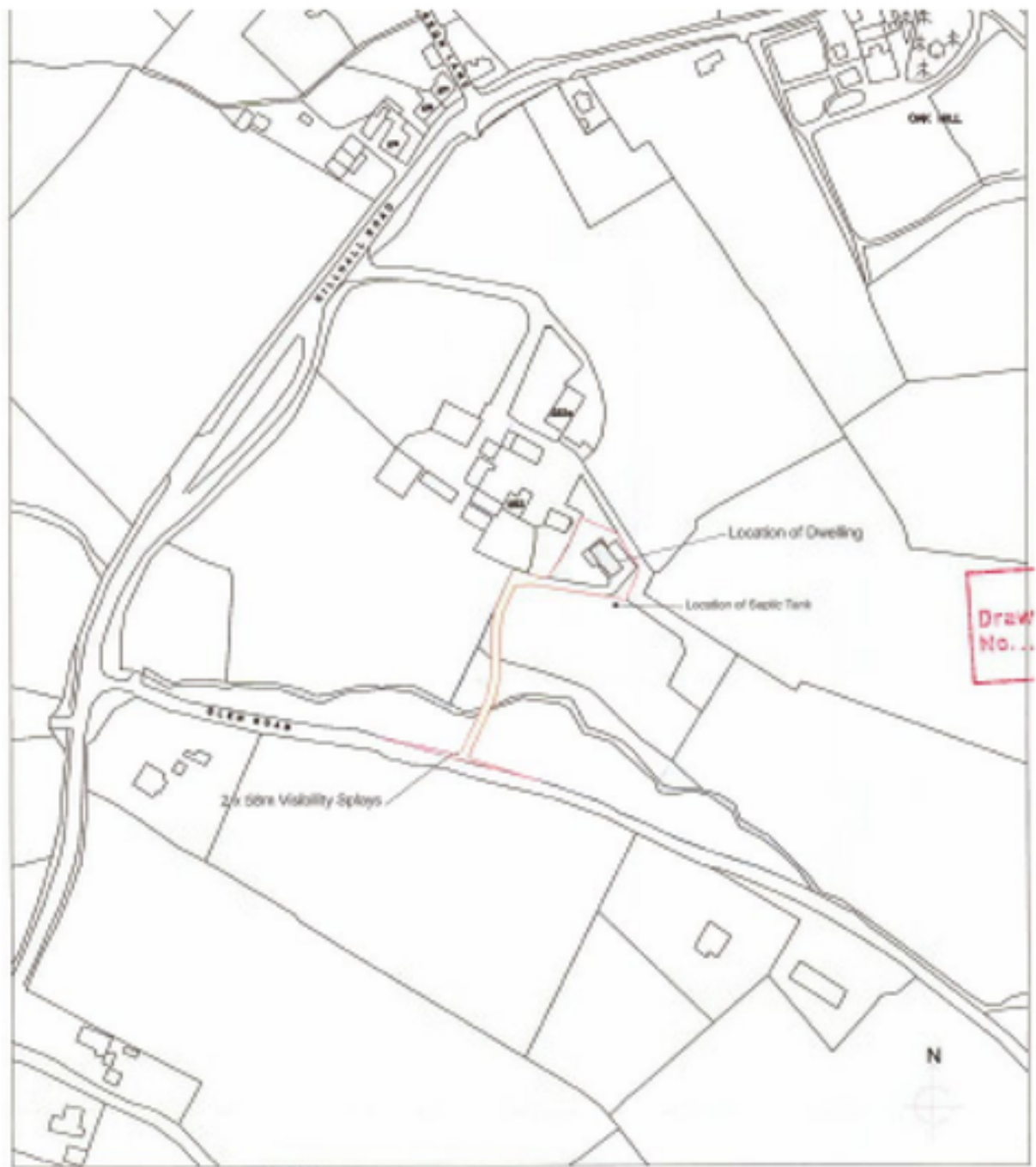
154. It is recommended that planning permission is refused

Refusal Reasons

155. The following refusal reasons/conditions are recommended:
1. The proposal is contrary to the Strategic Planning Policy Statement (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.
 2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 6 of Planning Policy Statement 21: Sustainable

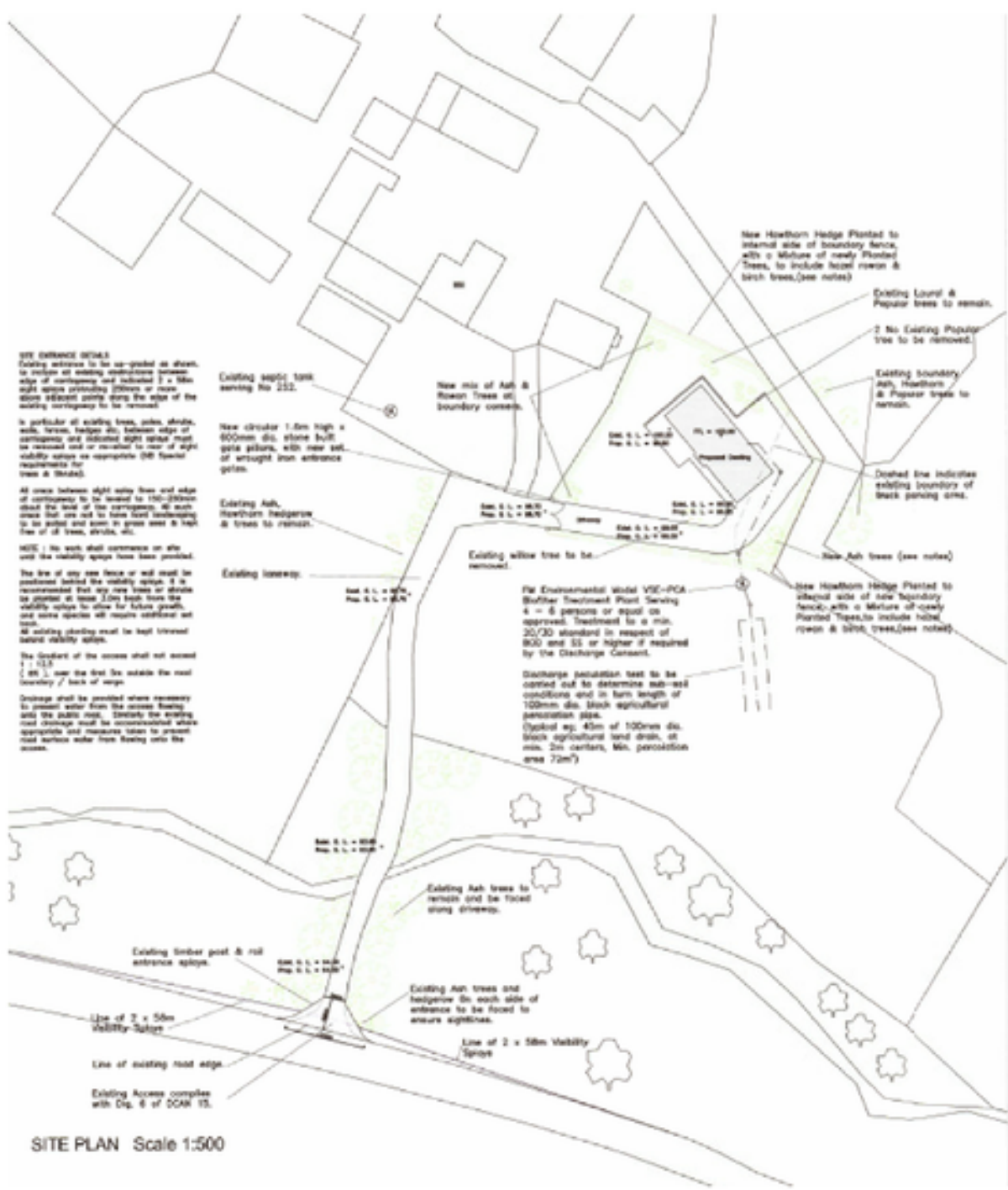
Development in the Countryside, in that; the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if Planning permission were refused; and it has not been satisfactorily demonstrated that there are no alternative solutions to meet the particular circumstances of the case.

Site Location Plan – LA05/2021/0944/F



LOCATION MAP Scale 1:2500

Site Plan – LA05/2021/0944/F



SITE PLAN Scale 1:500

Lisburn & Castlereagh City Council

Planning Committee Report	
Date of Committee Meeting	13 June 2022
Committee Interest	Local Application (Mandatory)
Application Reference	LA05/2021/1093/F
Date of Application	06 October 2021
District Electoral Area	Castlereagh East
Proposal Description	New metal clad shed (7.5 x 9.0 metres) for indoor golf studio on unused grass area
Location	Castlereagh Hills Golf Course 73 Upper Braniel Road, Gilnahirk, Belfast BT5 7TX
Representations	None
Case Officer	Joseph Billham
Recommendation	Approval

Summary of Recommendation

1. This is a local planning application. The application has been referred to the Planning Committee for determination in accordance with the Scheme of Delegation, as the application has been submitted by the Council.
2. The application is presented to the Planning Committee with a recommendation to approve as it is considered to comply with the relevant regional policies in the SPPS, PPS 21 and PPS 8 in that it adds to the range of open Space, sport and outdoor recreation facilities that support an established outdoor recreational use.
3. The application also considered to comply with the relevant regional policy requirements of the SPPS and PPS 3 in that it is demonstrated that adequate provision will be made for the parking and circulating within the site to serve the proposed development.

Description of Site and Surroundings

Site

4. This 0.1 hectare site is located at the Castlereagh Hills Golf Club on the, Upper Braniel Road Dundonald.
5. The site is accessed via a laneway from the Upper Braniel Road and the land within is relatively flat but falls away to the south.

Surroundings

6. The surrounding site is neighboured by two residential dwellings to the north and east. The lands to the east and south are part of the Golf Course.
7. The wider area is rural in character and predominantly agricultural in use.

Proposed Development

8. The application seeks full planning permission for a new metal clad shed (7.5 metres wide x 9.0 metres long) for indoor golf studio.
9. A short path is also proposed as part of the ancillary works which will link the clubhouse to the new golf studio.

Relevant Planning History

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

Planning Reference	Proposal Description	Decision
Y/2002/0496/F	Construction of new club house, access road and ancillary planting to replace existing club house and access.	Permission Granted
Y/2004/0625/F	Amendment to existing approval (Y/2002/0496) to include relocation of club house, new grasscrete area and	Permission Granted

	extension to access road.	
Y/2008/0539/F	Temporary 40m test mast to test wind speed.	Permission Granted

Consultations

13. The following consultations were carried out:

Consultee	Response
LCCC Environmental Health	No Objection
NI Water	No Objection

Representations

14. No representations to the proposed development have been received.

Planning Policy Context

Relevant Policy and Guidance Documents

15. The relevant policy documents are:

- Belfast Urban Area Plan 2001
- The Draft Belfast Metropolitan Plan 2015
- The Strategic Planning Policy Statement (SPPS), published in September 2015
- Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
- Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside
- Planning Policy Statement (PPS 8): Open Space, Sport and Outdoor Recreation

Local Development Plan Context

16. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.
17. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
18. As a consequence, the Belfast Urban area Plan (BUAP) 2001 is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
19. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit and as there is no difference in the local plan context.
10. The Belfast Urban Area Plan provides a statement of the rural planning policy for the Belfast Urban Area Greenbelt. Page 60 states that

the objectives of the plan with regard to the Green Belt is to

- *Control expansion of urban development into the surrounding open countryside*
- *To maintain the rural character of the countryside within the Green Belt and prevent its spoliation by ribbon development or scattered development;*
- *To prevent the towns and settlement around Belfast from merging with the Belfast Urban Area or with each other.*

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

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

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

Regional Policy Context

21. The SPPS states that

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

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

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

24. Paragraph 3.8 of the SPPS states that,

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

25. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

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

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

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

29. Paragraph 4.12 of the SPPS states that,

Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations,

impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.

30. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.
31. Paragraph 6.78 of the SPPS also 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.

PPS 21 - Sustainable Development in the Countryside

32. 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.
33. Policy CTY 1 –states that

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

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

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

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

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

- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*

- *a replacement dwelling in accordance with Policy CTY 3;*
 - *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
 - *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
 - *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
 - *a dwelling on a farm in accordance with Policy CTY 10.*
34. PPS 21 – Sustainable Development in the Countryside sets out the Planning policies for development in the countryside.
35. Policy CTY 1 – Development in the Countryside makes provision for a range of non-residential developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.
36. This is a proposal for the development of an indoor Golf Studio which is to be used in association with the Castlereagh Hills Golf Course and as such, it falls to be assessed against the requirements of PPS 8 - Open Space, Sport and Outdoor Recreation.

Open Space, Sport and Outdoor Recreation

37. Paragraph 6.201 of the SPPS seeks to safeguard existing open space and sites identified for such provision, facilitate appropriate outdoor recreational activities in the countryside that do not negatively impact on the amenity of existing residents, ensure that new open space areas and sporting facilities are convenient and accessible for all sections of society, particularly children, older people and those with disabilities; achieve high standards of siting, design and landscaping for all new open space areas and sporting facilities; and ensure that the provision of new open space areas and sporting facilities is in keeping with the principles of environmental conservation and helps sustain and enhance biodiversity.
38. Policy Statement 8 - Open Space, Sport and Outdoor Recreation sets out planning policy 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.
39. Outdoor sports facilities (with natural or artificial surfaces and either publically or privately owned) including tennis courts, bowling greens, sports pitches, golf courses, athletic tracks, school and other institutional playing fields, and other outdoor sport areas are defined in Annex A, paragraph A2 (ii) of PPS 8 as being of public value.

Policy OS 3 Outdoor Recreation in the Countryside

40. Policy OS 3 – Outdoor Recreation in the Countryside states that the

Department will permit the development of proposals for outdoor recreational use in the countryside where all the following criteria are met:

- (i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;*
- (ii) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;*
- (iii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;*
- (iv) there is no unacceptable impact on the amenities of people living nearby;*
- (v) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;*
- (vi) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;*
- (vii) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and*
- (viii) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.*

41. Regard is also had to the justification and amplification that states:

5.30 The development of golf courses can facilitate agricultural diversification and encourage tourism, but can also have a detrimental impact on the environment particularly because of the scale of such development. Golf courses and ancillary development associated with them can have a significant visual impact on the countryside. Poor siting, design and management can lead to loss of valuable landscapes or habitats. Golf courses should be located in harmony with the local landscape and designed to conserve the natural environment. Existing tree cover should be integrated into schemes and where additional planting is proposed preference will be given to native species. In addition attention

should be given, where possible, to habitat creation and the management and protection of wildlife networks.

42. Paragraph 5.32 of the Justification and Amplification text of Policy OS 3 also makes specific reference to golf driving ranges. It states that

golf driving ranges are generally more intensive land uses than golf courses with different visitor patterns and potentially higher levels of traffic generation.

It also advises that the buildings or the galleries, especially if they are two-tier, can be particularly intrusive unless sensitively sited and designed. Driving ranges often need high safety fencing and generally seek floodlighting to permit evening use. These features mean that driving ranges will generally only be acceptable where they will not be detrimental to the natural environment, the local landscape setting and the general character of the locality. Policy OS 7 sets out the Department's policy on the floodlighting of recreational facilities.'

Integration and Design of Buildings in the Countryside

43. Policy CTY 13 – Integration and Design of Buildings in the Countryside states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

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

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

Rural Character

44. 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.
45. 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.*

Access, Movement and Parking

- 46. 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.
- 47. 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.
- 48. 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.*
- 49. Paragraph 5.16 of the Justification and Amplification to Policy AMP 2 states that
- Development Control Advice Note 15 'Vehicular Access Standards' sets out the current standards for sightlines, radii, gradient etc. that will be applied to both new access and intensified use of an existing vehicular access onto existing public roads. DCAN 15 also includes guidance on special requirements for access onto a Trunk Road. The current standards for access within new residential developments are set out in the 'Creating Places' design guide.*

Development Control Advice Note 15 – Vehicular Access Standards

- 50. 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

51. The application is for the proposed construction of a new metal clad shed for use as an indoor gold studio. The new shed will be ancillary to the use of the existing Castlereagh Hills Golf Course and is considered against the requirements of policy OS3 of PPS8.
52. The proposal is sited directly to the east of the clubhouse. The existing club house comprises a split level building which is designed to take account of the existing topography of the site.
53. The front of the building facing south is three storey in level with a glazed exterior and balcony and lean on roof. The rear of the building is single storey with a flat roof.
54. The proposed studio is modest in size with a floor space measuring 7.5 metres X 9 metres. The building has a maximum ridge height of 4.1 metres with a pitched roof.
55. The finishes include Kingspan cladding, aluminium guttering and uPVC windows and doors. The building will be erected on a concrete base. The openings within the building include a single doorway and window on the front elevation and six roof light window openings in the pitched roof.
56. Taking into account the modest scale, it's proposed siting to the rear of the existing maintenance compound, it is not considered that the proposal would have a detrimental impact on nature conservation.
57. Whilst it is acknowledged that some vegetation clearance would be required to facilitate the proposal, it is not considered that it would cause demonstrable harm to natural heritage features.
58. The building is sited beside the existing club house and is subordinate in size and scale. The proposed building has been designed so as not to have an adverse impact on the visual amenity and can be absorbed in to the landscape.
59. The closest residential neighbour at 10 Manns Road is 50 metres from the proposal. The Councils Environmental Health Unit having considered the detail offer no objections and on this basis, it is accepted that the development will not result in an unacceptable impact on the amenities of nearby residents.
60. As explained, the proposal is considered to be ancillary to the existing Castlereagh Golf Course and is to be located within its existing grounds and as such it is considered to be compatible with the existing land use and no concerns arise with regards to public safety.

61. Within the site itself, a new path/ramp is proposed to serve the golf studio. It is anticipated that this will provide disability access also. Taking these factors into account, there are no concerns in terms of the accessibility of the proposal.
62. Paragraph 5.32 of the Justification and Amplification text of Policy OS 3 makes specific reference to golf driving ranges.
63. *It states that golf driving ranges are generally more intensive land uses than golf courses with different visitor patterns and potentially higher levels of traffic generation.*
64. It also states that

the buildings or the galleries, especially if they are two-tier, can be particularly intrusive unless sensitively sited and designed. Driving ranges often need high safety fencing and generally seek floodlighting to permit evening use. These features mean that driving ranges will generally only be acceptable where they will not be detrimental to the natural environment, the local landscape setting and the general character of the locality. Policy OS 7 sets out the Department's policy on the floodlighting of recreational facilities.'
65. It is acknowledged that the proposed golf studio is fully enclosed and can only accommodate two people at a time and for this reason, visitor patterns and higher levels of traffic generation are not considered to be intensive.
66. The studio is considered to be ancillary to the existing golf course and given its location with the wider site, no high safety fencing nor floodlighting are required as part of this application.
67. For the reasons outlined above, the proposal is considered to satisfy the policy tests associated with Policy OS3 of PPS 21.
68. Turning to the balance of the policy tests associated with PPS 21, Policy CTY 1 also states that 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.
69. As outlined above, the new building has a ridge height of 4.1 metres which is below the height of the existing club house on site. The building is positioned to the side and rear of the existing club house and for this reason it is not considered to be a prominent feature in the landscape.
70. The red line of this application extends around the perimeter of the new building. The existing landscape will not be affected by the proposal. The boundary to the east that is bounded with Manns Road consists of partial mature trees and hedgerow. The proposal does not require new planting. The existing planting associated with the wider site is sufficient to allow the development to integrate into the landscape.

71. The development takes advantage of the backdrop of the existing club house and golf course and the existing levels on site. The proposal will not be visible from the Upper Braniel and Gilnahirk Road.
72. Whilst the studio building is set back from the Manns Road by approximately 35 – 40 metres, it is acknowledged that it will be visible in part. That said the building will blend with the landform as it is located between the existing slopes and buildings on site.
73. The ancillary works which consists of a short path linking the club house to the new golf studio will integrate into the landscape.
74. The materials include kingspan cladding, aluminium guttering and UPVC window and door. These finishes and the detail of the design is considered to complement the existing buildings and is appropriate for the site.
75. For the reasons outlined above, the proposed building can be visually integrated into the surrounding landscape and the design of the buildings are appropriate and policy tests associated with Policy CTY 13 are met.

Rural Character

76. In terms of policy CTY 14 and as demonstrated above, it is not considered that the proposal would be unduly prominent in the landscape as the proposal relates to a modest building which would be located within and ancillary to the existing golf course.
77. Given its siting and orientation with an established outdoor facility, the building would not result in a suburban style build-up of development nor would it fail to respect the existing development pattern or create or add to a ribbon of development.
78. The ancillary works as outlined above, are considered to be modest in scale and the existing natural and built features will aid integration. For the reasons outlined, it is not considered that they would damage rural character and that the policy tests associated with Policy CTY 14 are met.

Access, Movement and Parking

79. Detail submitted with the application indicates that access arrangements for the development involve use of an existing unaltered access to a public road and that this access remains necessary for both vehicular and pedestrian use.
80. In terms of vehicle movements and persons attending the premises daily, the P1 Form indicates that no increase in vehicles or visitors is expected.

81. Based on a review of the detail, it is accepted that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic and that the policy tests associated with AMP 2 of PPS 3 are met.

Conclusions

82. For the reasons outlined above, it is considered the proposal complies with the SPPS, PPS 21 and PPS 8 in that it provides for an acceptable form of Open Space, Sport and Outdoor Recreation facility ancillary to the established outdoor recreational use that is of appropriate design, size and scale.
83. It is also considered that the detail submitted demonstrates that the proposed development can be visually integrated into the surrounding landscape and that it is of an appropriate design. It is also considered that the development will not cause a detrimental change to, or further erode the rural character of an area
84. It is also considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.

Recommendations

85. It is recommended that planning permission is approved.

Conditions

86. 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.

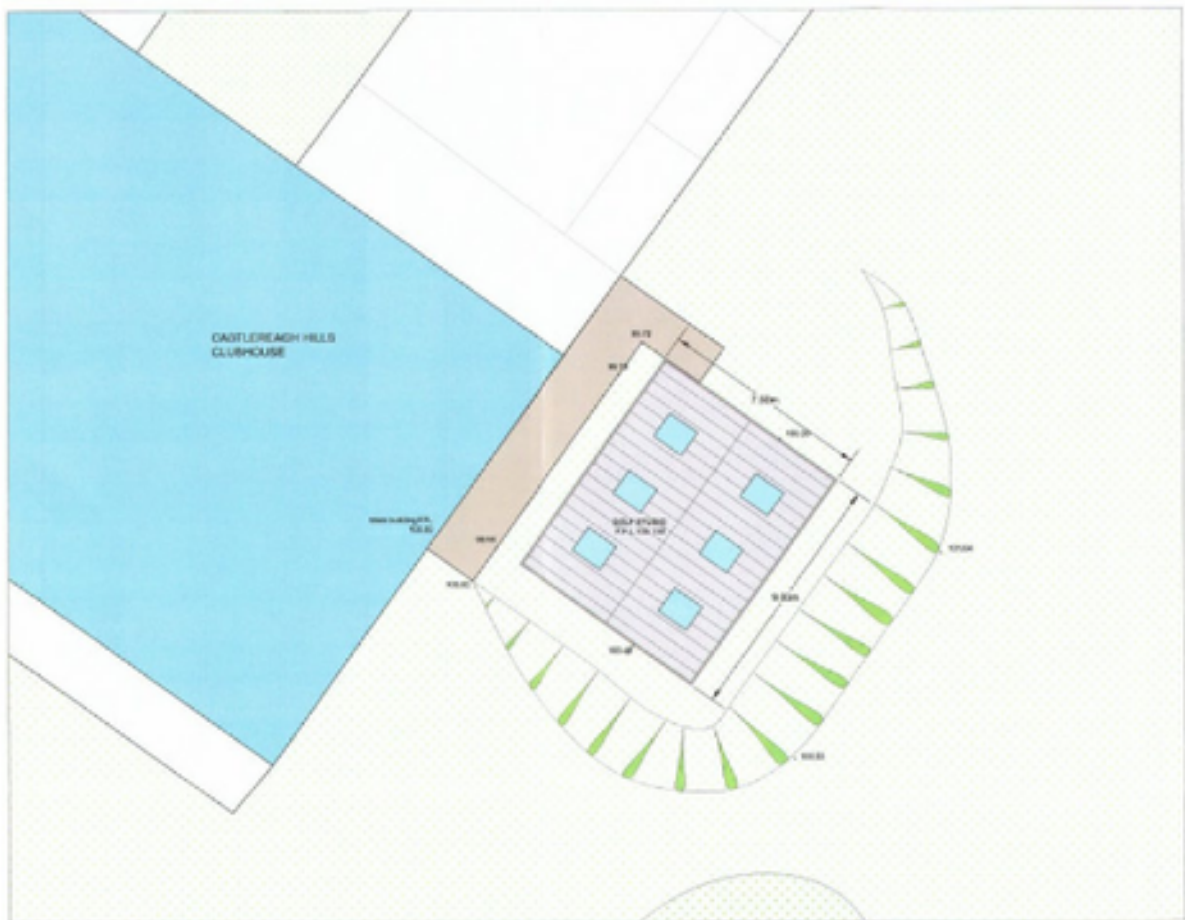
Reason: Time limit

Site Location Plan – LA05/2021/1093/F



LOCATION MAP
Scale 1:1250
O.S. Ref. 147/08

Site Layout Plan – LA05/2021/1093/F



SITE PLAN
Scale 1:100

Annex A of PPS 8 - Definition of Open Space

A1 For the purposes of this Planning Policy Statement, open space is taken to mean all open space of public value, including not just land, but also inland bodies of water such as rivers, canals, lakes and reservoirs which offer important opportunities for sport and outdoor recreation and can also act as a visual amenity.

A2 The following typology illustrates the broad range of open spaces that are of public value:

- (i) parks and gardens – including urban parks, country parks, forest parks and formal gardens;
- (ii) outdoor sports facilities (with natural or artificial surfaces and either publicly or privately owned) – including tennis courts, bowling greens, sport pitches, golf courses, athletic tracks, school and other institutional playing fields, and other outdoor sports areas;
- (iii) amenity green space (most commonly, but not exclusively in housing areas) – including informal recreation spaces, communal green spaces in and around housing, and village greens;
- (iv) provision for children and teenagers – including play areas, kickabout areas, skateboard parks and outdoor basketball hoops;
- (v) green corridors – including river and canal banks, amenity footpaths and cycleways;
- (vi) natural and semi-natural urban green spaces – including woodlands, urban forestry, grasslands (eg. meadows), wetlands, open and running water, and rock areas (eg. cliffs);
- (vii) allotments and community gardens;
- (viii) cemeteries and churchyards; and
- (ix) civic spaces, including civic and market squares and other hard surface areas designed for pedestrians.

A3 The Department recognises that most areas of open space can perform multiple functions. These will be taken account of when applying the policies of this Statement. These include:

- (i) strategic functions - defining and separating urban areas; providing community greenways, 'green lungs' or landscape buffers within urban areas; better linking of town and country; and serving recreational needs over a wide area;

- (ii) urban quality - helping to support regeneration and improving quality of life for communities by providing visually attractive green spaces close to where people live;
- (iii) promoting health and well-being - providing opportunities to people of all ages for informal recreation, or to walk, cycle or ride within parks and open space or along paths, bridleways and canal banks. Allotments may provide physical exercise and other health benefits;
- (iv) havens and habitats for flora and fauna – sites may also have potential to be corridors or stepping stones from one habitat to another and may contribute towards achieving objectives set out in the Northern Ireland Biodiversity Strategy; (v) as a community resource – a place for congregating and for holding community events; and
- (v) as a visual amenity – even without public access, people enjoy having open space near to them to provide an outlook, variety in the urban scene, or as a positive element in the landscape.



Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Statutory Performance Indicators – April 2022

Background and Key Issues:

Background

1. The Planning Act (Northern Ireland) 2011 sets out the legislative framework for development management in NI and provides that, from 1 April 2015, Councils now largely have responsibility for this planning functions.
2. The Department continues to have responsibility for the provision and publication of official statistics relating to the overall development management function, including enforcement. The quarterly and annual reports provide the Northern Ireland headline results split by District Council.
3. This data provides Councils with information on their own performance in order to meet their own reporting obligations under the Local Government Act (Northern Ireland) 2014.

Key Issues

1. The Department for Infrastructure has provided the Council with monthly monitoring information against the three statutory indicators. A sheet summarising the monthly position for each indicator for the month of April 2022.

2. This data is invalidated management information. The data has been provided for internal monitoring purposes only. They are not Official Statistics and should not be publically quoted as such.
3. Members will note that the performance against the statutory target for local applications for April 2022 was 17.8 weeks. There is evidence that the backlog identified previously is being addressed with more decisions having issued than received.
4. The Planning Unit remains focused on improving performance in relation to local applications.
5. Performance in relation to major applications is 83.4 weeks. As explained previously, there has been no real opportunity to perform against the statutory target for major applications as a number of proposals brought forward in previous months are subject to Section 76 planning agreements.
6. Processing major applications remains a priority for the Planning Unit.

Recommendation:

It is recommended that the Committee notes the information.

Finance and Resource Implications:

There are no finance or resource implications.

Screening and Impact Assessment

1. Equality and Good Relations

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

If no, please provide explanation/rationale

This is a report of monthly performance and not subject to screening

If yes, what was the outcome?:

Option 1
Screen out
without mitigation

N/A

Option 2
Screen out with
mitigation

N/A

Option 3
Screen in for
a full EQIA

N/A

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

Has a Rural Needs Impact Assessment (RNIA) template been completed?

N/A

If no, please give explanation/rationale for why it was not considered necessary:

This is a report of monthly performance and not subject to screening

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 – Statutory Performance Indicators – April 2022

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

Statutory targets monthly update - April 2022 (unvalidated management information)

Lisburn and Castlereagh

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	0	1	83.4	0.0%	68	78	17.8	47.4%	23	26	14.5	92.3%
May	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
June	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
July	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
August	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	0	1	83.4	0.0%	68	78	17.8	47.4%	23	26	14.5	92.3%

Source: NI Planning Portal

Notes:

1. DCs, CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.



Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Appeal Decision in respect of planning application LA05/2018/0307/F

Background and Key Issues:

Background

1. An application for a replacement dwelling with retention & conversion of existing stone built, vernacular building (former dwelling) to stables/ outbuildings on lands 130m north of 47 Ballymullan Road, Lisburn was refused planning permission in February 2020 as it was considered that:
 - There were no overriding reasons why this development is essential in this rural location and could not be located within a settlement;
 - There is no permitted structure that exhibits the essential characteristics of a dwelling;
 - That the ancillary works would be harmful to the landscape and would therefore result in a detrimental change to the rural character of the countryside; and
 - That the proposal fails to conserve or enhance the character and features of the AONB.
2. An appeal was lodged with the Planning Appeals Commission on 18 August 2020. The procedure followed in this case was Informal Hearing which took place on 19 August 2021.
3. A decision received on 28 April 2022 indicated that the appeal was dismissed and all refusal reasons had been sustained.

Key Issues

1. In respect of the question of whether the building was a dwelling at paragraph 10 of the decision the Commissioner acknowledged that whilst all four external walls of the appeal structure are substantially intact, sections thereof had been rebuilt and reference is made to new lintels having been introduced and a fireplace being built up. The works represented significant rebuilding and the view was expressed that this view was reinforced by the description of the original structure as a ruin in the Council's letter of 2 May 2017.
2. At paragraph 11 it was acknowledged that it is common case that there was a structure used as a dwelling until 1970 (some 50 years ago). That said, the Commissioner expressed the view that the appeal structure is not that same structure. The decision also noted the fact that enforcement action was not taken does not confer a use on the appeal structure.
3. At paragraph 12 the Commissioner provided clarity on the interpretation of the policy by making reference to fact that the policy explicitly states 'the building to be replaced' and that that the policy did not envisage this to include a rebuild from a ruin or a new building.
4. At paragraphs 13 – 15 the Commissioner expressed the view that the access arrangements proposed [which entail an access and laneway of some 280 metres in length] are extensive and would serve to draw attention to the appeal development. The combined effect of the access, when viewed with other accesses in the vicinity would be damaging to the rural character of the area.
5. The members attention is specifically drawn to the Commission's consideration in this case of the difference between minor repairs and rebuilding works are. It is not the case all circumstances that the replacement of a building for a dwelling will be justified dwelling. The building must exhibit some of the original characteristics that made it a dwelling in the first place.

Recommendation:

It is recommended that the Committee notes the report and decision of the Commission in respect of the planning appeal LA05/2018/0307/F.

Finance and Resource Implications:

No cost claim was lodged 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 report sets out the findings of the Planning Appeals Commission decision, It does not need to be screened.

If yes, what was the outcome?:

Option 1 Screen out without mitigation	<input type="text" value="N/A"/>	Option 2 Screen out with mitigation	<input type="text" value="N/A"/>	Option 3 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 report sets out the findings of the Planning Appeals Commission decision, It does not need to be screened.

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 3 – Appeal Decision - LA05/2018/0307/F

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

234

Appeal Reference:	2020/A0025
Appeal by:	Mr William Briggs
Appeal against:	The refusal of full planning permission
Proposed Development:	Replacement dwelling with retention & conversion of existing stone built vernacular building (former dwelling) to stables/outbuildings
Location:	130m North of 47 Ballymullan Road, Lisburn
Planning Authority:	Lisburn & Castlereagh City Council
Application Reference:	LA05/2018/0307/F
Procedure:	Informal Hearing on 19 August 2021
Decision by:	Commissioner Pamela O'Donnell, dated 28 April 2022

Decision

1. The appeal is dismissed.

Reasoning

2. The main issues in the appeal are:-
 - whether the proposal is acceptable in principle in the countryside,
 - whether it would visually integrate into the surrounding landscape and
 - whether it would adversely impact on the rural character of this Area of Outstanding Natural Beauty (AONB).
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 indicates 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 adopted Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal in May 2017. Consequently, the Lisburn Area Plan 2001 (LAP) operates as the LDP for the area wherein the appeal site is located. The Draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, remains a material consideration. The LAP locates the appeal site outside any settlement limit and within the countryside. It is also within the Lagan Valley AONB. The LAP offers no specific policy or guidance pertinent to the appeal proposal. In the dBMAP, the site lies within a proposed Area of High Scenic Value (AOHSVs). Draft Policy COU 7 therein indicates that planning permission will not be granted to development proposals that would adversely affect the quality, character and features of interest in AOHSVs.

5. No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of retained policy regarding issues relevant to this appeal. Accordingly, and in line with the transitional arrangements set out in the SPPS, the main policy context is provided by Planning Policy Statement 21: 'Sustainable Development in the Countryside' (PPS21) and PPS2: 'Natural Heritage'. Guidance provided in 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' (BOT) is also pertinent to the assessment of this appeal proposal.
6. As outlined above, the planning policy context is set out in PPS21. Policy CTY1 thereof sets out the types of development considered to be acceptable in principle in the countryside. In respect of dwelling houses, it says that planning permission will be granted for a replacement dwelling in accordance with Policy CTY3. Policy CTY1 goes on to say that other types of development will only be permitted where there are overriding reasons why the development is essential and could not be located in a settlement.
7. Policy CTY3 is entitled 'Replacement Dwellings'. This policy states that "*planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings*". The Council are satisfied that there was a building in use as a dwelling on the appeal site from at least 1863 to 1970. However, their final position as discussed at the Hearing was that the appeal structure is not permitted or authorised and does not benefit from the policy provisions.
8. The appeal structure is single storey, rectangular in shape and constructed in stone. It has four external walls, two internal walls and is without a roof. Much of it is overgrown with vegetation. There are several window and door openings to the front and rear akin to those one would see in a dwelling. Much of the stonework looks to be of relatively recent addition given the differing hue in the weathering and the absence of moss around it. The Appellant does not dispute that the roof was removed and that stonework was repaired. There also appears to be new lintels above the window and door openings and a fireplace has been built up in red brick.
9. It is noted that two enforcement cases were opened by the Council in respect of the appeal structure in 2012 and 2017. Both related to alleged unauthorised works to the building. Both cases were subsequently closed and no enforcement notices were served. At the hearing I was furnished with a letter from the Council to the Appellant dated 2 May 2017 advising that the "*unauthorised work to form walls from a ruin*" was immune from enforcement in accordance with the time limits set out in Section 132 of the Planning Act (NI) 2011. The letter goes on to say that the Council does not intend to pursue the matter further. This letter does not detail the extent of the unauthorised work but at the hearing the Council confirmed that (i) photographic evidence enabled them to conclude that the works undertaken were immune from enforcement action, (ii) no further works had been carried out from that time (May 2017), and (iii) there was no current enforcement case opened. In their view, during this process, it was considered not expedient to pursue the case as they reasoned that the structure would deteriorate and return to its previous ruinous state.

10. Whilst all four external walls of the appeal structure are substantially intact, sections thereof have been rebuilt. As outlined above, new lintels have also been introduced and a fireplace has been built up. Notwithstanding the Appellant's claims including that the works merely constituted essential repairs, I consider that the works represent significant rebuilding. I am reinforced in this finding by the description of the original structure as a "ruin" in the Council's letter of 2nd May 2017. The aerial photographs supplied by the Council dated April 2007 show the appeal site as completely overgrown with vegetation lending support to the proposition that the original structure was in a ruinous state. Since then, planning officer assessments made under intervening planning applications dated 2012 and 2014 indicate that substantive works had been carried out. Prior to such works it is difficult to reason how something described as a ruin could exhibit the essential characteristics of a dwelling and have four walls substantially intact.
11. It is common case that there was a structure used as a dwelling up until 1970 (some 50 years ago). However, given the rebuilding, the appeal structure is not that same structure. The building currently on site was not used as a dwelling and the fact that enforcement action was not taken does not confer a use on the appeal structure.
12. Policy CTY3 is entitled 'replacement dwellings' and it explicitly states, 'the building to be replaced' (emphasis added). The policy wording relates to one and the same building. It does not envisage a rebuild from a ruin or a new building. For the reasons given in the paragraphs above, the proposal does not comply with the policy and no replacement opportunity arises in this case. Appeal decision 2016/A0084 was taken in its own particular evidential context. In any event, it does not persuade me to set aside the policy objection to this proposal which must be considered on its own merits. The second reason for refusal is sustained.
13. Even if there was a valid replacement opportunity under Policy CTY3, the proposal is required to satisfy an additional five bullet points. Whilst one of these relates to visual integration, the Council's objections cite policies CTY13 and CTY14 of PPS21 which relate to the integration and design of buildings in the countryside and rural character respectively. The appeal site itself is wholly screened from the Ballymullan Road, although the access arrangements (which would entail an access and laneway of some 280m in length) would be appreciable in the landscape as discussed below. At the hearing the Council withdrew their concerns regarding views from the M1 motorway. The main critical view of the proposed dwelling and garage would therefore be from the Hillhall Road. Although views from this road would be distant and limited to existing gaps in vegetation cover and between buildings, paragraph 5.60 of Policy CTY 13 indicates that where a site cannot be readily identified from critical viewpoints, it does not obviate the need for careful site selection to ensure the proposed building blends into its surroundings. Paragraph 5.82 of Policy CTY14 also indicates that the impact of ancillary works associated with a new building (access arrangements in particular) can often raise awareness of and draw attention to new development which can be contrary to rural character.
14. There is rising ground which would provide a backdrop to the proposal when viewed from the Hillhall Road and this would help with its visual integration. However, the site would be elevated, cut out of a larger agricultural field and it would lack established natural boundaries to three sides. It would therefore rely primarily on the use of new landscaping for integration purposes which the policy states to be unacceptable. In addition, the topography of the site means that cut and fill (with

excavation of around 3m) would be necessary in order to create an artificial platform for the proposed development. This would be considered as significant earth works, which the policy justification and amplification cautions against. The creation of the platform and the extent of the new build proposed would visually interrupt, rather than blend with, the landform.

15. Combined with the above, the proposed new access arrangements would extend to around 280m in length from the Ballymullan Road. Whilst the access would mainly run adjacent to existing hedgerows over most of its length, the initial section from the Ballymullan Road would read as a sweeping driveway. It would sever the roadside field creating a suburban emphasis. Given the topography, the access would be appreciable as it would be elevated by rising some 6-7m from the road. Notwithstanding the reinstatement of roadside hedgerows and the provision of new landscaping, it would therefore be prominent in the landscape. The access arrangements proposed are extensive and would serve to draw attention to the appeal development. When read with the other accesses in the vicinity, the combined effect would be damaging to the rural character of the area. For the reasons given the proposal fails to satisfy policies CTY13 and CTY14 and the BOT guidance. The third and fourth reasons for refusal are sustained insofar as stated.
16. The Council also raised an objection based on Policy NH6 of PPS2 in that the proposal would fail to conserve or enhance the character and features of the AONB. Whilst the proposal would involve the reuse and conservation of an existing structure in the landscape, a significant element would entail new build. For reasons outlined above, it would be detrimental to the rural character of the area and hence by extension to the AONB and the AOHSV. The proposal would therefore be contrary to the dBMAP and Policy NH6. The fifth reason for refusal is sustained.
17. As outlined above, Policy CTY1 of PPS21 indicates that other types of development will only be permitted where there are overriding reasons why the development is essential and could not be located in a nearby settlement. There was no persuasive evidence to demonstrate that the proposal is essential. It is therefore also at odds with Policy CTY1 of PPS21. The first reason for refusal is sustained.
18. As all five reasons for refusal are sustained as stated, the appeal must fail.

This decision is based on the following drawings (Council's numbering system): Drawing No 01/1 @1:2500 'Site Location Plan', Drawing No 02/2 @ 1:500 'Site Layout Plan, Drawing No 03/1 @ 1:100 'Proposed Floor Plans & Elevations', Drawing No 04/1 @ 1:100 'Proposed Garage Plans & Elevations', Drawing No 05 @ 1:100 @Existing Dwelling Plans & Elevations' and Drawing 06 @ 1:100 'Existing Dwelling Renovated Plans & Elevations' all stamped refused by the Council on 6 February 2020.

COMMISSIONER PAMELA O'DONNELL

List of Appearances

Planning Authority:- Ms C Breen
Mr M Burns

Appellant(s):- Mr T Wilson (Agent)
Mr W Briggs (Appellant)

List of Documents

Planning Authority:- "A" Statement of Case

Appellant(s):- "B" Statement of Case
"C" Letter to Appellant from the Council dated 02/05/2017



Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 4 - Appeal Decision in respect of planning application
LA05/2019/0347/RM

Background and Key Issues:

Background

1. An application for two additional dwellings comprising one 2.5 Storey Detached and one 2 Storey 3 Bed Detached Dwellings at 1 Bells Lane, Lambeg, Lisburn was refused planning permission on 23 July 2020 as it was considered that:
 - The site was located in an established residential area and if permitted would result in unacceptable damage to the local character and environmental quality of the area in terms of its layout and the scale, form, proportions, massing and appearance of the buildings;
 - The proposal provided inadequate amount of private amenity space;
 - The proposal did not draw upon the best local traditions of form and detailing by virtue of its design;
 - The proposal would result in an unacceptable adverse effect on existing properties by virtue of its design;
 - That the proposal would result in an unacceptable adverse effect on existing properties by virtue of undue overlooking and loss of light; and
 - That insufficient information had been submitted in relation to transport issues.

2. An appeal was lodged with the Planning Appeals Commission on 24 November 2020. The procedure followed in this case was written representations with Commissioner site visit on 21 April 2022.
3. A decision received on 25 April 2022 indicated that the appeal was dismissed and that the Council had sustained all the reasons for refusal set out in its decision.

Key Issues

1. The report noted at paragraph 7 that the Council's objection related to the design of one of the house types and that the applicant had failed to comply with the concept layout as approved at outline stage.
2. At paragraph 10, the Commissioner expressed the view that the proposed dwelling HT2 would read as a large and overly dominant feature in the street scene given the configuration of this site taken together with the size, scale and massing of the proposed building.
3. The report also noted that the use of inset annexes and variations in ridge height in the design would not sufficiently reduce the overall massing and consequent visual impact the proposed dwelling would have.
4. The Commissioner also accepted that the proposed dwelling HT2 would present as an out of context feature, in juxtaposition to the existing dwellings to the south and south west, even with the tall evergreens to the east providing a backdrop from the western approach.
5. The conclusion reached by the Commissioner in this regard was that the development would not respect its surrounding context, nor would the building be appropriate to the character and topography of the site in terms of its layout, scale, proportions massing and appearance.
6. With regard to the provision of private amenity space, the Commissioner agreed at paragraphs 12 and 13 of the report that the Council's concerns that the proposed dwelling HT2 did not provide sufficient private amenity space for residents and that there was also an issue with the quality of the provision.
7. The Commissioner also accepted at paragraph 14 the concerns expressed by the Council whereby the proximity of the proposed dwelling HT2 to the party boundary with the dwelling at 5 Queensway Gate would result in the loss of light to that dwelling, particularly as there are two windows in its northern gable.
8. Members should note that the Commissioner concluded that they had not been persuaded that the originally envisaged design had been followed and thus the proposal would not create a quality residential development, consequently the appeal was dismissed.
9. The grant of outline planning permission had established the principle of development but this does always mean that the detail that follows will. The obligation is for the planning

applicant to bring forward a high quality design that does not impact on neighbours by reason of dominance.

Recommendation:

It is recommended that the Committee notes the decision of the Commission in respect of planning appeal LA05/2019/0347/RM.

Finance and Resource Implications:

No cost claim was lodged 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 report sets out the findings of the Planning Appeals Commission decision. It does not need to be screened.

If yes, what was the outcome?:

Option 1

Screen out without mitigation

N/A

Option 2

Screen out with mitigation

N/A

Option 3

Screen in for a full EQIA

N/A

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

Has a Rural Needs Impact Assessment (RNIA) template been completed?

No

If no, please give explanation/rationale for why it was not considered necessary:

This report sets out the findings of the Planning Appeals Commission decision. It does not need to be screened.

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 – Appeal Decision LA05/2019/0347/RM

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2020/A0106.
Appeal by:	Mr David Anderson.
Appeal against:	The refusal of reserved matters.
Proposed Development:	2 no. additional dwellings, comprising 1 no. two-and-a-half storey detached and 1 no. two storey, three bed detached dwellings.
Location:	1 Bells Lane, Lambeg, Lisburn.
Planning Authority:	Lisburn & Castlereagh City Council.
Application Reference:	LA05/2019/0347/RM.
Procedure:	Written representations and Commissioner's site visit on 21 April 2022.
Decision by:	Commissioner Mark Watson, dated 25 April 2022.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether or not the proposed development would:
 - respect its surrounding context;
 - provide adequate private amenity space; and
 - adversely impact on the amenity of occupants of an adjacent dwelling.

Policy Context

3. The Lisburn Area Plan 2001 (LAP) operates as the statutory local development plan (LDP) for the proposal. In it, the site lies within the development limit of Lisburn and is not zoned for any purpose. The LAP does not contain any policies or proposals of relevance to the appeal development and is not material. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) to be unlawful on 18 May 2017. A consequence of this Court of Appeal judgement is that the LAP, despite its vintage, as already referred to above, operates as the LDP for the area. A further consequence of the judgement is that the draft BMAP (dBMAP), published in 2004, is a material consideration in the determination of this appeal. In the dBMAP the appeal site is within the settlement limit of Lisburn City. The appeal site is not zoned for any purpose. There are no policies or designations within the dBMAP applicable to the appeal development, thus it is not material to this case.

4. The Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) refers at paragraph 6.137 to the need to deliver increased housing without town cramming and espouses the importance of new development respecting local character and environmental quality, as well as safeguarding the amenity of existing residents. In respect of the appeal development, there is no conflict or change in policy direction between the provisions of the SPPS and that contained in Planning Policy Statement 7 – Quality Residential Environments (PPS7). PPS7 remains the applicable policy document to consider the appeal development under. Guidance contained in *Creating Places – Achieving Quality in Residential Environments* (CP) is also of relevance.
5. The appeal site comprises a triangular shaped piece of land on the southern side of Bells Lane. The site is relatively flat and lies slightly below the level of the adjacent road, though more so at the eastern end where the road line rises towards Bells Bridge. There is a two-storey dwelling with a small curtilage on part of the western section of the site, which is to be retained. There is a car wash facility taking up much of the site area, with a small valeting building at the eastern end. Most of the appeal site is covered in a mixture of tarmac and gravel. The road frontage boundary is defined by a low wooden fence, with the eastern boundary comprised of tall, mature conifers. The Queensway Gate residential development, comprised of two storey, semi-detached dwellings, occupies the land adjacent and south of the appeal site. The Dunmurry Golf Club lies on the opposite side of Bells Lane to the north of the site. The Bells Bridge provides vehicular access across the railway line, the line of which abuts the eastern edge of the appeal site. The appeal site lies within a suburban area characterised by a mix of dwellings and several community use buildings.
6. The retention of the car wash on the appeal site was granted permission under application S/2014/0152/F. Outline planning permission (ref. S/2014/0613/O) was granted on 2 June 2016 for 2 additional dwellings on the appeal site. Condition 4 of that permission required that the development be in general conformity with the proposed site plan relating to that permission, or as might be modified by agreement in writing with the Council, in order to achieve similar design objectives. The appeal development seeks to erect two detached dwellings. House Type 1 (HT1) would be a two storey, three-bedroom dwelling. House Type 2 (HT2) would be a two-and-a-half storey, four-bedroom dwelling. HT2 would be a much larger building than HT1, with the main section being two and a half stories in height, connected by a two-storey link to a sizeable two-storey rear return, accommodating a double garage with a living room above it. Both dwellings would be finished in a mix of smooth render and stone elements, with blue / black roof slates. Landscaping is proposed, along with improvements to the existing vehicular access, which will also serve the existing in-situ dwelling.

Design Considerations

7. The Council's objections related to the HT2 building, its failure to comply with the concept layout as was approved at outline stage and the consequent adverse effect on the surrounding environment.
8. Paragraph 4.27 of the SPPS states that where the design of proposed development is consistent with relevant LDP policies and/or supplementary design guidance, planning authorities should not refuse permission on design grounds,

unless there are exceptional circumstances. It goes on to state that planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance.

9. Criterion (a) of Policy QD1 of PPS7 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. Criterion (g) of the same policy requires that the design of the development draws upon the best local traditions of form, materials and detailing.
10. The HT2 building would measure approximately 25.3m from front to back. Its roof line would vary along parts of it up to approximately 9.6m high, then step up to approximately 12m for the two-and-a-half storey section. HT2 would read as a large and overly dominant feature in the streetscene given the configuration of the site taken together with the size, scale and massing of the proposed building. This along with its position within the relatively narrow eastern section of the site would result in the building presenting as overdevelopment and being crammed into the eastern part of the site, even if the building to garden area ratio was acceptable in purely mathematical terms. Whilst the use of inset annexes and variations in ridge height in the design might avoid HT2 having a monolithic appearance, they would not sufficiently reduce the overall massing and consequent visual impact the proposed building would have. Consequently, the proposed HT2 dwelling would present as an out of context feature, greatly in juxtaposition to the existing dwellings to the south and south-west, even with the tall evergreens to the east providing a backdrop from the western approach. The rising level of the road relative to the site towards Bells Bridge would not adequately ameliorate the visual impact of the proposed dwelling.
11. For these reasons the appeal development would not respect its surrounding context, nor would it be appropriate to the character and topography of the site in terms of its layout, scale, proportions, massing and appearance. Despite the proposed use of similar materials to those evident in the locality, the proposed design would nevertheless fail to draw upon the best local traditions of form and detailing, which would be expressed by a dwelling more in keeping with those nearby it in terms of height and massing. Criterion (a) of Policy QD1 of PPS7 is not met, whilst criterion (g) is not fully satisfied, nor are the related provisions of the SPPS. The Council's first and third reasons for refusal are sustained.

Provision of Private Amenity Space

12. The Council considered that the HT2 part of the development did not provide sufficient private amenity space for residents and also had issue with the quality of said provision. Criterion (c) of Policy QD1 of PPS7 requires that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Guidance in CP at paragraph 5.19 indicates that garden sizes larger than the average will generally suit dwellings designed for use by families, but goes on to say that for any individual house however an area less than around 40 sq. m will generally be unacceptable.
13. The rear private amenity area provided amounts to approximately 72 sq. m, with a larger area available in total surrounding the proposed HT2 dwelling. The rear

amenity space quantitatively satisfies the CP guidance. However, this area is constituted by a thin strip along the northern side of the proposed dwelling ranging from approximately 3.2 to 3.8m wide, as well as a small portion to the east of the dwelling, part of which would be taken up with the proposed planting to screen the rear of HT2 from the rear amenity space belonging to No. 5 Queensway Gate. Whilst there would also be a narrow wedge-shaped area to the south of the dwelling, much of that would be utilised for the parking area. Whilst the Appellant considered there to be up to approximately 200 sq. m of space surrounding the HT2 dwelling in total, even if that is the case, its configuration does not provide adequate amenity space for the reasons already given above. The proposed development departs significantly from the concept layout as approved under permission S/2014/0613/O in terms of the arrangement of private open space for this part of the site. The proposed layout for HT2 within the overall site and the resultant configuration of private amenity space would not provide adequate private amenity space for this substantial four-bedroom dwelling. I find that criterion (c) of Policy QD1 of PPS7 is not met. The Council's second reason for refusal is sustained.

Residential Amenity

14. Criterion (h) of Policy QD1 states that 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. The Council raised concerns that the proximity of HT2 to the party boundary with the dwelling at No. 5 Queensway Gate would result in loss of light to that dwelling, particularly as there are two windows in its northern gable. The proposed HT2 and No. 5 would sit approximately 2.6m from one another. Notwithstanding the relative position of two buildings to one another and the path of the sun, which would mean no direct overshadowing of No. 5 by HT2, the height, massing and close proximity of HT2 to both the party boundary and the gable of No.5 itself would nevertheless appreciably impact upon ambient light levels on that side of No. 5.
15. Whilst the Appellant pointed to the acceptance of a 2.5 storey dwelling on this part of the site at outline stage, that would not in itself justify the appeal development, nor am I persuaded that the originally envisaged design at outline stage would have a greater impact on No. 5 than what is before me now. Whilst the separation gap between Nos. 6 and 7 Queensway Gate may only be approximately 2.3m, those dwellings sit almost in line to one another, with only a slight step in their respective forward building line and are the same height. They would not justify the granting of permission for a longer, higher dwelling in such close proximity to No. 5. I therefore agree with the Council that the development would result in an unacceptable adverse effect on the amenity of No. 5 Queensway Gate. Criterion (h) of Policy QD1 of PPS7 is not met, nor is the related provision of the SPPS. The fourth reason for refusal is sustained.

Conclusions

16. For the reasons given above the appeal proposal does not satisfy the aspects of prevailing regional planning policy set out above. Nor would the development, taken as a whole, generally conform with the concept layout that accompanied the outline planning permission, nor achieve similar design objectives. Whilst it is accepted that parts of the site are somewhat unkempt and in a dilapidated condition, I am not persuaded that any visual improvement arising from its

redevelopment for the appeal proposal would be justified given the adverse impacts that would arise, as already addressed above. Whilst there may have been third party objections to the car wash use on the appeal site, but none to the appeal development itself, that would not outweigh the objections raised by the Council. The Council's reasons for refusal have been sustained and the appeal must fail.

This decision is based on the following drawings submitted with the application:-

DRAWING NUMBER	TITLE	SCALE	DATE
01A	Site Location Map	1:1250	02/07/2020
02A	Site Layout – Landscaping & Levels	1:250	02/07/2020
03B	Site Layout – Roads Details	1:250	02/07/2020
04A	HT2 Elevations	1:100	02/07/2020
05A	Proposed Elevations, Sections, Floor Plans HT1	1:100	02/07/2020
06A	HT2 Floor Plans & Sections	1:100	02/07/2020
07B	Site Layout - PSD	1:250	02/07/2020

COMMISSIONER MARK WATSON

List of Documents

Planning Authority:-	'A'	Statement of Case & Appendices (L & C CC)
	'B'	Rebuttal Statement (L & C CC)
Appellant:-	'C'	Statement of Case (Mr M Johnston)
	'D'	Rebuttal Statement (Mr M Johnston)



Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 5 - Appeal Decision in respect of planning application LA05/2019/0640/F

Background and Key Issues:

Background

1. An application for the development of 5no residential dwellings (4no. semi-detached and 1no. detached), garages, landscaping and all other associated site works at Lands opposite and north-west of 10-20 (even) Old Church Heights, Milltown, Lisburn was refused planning permission on 08 September 2020 as it was considered that:
 - there were no overriding reasons why the development was essential in this rural location and could not be located within a settlement;
 - that the development would mar the distinction between the defined settlement limit of Milltown and the surrounding countryside and result in urban sprawl; and
 - that the proposal would if permitted result in the addition of ribbon development along Old Church Heights, Milltown.
2. An appeals were lodged with the Planning Appeals Commission on 05 November 2020. The procedure followed in this case was written representations with Commissioner site visit on 21 April 2022.
3. A decision received on 16 May 2022 indicated that the appeals were dismissed and that the Council had sustained all refusal reasons with the exception of element associated with its impact on the integrity of the proposed rural landscape wedge in draft BMAP.

Key Issues

1. The Commissioner outlined at paragraphs 5 to 8 the local development plan and regional policy context against which the appeal was considered.
2. At paragraph 10, the Commissioner noted that there is a fence and planted hedge along the site frontage to the northern edge of the estate road and whilst not fully matured, it along with the fencing was considered to provide a sufficiently robust buffer and logical definition between the settlement limit and countryside at this location. They further noted that the development limit along the north western edge of Old Church Heights is defined by the close boarded wooden fences making the rear curtilages of those dwellings and that the limit then becomes what is the appeal site frontage.
3. Whilst it was accepted that the development would not be at odds with the pattern of development and that critical views are limited, the view was held that the appeal site would not provide a defensible edge of settlement than the fence and hedge that is presently there.
4. At paragraph 12, the Commissioners report noted that the rear gardens belonging to 1 to 3 Old Church Heights extend slightly beyond the settlement limit into the countryside, the Commissioner was not persuaded that it would be in the public interest to allow further intrusion of a greater scale.
5. Likewise, the Commissioner was not persuaded that the slight extension of the car park associated with the Speckled Hen restaurant provided justification for five new dwellings breaching the limit and occupying what is countryside in planning policy terms.
6. At paragraph 13, the Commissioner explained that she was not persuaded that the stated housing need put forward by the appellant justified the development. Other appeal examples cited by the appellant were not considered to sit on all fours with the appeal site for the reasons outlined.
7. Urban sprawl considerations are dealt with at paragraphs 15 to 18 of the Commissioners report where the view was expressed that the development would not represent rounding off or consolidation at this part of Milltown given there already exists a legible boundary in the form of the fence and planting. The view is also expressed that irrespective of the relatively small size of the site and regardless of the proposed landscaping, the appeal development would nonetheless result in urban sprawl.
8. In terms of Road Safety and concerns expressed by objectors, the Commissioner noted at paragraph 22 that whilst the estate does not have a footpath, it would be reasonable to expect drivers to be cognisant of the potential for pedestrians walking within the estate and drive with due care.
9. Based on a review of the evidence, the Commissioner was satisfied that the development of 5 additional dwellings along with their associated traffic movements would not prejudice road safety, including that of pedestrians, or significantly inconvenience the flow of traffic.

10. Finally, in relation to residential amenity and concern expressed by objectors that the development would result in overlooking into the existing dwellings as well as potential loss of light, the Commission report notes at paragraph 24 that the separation distance between the proposed and existing dwellings would be sufficient to ensure no unacceptable adverse impact on residential amenity through loss of privacy, including overshadowing.
11. Members are asked to note this was a finally balanced decision. The extent to which a development is rounding-off must be carefully considered having regard of the site specific circumstances that apply. The Commission give a clear rationale of how to interpret the policy which will assist in future decision making.

Recommendation:

It is recommended that the Committee notes the decision of the Commission in respect of planning appeal LA05/2019/0640/F.

Finance and Resource Implications:

No cost claim was lodged 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 report sets out the findings of the Planning Appeals Commission decision. It does not need to be screened.

If yes, what was the outcome?:

Option 1

Screen out
without mitigation

N/A

Option 2

Screen out with
mitigation

N/A

Option 3

Screen in for
a full EQIA

N/A

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

Has a Rural Needs Impact Assessment (RNIA) template been completed?

No

If no, please give explanation/rationale for why it was not considered necessary:

This report sets out the findings of the Planning Appeals Commission decision. It does not need to be screened.

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 – Appeal Decision LA05/2019/0640/F

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
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E: info@pacni.gov.uk

254

Appeal Reference:	2020/A0095.
Appeal by:	Garrett Homes Ltd.
Appeal against:	The refusal of full planning permission.
Proposed Development:	5 no. residential dwellings (4 no. semi-detached and 1 no. detached), garages, landscaping and all other associated site works.
Location:	Lands opposite and north-west of Nos. 10 – 20 Old Church Heights, Milltown, Lisburn
Planning Authority:	Lisburn & Castlereagh City Council.
Application Reference:	LA05/2019/0640/F.
Procedure:	Written representations and Commissioner's site visit on 21 April 2022.
Decision by:	Commissioner Mark Watson, dated 16 May 2022.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether or not the development would:
 - be acceptable in principle;
 - result in urban sprawl;
 - prejudice road safety, including that of pedestrians; and
 - adversely impact on the amenity of existing residents.
3. The appeal site comprises a rectangular section of a larger grassed field, situated on the north-western side of the roadway for the Old Church Heights residential estate. The land slopes gently down to the north-west and north-east. A wooden fence and recently planted vegetation defines the south-eastern, roadside boundary. The south-western boundary is provided by the fencing belonging to an adjacent dwelling, whilst a mature hedge provides the north-eastern boundary. The north-western boundary is undefined. There are two-storey semi-detached dwellings to the south and south-east of the site. Access to the site would be afforded by the existing estate roadway, which exits onto the Derriaghy Road. The appeal site lies on the northern edge of Milltown village.
4. The appeal development comprises two pairs of semi-detached dwellings and a detached dwelling. They would each have a garage within their curtilage. The dwellings are to be finished in brick with concrete roof tiles. Their appearance is designed to tie into that exhibited by the existing Old Church Heights dwellings.

Landscaping is also proposed. The Appellant considered that the proposed dwellings would round off the existing development, providing a more logical limit to this part of Milltown.

Principle of development

5. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) to be unlawful on 18 May 2017 and consequently BMAP must be disregarded. The Lisburn Area Plan 2001 (LAP), despite its vintage, operates as the local development plan (LDP) for the area the site is in. In the LAP, although the access roadway is within the settlement limit, the area where the houses would be located (hereafter referred to as the site) lies within the open countryside but adjacent to the development limit of Milltown. Although also within the Green Belt, that designation has since been superseded by the provisions of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). From a plain reading of the LAP, it does not envisage new housing developments outwith, but adjacent to, the limit of settlements within the plan area.
6. A further consequence of the aforementioned Court of Appeal judgement is that the draft BMAP, published in 2004, is a material consideration in the determination of this appeal. In draft BMAP (dBMAP) the appeal site lies in the countryside adjacent to the settlement development limit of Milltown. It also lies within a proposed Local Landscape Policy Area MN08 (LLPA) and proposed Rural Landscape Wedge LN02. There was no suggestion that the appeal development would have a significant adverse effect on the features or integrity of the proposed LLPA designation. I shall address the appeal development in relation to the proposed Rural Landscape Wedge later in this decision.
7. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of PPS21 in respect of the appeal proposal. The policy provisions of PPS21 remain applicable to the proposed development. In respect of matters raised by Objectors against the appeal development, there is no conflict or change in policy direction between the provisions of the SPPS and that contained in Planning Policy Statement 7 – Quality Residential Environments (PPS7) and Planning Policy Statement 3 – Access, Movement and Parking (PPS3). PPS7 and PPS3 also remain applicable to the appeal development.
8. Policy CTY1 of PPS21 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. Whilst provision is made for small scale social housing developments in the countryside and single dwellings, the appeal development does not fall within any of the specified housing categories envisaged as being acceptable in principle. The policy 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, or it is otherwise allocated for development in a development plan. Part 5 of PPS21 states that its policy considerations will prevail unless there is other overriding policy or material considerations that outweigh them and justify a contrary decision.
9. The Appellant considered that Old Church Heights appeared unfinished as there are only six dwellings along one side of estate roadway, with houses along its full

length on the opposite side. It was also considered that the urban form at this part of Milltown bled into countryside. According to the submitted evidence, there was previously an existing defined boundary along the rear of the site, but that hedge line, which constituted the settlement limit, was removed to accommodate a construction compound for building the existing dwellings in Old Church Heights.

10. Whilst it may have been the case that when the site was being used for storage of building supplies, there was an ambiguity to the defined edge of Milltown at this location, I must assess the site and its condition at the time of the appeal. As it stands there is a fence and planted hedge along the site frontage to the northern edge of the estate road. The planting, though not yet fully matured, nevertheless along with the fencing provides a sufficiently robust buffer and logical definition between the village and countryside at this location. The development limit along the north-western edge of Old Church Heights is defined by the closeboard wooden fences marking the rear curtilages of those dwellings. The limit then becomes what is the appeal site frontage. Despite this physical 'step' in of the settlement limit and whilst there are only dwellings to the southern side of the length of the estate road opposite the appeal site, there is no ambiguity or illegibility to the settlement limit as currently defined.
11. Although I accept that the appeal development would not be at odds with the pattern of development and the critical views are very limited, the appeal development would not provide a better edge of settlement than the fence and hedge that is presently there. The Appellant's various supporting material and visual analysis, including the drone photography, would not persuade me otherwise.
12. Whilst it is the case that the rear gardens belonging to Nos. 1 – 3 of the original Old Church Heights development extend slightly beyond the settlement limit into the countryside, I am not persuaded it would be in the public interest to allow further intrusions of a greater scale. The nearby Speckled Hen restaurant was also permitted a slight extension to a corner of its car park beyond the settlement limit into the countryside. Again, I am not persuaded that that development would justify five new dwellings breaching the limit and occupying what is countryside in planning policy terms. Any changes to the settlement limit is a matter best addressed through the LDP process.
13. The Appellant pointed out that identified sites within Milltown which could be utilised for housing have not been developed and their permissions have since lapsed. Other small scale potential sites had other constraints rendering them unsuitable. Using Housing Monitor information the Appellant had estimated that there only remained a potential for 9 dwellings within Milltown. Whilst it may be the case that there are no committed housing sites available, it does not follow that new applications could not be made on those sites within the settlement limit, or that small windfall developments could not come forward. Nor would the provision of 5 additional dwellings necessarily relieve pressure for single dwellings in the countryside. I am not persuaded that the stated housing need put forward by the Appellant would not justify the appeal development. Whilst the appeal site may represent a comparatively small area of land measured against the overall area within the settlement limit of Milltown, that would not justify the appeal development.

14. The Appellant considered that the appeal proposal had parallels with an earlier appeal decision 2009/A0245. That decision granted outline permission on 24 August 2010 for 'approximately 12 new terraced and semi-detached dwellings' on land adjoining the rear boundaries of Nos. 32, 33, 42 to 47 Ardgrange, Grangemore Park, Londonderry. Whilst there are several similarities to the present case, I would note the following differences:
- the LDP (in this case the LAP) has primacy in the determination of planning decisions following the advent of the Planning Act (NI) 2011;
 - the land the proposed dwellings would occupy is entirely outwith the statutory settlement limit, unlike in 2009/A0245 where approximately 60% of that site lay within the Derry development limit;
 - whilst the limit of development in 2009/A0245 may not have followed a logical line at the time of designation, I am told that the Milltown limit did follow an established boundary, albeit one that has since been removed. In the case of appeal decision 2009/A0245 that site was deemed to represent a strong physical boundary, but the appeal site before me does not have such an existing physical boundary on its north-western edge, but rather would simply be a cut out from a larger field, thus still requiring establishment of a new physical boundary; and
 - the appeal site has been cleared of any remaining building materials, grass resewn and a new boundary fence and planting established. There is no planning gain or betterment to be achieved through the development of the appeal dwellings, unlike in 2009/A0245 where agricultural buildings and ancillary storage were removed.

Given the differences between the appeal development before me and that considered in appeal decision 2009/A0245, I am not persuaded that they are on all fours, or that the previous decision would justify the granting of permission in this case.

Urban sprawl

15. Policy CTY15 of PPS21 states that Planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. Whilst access to the site would be via the existing Old Church Heights estate road, the appeal development would still represent an addition to the settlement, located within the countryside. Despite its relatively small size and lack of visual prominence from public viewpoints, development of the appeal site would nevertheless blur the distinction between the defined edge of Milltown and the countryside. Although the appeal development would be contiguous with the existing Old Church Heights dwellings, including their rear boundary line, the appeal development would not represent rounding off or consolidation at this part of Milltown given there already exists a legible boundary in the form of the fence and planting. Irrespective of the relatively small size of the site and regardless of the proposed landscaping, the appeal development would nonetheless result in urban sprawl.
16. However, notwithstanding this, there would still remain sufficient distance between Milltown and the nearest part of Belfast City, Lagmore Heights, as to avoid any impression of conglomeration between the two arising from the appeal development. Nor would the appeal development harm the integrity of the proposed Rural Landscape Wedge in dBMAP given the small proportion of the overall wedge it would represent. These particular elements of the Council's objection is not sustained.

17. However, for the reasons given above the appeal development would mar the distinction between Milltown and the surrounding countryside and result in urban sprawl. The Appellant's supporting information including the site analysis, aerial and drone photography would not persuade me otherwise. The appeal development is contrary to Policy CTY15 of PPS21. The Council's second reason for refusal is sustained to the extent specified.
18. The Council pointed to the potential for precedent throughout the district if permission was granted. Although I am not persuaded that the potential precedent would apply to every settlement throughout the district at all levels of the hierarchy, it would nevertheless be difficult to resist applications for new residential development outwith the limits of villages at the least. It would not be in the public interest to permit development that could enable further housing developments outwith the settlement limits of villages throughout the district.

Road safety

19. Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where two criteria are met; firstly that such access will not prejudice road safety or significantly inconvenience the flow of traffic and secondly, that the proposal does not conflict with Policy AMP 3 Access to Protected Routes. The appeal development is not on a protected route, thus the second criterion is not engaged.
20. Objectors raised concerns that the existing estate road was not wide enough to accommodate further traffic arising from the appeal development. The lack of a footpath was also raised, along with fears that pedestrian safety would be affected. It was also stated that the new traffic, including potential on-street parking associated with the appeal dwellings, could block emergency vehicles reaching dwellings in the estate.
21. The estate roadway is built to an appropriate standard that two normal sized vehicles can pass one another. Although I accept that large lorries would take up a greater proportion of the road when traversing it, such deliveries would be limited and even during the construction phase, in the event permission was granted, smaller construction and delivery vehicles could be utilised. Each proposed dwelling has sufficient in-curtilage parking and I have been given no persuasive evidence that the appeal development would give rise to situations where emergency vehicles could not reach the existing or proposed dwellings in the Old Church Heights estate.
22. Whilst the estate does not have a footpath it would be reasonable to expect drivers to be cognisant of the potential for pedestrians walking within the estate and drive with due care. From the totality of the evidence and my own on-site assessment I am satisfied that the development of 5 additional dwellings along with their associated traffic movements would not prejudice road safety, including that of pedestrians, or significantly inconvenience the flow of traffic. I note that DFI Roads did not object to the appeal development. Policy AMP2 of PPS3, as well as the related provisions of the SPPS, are met. The Objectors' concerns on this matter are not sustained.

Residential amenity

23. An Objector considered that the appeal development would result in overlooking into the existing dwellings, as well as potential loss of light. Matters pertaining to potential amenity impacts arising from new residential development fall to be considered under criterion (h) of Policy QD1 of PPS7. Criterion (h) states that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on either or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

24. The appeal dwellings would occupy a position on the opposite side of the estate roadway from the existing properties in a configuration and separation distance considered conventional in terms of modern residential development. The separation distance between the proposed and existing dwellings would be sufficient to ensure no unacceptable adverse impact on residential amenity through loss of privacy, including overlooking. As the proposed dwellings lie to the north and north-west of the existing Old Church Heights dwellings, there would be no overshadowing or loss of light resulting from the proposed new dwellings given the relative path of the sun, along with the separation distance between the proposed and existing dwellings. The appeal development satisfies criterion (h) of Policy QD1 of PPS7 and the related provisions of the SPPS. These matters would not warrant the withholding of planning permission.

Conclusions

25. There is no support in principle for the appeal development and it would give rise to urban sprawl. There are no overriding reasons why the appeal development is essential and could not be located in a settlement. I find that the appeal development does not comply with Policy CTY1 of PPS21. The Council's first reason for refusal is sustained. The various material considerations advanced by the Appellant, as well as the letter of support from a local resident, would not in themselves or taken as a whole, outweigh or justify a decision contrary to the provisions of the LDP and PPS21. The Council's reasons for refusal have been sustained to the extent specified and are determining. The appeal must fail.

This decision relates to the following drawings submitted with the application:-

DRAWING NUMBER	TITLE	SCALE	DATE
01	Location Plan	1:1250	14/06/2019
02 Rev 1	Site Survey	1:1250	10/07/2019
03 Rev 1	Site Layout & Car Parking Schedule	1:500	10/07/2019
04	A1 House type – Plans	1:100	14/06/2019
05	A1 House type - Elevations	1:100	14/06/2019
06	B House type - Plans	1:100	14/06/2019
07	B House type - Elevations	1:100	14/06/2019
08	Single Garage – Plan & Elevations	1:100	14/06/2019
09	Twin Garage – Plan & Elevations	1:100	14/06/2019
10	Boundary Details	1:100	14/06/2019
11	Roads Sections	1:500	04/09/2019
12	PSD Layout	1:250	04/09/2019

COMMISSIONER MARK WATSON

List of Documents

Planning Authority:-	'A' Statement of Case & Appendices (L & C CC) 'B' Rebuttal Statement & Appendix (L & C CC)
Appellants:-	'C' Statement of Case & Appendices (TSA Planning) 'D' Rebuttal Statement (TSA Planning)
Third Party:-	'E' Statement Letter (Mr M Anderson, Objector)



Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE:

Item 6 – Submission of Pre-Application Notice (PAN) for the construction of one general industrial unit [Class B3] and one general industrial unit with offices (B1 & B3) with associated access and parking facilities along with other ancillary works 50 metres south west of Ferguson Drive, Knockmore Hill Industrial Estate, 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 at Appendices 6(b) and 6(c).

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	<input type="text" value="N/A"/>	Option 2 Screen out with mitigation	<input type="text" value="N/A"/>	Option 3 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 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 6 (a) - Report in relation to LA05/2022/0430/PAN

Appendix 6 (b) – LA05/2022/0430/PAN– PAN Form

Appendix 6 (c) – LA05/2022/0430/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	13 June 2022
Responsible Officer	Conor Hughes
Date of Report	26 May 2022
File Reference	LA05/2022/0430/PAN
Legislation	Section 27 of the Planning Act (Northern Ireland) 2011
Subject	Pre-Application Notice (PAN)
Attachments	PAN Form and Site Location Plan

Purpose of the Report

1. The purpose of this report is to advise Members of receipt of a Pre-Application Notice (PAN) for the construction of one general industrial unit [Class B3] and one general industrial unit with offices (B1 & B3) with associated access and parking facilities along with other ancillary works at a site located 50 metres south west of Ferguson Drive, Knockmore Hill Industrial Estate, 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 28 April 2022. The earliest possible date for the submission of a planning application is week commencing 25 July 2022.

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 for construction of two general industrial units [Class B3] one of which has offices [Class B1] with associated access and parking facilities along with other ancillary works.
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 as a site 50 metres south west of Ferguson Drive, Knockmore Hill Industrial Estate, Lisburn.
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 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 at The Barn Studio, 64A Brumnacany Road, Portadown, BT63 5LY.
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's 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 notice that a public meeting will take place at Trinity Community Venue, Ballymacoss Avenue, Knockmore Road, Lisburn on 23 May 2022 from 6pm to 8 pm.

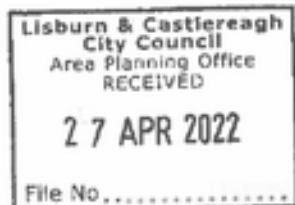
Reference is made to the event being publicised in the Ulster Star on 09 May 2022. Other than leaflets and poster being available at the public meeting no other consultation methods are specified.

Elected Members for the DEA identified as having an interest will receive a copy of the Proposal of Application Notice on 20 April 2021.

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.:	LA05 / 22 / 0430
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. 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:	Vision Fabrications	Name:	Paul McAlister Architects Ltd
Address:	1 Dagger Road	Address:	The Barn Studio 64A Drumnacanny Road
Town:	Lisburn	Town:	Portadown
Postcode:	BT28 2TJ	Postcode:	BT63 5LY
Tel:		Tel:	028383355111
E-mail:		E-mail:	info@pmcarchitects.com

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.

Site 50m southwest of 4 Ferguson Drive, Knockmore Hill Industrial Estate, Lisburn BT28 2EX

3. What is the area of the site in hectares? 1.26ha

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.

Construction of 1 No. general industrial unit (Class B3) and 1no. general industrial unit with offices (Class B1 & B3) with associated access and parking facilities along with other ancillary works

5. What is the total gross floorspace of the proposed development? 3304m²

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?

NA

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

No

(Please enclose a copy of the determination made under Section 26 of the Planning Act (NI) 2011)

9. Has an Environmental Impact Assessment determination been made?

Yes

No

(Please enclose a copy of the determination made under Part 2 of the Planning [Environmental Impact Assessment] Regulations [NI] 2015)

10. Please give details of proposed consultation

Proposed public event	Venue	Date and Time
Public Meeting	Trinity Community Venue	23rd May 2022
	Ballymacoss Avenue,	6pm to 8pm
	Knockmore Road,	
	LISBURN, BT28 2GU	
Name of publication(s) used: Ulster Star		
Proposed newspaper advert date(s): 9th May 2022		
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): none		
Details of any other publicity methods (such as leaflets, posters, etc): Leaflets and poster will be available at the public meeting.		

11. Please state which other parties have received a copy of this Proposal of Application Notice (Please continue on a separate sheet if necessary)

<p>Elected member(s) for District Electoral Area</p> <p>Ald Paul Porter - paul.porter@lisburncastlereagh.gov.uk Cllr Jenny Palmer - jenny.palmer@lisburncastlereagh.gov.uk Cllr Tim Mitchell - tim.mitchell@lisburncastlereagh.gov.uk Ald Amanda Grehan - amanda.grehan@lisburncastlereagh.gov.uk Cllr Alan Givan - alan.givan@lisburncastlereagh.gov.uk Cllr Andrew Ewing - andrew.ewing@lisburncastlereagh.gov.uk</p>	<p>Date notice served 20-04-2022</p>
<p>Other</p>	<p>Date notice served</p>

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

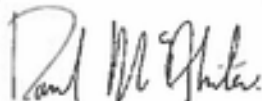
Or are you / the applicant / the applicant's spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?

Yes No

If you have answered yes, please provide details (name, relationship and role):

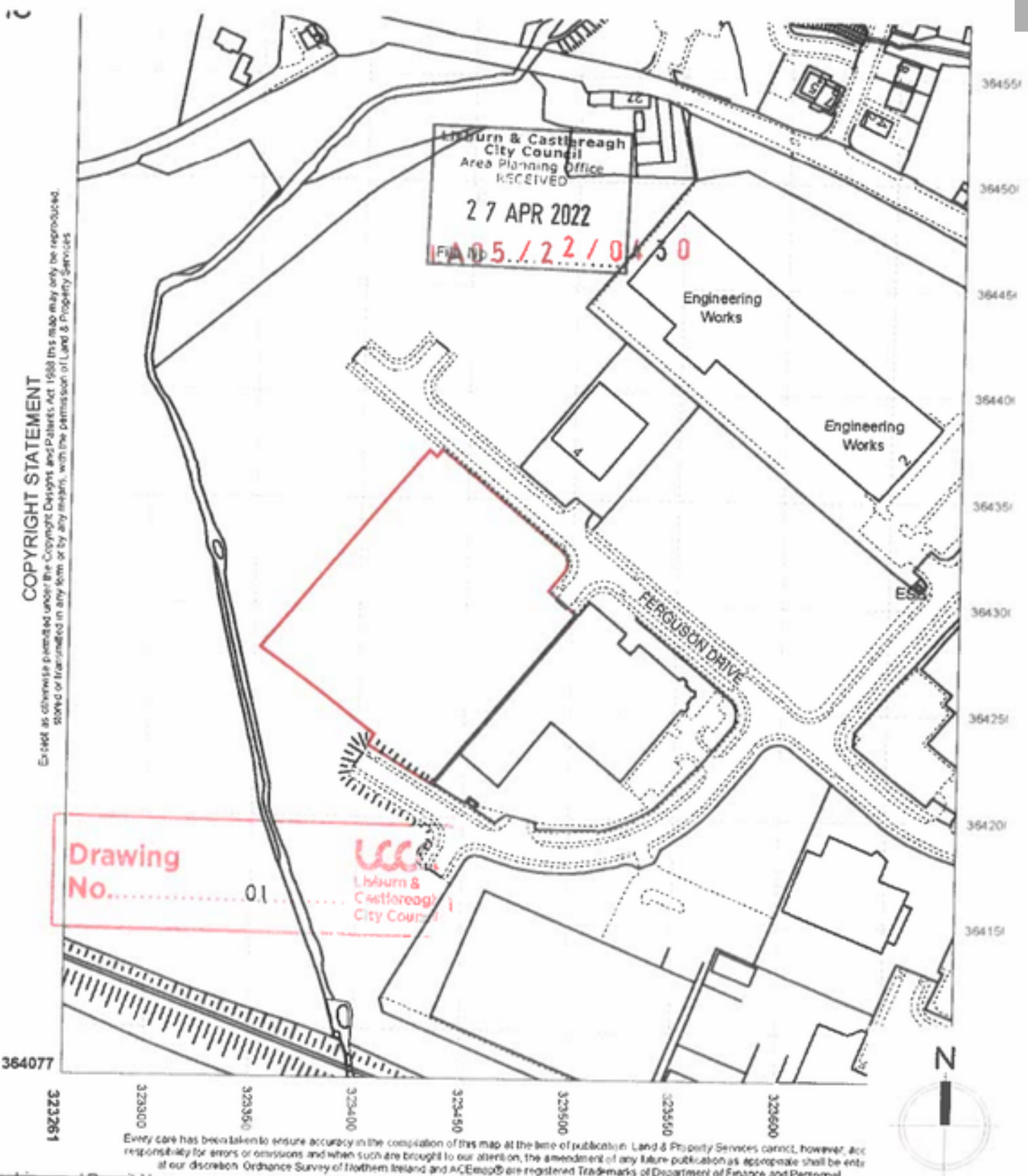
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13. Declaration

Signature:	
Print name:	Paul McAlister
Date:	20-04-2022

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.



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Site area	-	paulmc alister ARCHITECTS <small>- Architecture - Creative Design - Project Management</small>	
O.S.M No	-		
PROJECT Site 50m southwest of 4 Ferguson Drive, Knockmore Hill Industrial Estate, Lisburn BT28 2EX		CLIENT Barry Lyttle Vision Fabrications	
DRAWING TITLE Site location map		CLIENT The Barn Studio 64a Drumnacanny Road Portadown Co Armagh, BT63 5LY t. +44 (0)28 3835 5111 e. info@pmcarchitects.com w. www.pmcarchitects.com	
DATE	SCALE	PROJECT NO	DRAWING NO
April 2022	1:1250	20-23	A01

Architects / Engineers to be notified of any discrepancies in figured dimensions. Contractor must check all dimensions from site. This drawing is copyright and for use on this site only.

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Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE:

Item 7 – Submission of Pre-Application Notice (PAN) for a mixed use development comprising mixed tenure residential development and employment uses, park & ride provision and associated landscaping, car parking and site works on lands at 160 Moira 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 in appendices 7(b) and (c).

Finance and Resource Implications:

There are no finance and resource implications.

Screening and Impact Assessment

1. Equality and Good Relations

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

If no, please provide explanation/rationale

This is a 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	N/A	Option 2 Screen out with mitigation	N/A	Option 3 Screen in for a full EQIA	N/A
--	-----	---	-----	--	-----

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	No	Has a Rural Needs Impact Assessment (RNIA) template been completed?	No	
--	----	---	----	--

If no, please given explanation/rationale for why it was not considered necessary:

This is a report 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 7 (a) - Report in relation to LA05/2022/0453/PAN

Appendix 7 (b) – LA05/2022/0453PAN– PAN Form

Appendix 7 (c) – LA05/2022/0453/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	13 June 2022
Responsible Officer	Conor Hughes
Date of Report	26 May 2022
File Reference	LA05/2022/0453/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 mixed use development comprising mixed tenure residential development and employment uses, park & ride provision and associated landscaping, car parking and site works on lands at 160 Moira 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 04 May 2022. The earliest possible date for the submission of a planning application is week commencing 25 July 2022.

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 for mixed use development comprising mixed tenure residential development and employment uses, park & ride provision and associated landscaping, car parking and site works.
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 as lands at 160 Moira Road, Lisburn.
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 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 Turley at Hamilton House, 3 Joy Street, Belfast, BT2 8LE.
13. In addition to the matters listed above, regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;

14. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 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's 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 notice is given that a Public Exhibition Event will take place at Laganview Enterprise Centre, 69 Drumbeg Drive, Lisburn on 23 June 2022 from 3pm to 7pm. The event will be published in the Ulster Star on Friday 10 June 2022.

In terms of consultation methods, the form advises that a website is to be set up at www.moriaroad.co.uk including live chat function and online feedback form.

A consultation phone line and project email address will be made available and promoted on project leaflet and website. Hard copies of materials will also be made available via post to anyone unable to access digital materials.

A project information leaflet and freepost feedback form is to be distributed to neighbouring properties within 500 metres of the site.

Elected Members for the DEA identified as having an interest will receive a copy of the Proposal of Application Notice on 30 May 2022. An intention to inform the newly elected local MLAs on 30 May 2022 is also indicated.

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. 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:	Thompson Lacuna Ltd.	Name:	Turley
Address:	74A High Street	Address:	Hamilton House 3 Joy Street
Town:	Holywood	Town:	Belfast
Postcode:	BT18 9AE	Postcode:	BT2 8LE
Tel:	028 9042 4193	Tel:	028 9072 3900
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.

Lands at 160 Moira Road BT28 1JB

3. What is the area of the site in hectares?

c.3.7 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.

Mixed use development comprising mixed tenure residential development and employment uses, park & ride provision and associated landscaping, car parking, access and site works.

5. What is the total gross floorspace of the proposed development?

2924 sq m

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?

N/A

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
Public Exhibition Event	Laganview Enterprise Centre	23rd June 2022, 3pm - 7pm
	69 Drumbeg Drive, BT28 1QJ, Lisburn	

Name of publication(s) used:

Ulster Star

Proposed newspaper advert date(s):

Friday 10th June 2022

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):

Website to be set up at www.moriaroad.co.uk (TBC), including Live Chat function and online feedback form

Consultation phone line and project email address made available and promoted on project leaflet and website

Hard copies of materials will be made available via post to anyone unable to access digital materials

Details of any other publicity methods (such as leaflets, posters, etc):

Project information leaflet and freepost feedback form distributed to neighbouring properties within 500m of site

11. Please state which other parties have received a copy of this Proposal of Application Notice (Please continue on a separate sheet if necessary)

<p>Elected member(s) for District Electoral Area</p> <p>Downshire West DEA Ald Jim Dillon MBE JP (UUP) Ald Allan Ewart MBE (DUP) Ald Owen Gawith (APNI) Cllr Caleb McCready (DUP) Cllr John Palmer (UUP)</p>	<p>Date notice served W/C 30/05/22</p>
<p>Other</p> <p>We intend to inform the local MLAs upon the completion of the 2022 NI Assembly Elections.</p>	<p>Date notice served W/C 30/05/22</p>

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):

N/A

13. Declaration

Signature:	<p>Sheila Murphy Digitally signed by Sheila Murphy Date: 2022.05.03 08:41:45 +01'00'</p>
Print name:	Sheila Murphy
Date:	3 May 2022

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.



PLANNING					
2020					
Moir Road, Limerick					
Site Location Plan					
DATE	APP	EX	EX	EX	EX
2020	APP	EX	EX	EX	EX
RPP ARCHITECTS					



Planning Committee

13 June 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Feedback on Guidance for Councils on building preservation notices/Schemes of Delegation

Background and Key Issues:

Background

1. Since 01 April 2015, Councils have had the power to serve a 'Building Preservation Notice' [BPN] as a discretionary power under the Planning Act (Northern Ireland) 2011 where it appears that a building is of architectural or historic merit and is at risk of demolition or significant alteration.
2. The notice when served is a form of temporary listing which provides statutory protection to an unlisted building for a period of 6 months.
3. This discretionary power transferred from the former Department of the Environment [DoE], under the review of Public Administration transfer of functions agreement.
4. Whilst no resource with experience of serving these types of notice transferred to Council, a good practice guide has subsequently been developed to explain how and when to consider serving a BPN.

Key Issues

1. On 08 April 2022, Historic Environment Division issued an email alerting the Council that it was undertaking part of an informal review of Department for Communities Historic Environment Division guidance notes in respect of BPN's. Comments and/or suggested improvements are invited in relation to the guidance on or before 01 July 2022.
2. The Council has not used its discretionary power to serve a BPN since the power was transferred and it is not a function delegated to officers under Part C of the Council Planning Scheme of Delegation.
3. The comments sought in respect of the current guidance are technical in nature and to assist officers of the Council in bringing forward advice and recommendations to committee. The decision making process stills rests with Elected Members.
4. An internal meeting with representatives from Local Development Plan, Enforcement, and Development Management teams is scheduled to take place on 15 June 2022 to discuss the operational and technical implications of following the guidance. An informed response will be prepared after this meeting.
5. A copy of the guidance document is provided (**see Appendix**). The document is also available to view on the Department's website.

<https://www.communities-ni.gov.uk/publications/guidance-councils-building-preservation-notice>
6. At the Development Committee meeting held on 1 June 2022 Members provided delegated authority for the response to the consultation to be prepared by officers and the final response added to the noting schedule for the Development Committee for Members' information.

Recommendation

It is recommended that Members note the request from HED for feedback and that a response will be prepared and submitted under delegated authority.

Finance and Resource Implications:

No finance and resource implications are identified.

Screening and Impact Assessment

1. Equality and Good Relations

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

If no, please provide explanation/rationale

This is a report seeking delegated authority to provide feedback to the Department for Communities - Historic Environment Division in relation to Guidance for Councils on building preservation notices/Schemes of Delegation and EQIA is not required.

If yes, what was the outcome?:

Option 1
Screen out
without mitigation

N/A

Option 2
Screen out with
mitigation

N/A

Option 3
Screen in for
a full EQIA

N/A

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been
given to Rural Needs?

No

Has a Rural Needs Impact
Assessment (RNIA) template been
completed?

No

If no, please given explanation/rationale for why it was not considered necessary:

This is a report seeking delegated authority to provide feedback to the Department for Communities - Historic Environment Division in relation to Guidance for Councils on building preservation notices/Schemes of Delegation and as such, RNIA is not required.

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

SUBJECT TO PLANNING APPROVAL:

No

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

APPENDICES: **APPENDIX 8 - Guidance for Councils on building preservation notices**

HAS IT BEEN SUBJECT TO CALL IN TO DATE? **No**
If Yes, please insert date:

Building Preservation Notices

A good practice guide for District Councils

Issue 2.0 May 2017

Historic Environment Division



Front Page: Lidells Mill, Donaghcloney ©DfC

Issue Date: May 2017

This good practice guide aims to assist councils achieve a consistent approach when considering serving a Building Preservation Notice on an unlisted building. Its correct application will help councils to identify and satisfy legislative requirements with regard to Building Preservation Notices, where the building appears to be of architectural and historic importance and is in danger of demolition or of alteration in such a way as to affect its character.

This guide does not attempt to provide a detailed account of the legislation and policy that underpin Building Preservation Notices in Northern Ireland, and is not intended to be a source of definitive legal advice. This guide is not intended to replace the need for council judgement in their decision making. Reference should be made to the actual legislation referred to in this document and if any discrepancy or conflict exists between this guide and legislation, the provisions of the legislation will prevail.

Further information can be obtained from the Department for Communities website
<https://www.communities-ni.gov.uk/>

Contents

Overview	3
1 Introduction	4
2 What is a Building Preservation Notice (BPN)?	4
3 What is the process for serving a BPN?	5
4 How can councils be made aware of such buildings?	6
5 When should councils consider using the power?	6
6 When is compensation payable to affected owners?	7
7 If the building is not listed, what alternative means of protection can be applied?	8
8 What other heritage designations offer protection?	9
9 Can councils seek support from HED?	9
Appendix A1	11
Appendix A2	14
Appendix B	17
Case Study: Navigation House	18

Overview

Since 1st April 2015, district councils have had the power to serve a 'Building Preservation Notice' (BPN), where it appears to a council that a building is of architectural or historic merit and is at risk of demolition or significant alteration.¹ This discretionary power transferred from the former Department of the Environment (DOE), to district councils, under the Review of Public Administration transfer of functions agreement.

To assist councils undertake this new function, this good practice guide has been developed as a series of questions and accompanying answers to explain how and when councils may consider serving a BPN.

On 9th May 2016, the functions of the former Department of the Environment (DOE) were allocated to three new departments; Department for Infrastructure (DfI), Department of Agriculture, Environment and Rural Affairs (DAERA) and Department for Communities (DfC)

Historic Environment Division (HED) transferred to DfC and Strategic Planning Division (SPD) functions transferred to DfI. Respective departmental powers under the Planning Act (Northern Ireland) 2011, have been set out in the The Departments (Transfer of Functions) Order (Northern Ireland) 2016.



Front cover image & above: Lidells Mill, Donaghcloney, Grade B2 listed building, initially protected by a BPN © DfC

¹ Sections 81 & 82 of The Planning Act (NI) 2011

1. Introduction

- 1.1 The historic environment is an asset of immense cultural, social, economic and environmental value, which contributes to our sense of history, place and our quality of life. District Councils and the Department² have responsibility under the Planning Act (NI) 2011 to protect and conserve the historic environment for the benefit of our present and future generations.
- 1.2 District councils can actively contribute to the protection and conservation of the built heritage through the appropriate application of Building Preservation Notices (BPN) where there is concern that an unprotected historic building of special interest is in danger of demolition or significant alteration.
- 1.3 'Historic Buildings' can be understood to be any feature or structure built by man. The more recent the date of a structure the less historic it will be. This implies that a recent structure will need to have high architectural interest if it is to be protected in this way.

2. What is a Building Preservation Notice?

- 2.1 A BPN is a form of temporary listing which provides statutory protection to an unlisted building, for a period of 6 months, as if it were listed. The Planning Act (Northern Ireland) 2011 gives councils the discretionary power to serve a Building Preservation Notice (BPN) on the owner and occupier of a non-listed building that they consider meets the following test:

- It is of special architectural or historic interest; and
- It is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest.

- 2.2 These powers are detailed in Section 81 – 83 of the Act. For the 6 month period of the BPN, the building is protected as though it was a listed building and all relevant planning controls apply. This includes the need to apply for Listed Building Consent for changes that might affect its architectural or historic interest, and enforcement powers relating to unapproved works.



² References to the 'Department' in this guide refer to the 'Department for Communities' - DfC)

- 2.3 Prior to the Review of Public Administration, BPNs were available to the Department of the Environment (DOE) under the Planning (NI) Order 1991 and were implemented by the Historic Environment Division (HED). Central government no longer has this power.

3. What is the process for serving a BPN?

- 3.1 If a council considers that a building meets the statutory tests then it can issue a Building Preservation Notice. A standard form, (*see Appendix A1&A2*) can either be served on the owner and occupier by registered delivery or in urgent cases it can be affixed to the building. Though it is important that an owner knows of this legal change as soon as possible, it is also essential that there is no confusion in regard to ownership and protection. Where there is any doubt in regard to ownership, it is recommended that a notice is also affixed to the building. This approach, using the same form, is provided for by Section 82 of the Planning Act (NI) 2011.
- 3.2 At the same time the council should forward a listing request to HED, who on behalf of the Department, will consider listing the building. This will give HED the maximum time to consider the case. **HED requires a minimum of five months to consider such a request.** A copy of the information used by the council in arriving at this decision would be very helpful to HED as it commences its appraisal. This should be enclosed with the request.
- 3.3 From notification, HED will commence a process to: record the structure; consider the building against the Listing Criteria³; undertake statutory⁴ (and non statutory) consultations; and make a final decision. The council will be consulted as part of the process and informed of the final decision.
- 3.4 It is not anticipated that the number of BPNs served will be large. From introduction in 2003 to the end of 2013 only 43 BPNs were issued. Public requests and Departmental use of the power rose in line with development activity during the 2000s and declined in more recent years in line with the economic downturn.

³ The Listing Criteria was published in a revised and updated Annex C of Planning Policy Statement 6 in March 2011.

⁴ Historic Buildings Council, District Councils and Strategic Planning Division in DfI

4. How can district councils be made aware of such buildings?

4.1 Councils can be made aware of such buildings through a number of different ways:

- A planning application may be submitted that involves the demolition of a historic building. A council planning officer or a member of the public may then raise a request that this building be considered for protection.
- HED may separately ask a council to consider taking action. Its power to protect by making a structure a listed building requires detailed research and advance consultation. It may consider there is a high risk of loss during this period.
- It is also possible that a member of the public may make a request without a current planning application being in place - in this case they would need to supply other evidence that the building is in risk of demolition or substantial alteration.

5. When should district councils consider using the power?

5.1 Before a BPN can be served there are two tests that need to be met:

Test 1: Does it appear to the district council that the building is *of special architectural or historic interest*?

Annex C of Planning Policy Statement 6 (March 2011) sets out the criteria that the Department follows when considering this test. The BPN legislation is, however, carefully written to make clear that its test is one of appearance. Detailed research and assessment can be carried out later. This lower test allows for swift action.

5.2 A report along the lines of a standard listing query report (Appendix B) is recommended. This may be compiled by a Conservation Officer⁵ or appointed consultant⁶ with reference to the published criteria. HED's listing team will be happy to liaise with district councils at this early stage in regard to advice on standards.

5.3 Listing Queries involve a site visit, initial historical research and an assessment of the record taken. While assessment by the Conservation Officer or consultant is likely to be sufficient, approval by the wider Planning team may, however, provide a more

⁵ This is normally a qualified planner or architect who has responsibility for providing advice to decision makers on the designation and management of heritage assets, such as Conservation Areas, within a Council area.

⁶ Where councils choose to appoint an external consultant, it is recommended that councils appoint consultants with appropriate architectural and historical expertise to make an initial assessment and recommendation.

robust corporate decision. If, following this stage, council officers consider that the building appears to be a building of special architectural or historic interest they can then consider the other BPN test.

5.4 Test 2: Is the building *in danger of demolition or of alteration in such a way as to affect its character as a building of such interest?*

This test is normally met if there is a current planning application involving the demolition or substantial alteration of the building or if the building is being advertised for sale as a cleared site/development opportunity. Unconfirmed rumours from the public are less clear cut, but may on occasion justify action if officers conclude that the risk is high. Unoccupied buildings can be considered to be of higher risk of sudden removal than those which are occupied.

5.5 It is good practice, in any case, that a letter is issued to the person who made the initial request to inform them of the outcome of the investigation.

6. When is compensation payable to affected owners?

6.1 Revocation of existing planning permission

A BPN can be served on a building even if there is an existing planning permission for its demolition or alteration. Should the building be subsequently listed, Listed Building Consent (LBC), will also be required for any proposed works of alteration. If LBC is not granted for works approved under a current planning permission, this may require the current planning permission to be revoked. Under Section 179 of the Planning Act (NI) 2011, applicants may seek compensation for losses associated with a revoked planning permission.⁷

To avoid major disruption to the smooth working of the planning system, together with consideration of the significant financial implications, and damage to the reputation of the heritage protection system, the Department has adopted the following policy:

*'A building will not normally be considered for listing by the Department once planning permission which will affect its special architectural or historic interest has been granted and is still valid, or while works which have received such planning permission are under way.'*⁸

⁷ See Section 179 of the Planning (Northern Ireland) Act 2011 'Compensation where planning permission is revoked or modified'.

⁸ Paragraph C26 of Annex C of Planning Policy Statement 6

If a council is actively considering serving a BPN in this circumstance, then the exceptional nature of the case will need to be highlighted in the request for listing submitted to HED.

6.2 Building fails to merit statutory listing

Compensation may also be claimed from the council for losses incurred due to the service of a BPN if, after consideration, the structure is not protected by the Department as a listed building. Section 186 of the Planning Act 2011 makes clear that such compensation would be in respect of *'any loss or damage directly attributable to the effect of the notice.'* This includes (Section 186 (2) *'a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect to it.'*

- 6.3 No claim for such compensation has been made against the Department since the introduction of this power in 2003 even though, in a number of cases, the service of a notice did not lead to protection as a listed building. The provision emphasises, however, that a council should have due regard when considering serving a BPN.

7. If the building is not listed, can an alternative means of protection be applied?

- 7.1 Paragraph 6.24 of the Strategic Planning Policy Statement 2015 (SPPS), allows District Councils to bring forward bespoke policies in their Local Development Plan for historic buildings of local importance. These are defined as: *'a building, structure or feature, whilst not statutory listed, has been identified by the council as an important part of their heritage, due to its local architectural or historic significance.'*
- 7.2 The policy makes it clear that the effect of a planning application on the significance of a non-designated heritage asset should be taken into account in determining the application. Though it also says that such assets will have been *'identified by the council as an important part of their heritage'*⁹, there is no time requirement for this work, and such identification, could, in principle, be carried out at a late stage i.e. after the submission of a planning application.
- 7.3 To ensure that such structures have protection from demolition and inappropriate alteration, councils can consider the use of an 'Article 4 Direction'.¹⁰ This allows the removal of permitted development rights, including demolition, for a designated

⁹ Strategic Planning Policy Statement for Northern Ireland. September 2015, paragraph 6.24, page 41

¹⁰ Article 4 of the Planning (General Permitted Development) Order (NI) 2015 allows the Department or a District Council to *'give a direction that the permission granted by Article 3 shall not apply to— (a)all or any development of the Part, Class or paragraph in question in any particular area specified in the direction; or(b)any particular development, falling within that Part, Class or paragraph, which is specified in the direction.'*

area or feature. However, the agreement of the Department for Infrastructure is required¹¹ before such a route is followed.

- 7.4 It is good practice, however, to ensure that prospective applicants are aware of any potential designations on their property well in advance of making a planning application. This also helps to ensure that the identified historic and architectural interest can be taken into consideration at an early stage and costly changes avoided. The Department for Communities therefore recommends that district councils consider protection for such buildings well in advance of proposals for significant change.
- 7.5 To assist district councils take forward strategies to protect historic buildings of local importance, HED has published a guide to their identification and protection, which is available to download from its website at:

www.communities-ni.gov.uk/topics/historic-environment

8. What other heritage designations offer protection?

- 8.1 The temporary protection of historic buildings and structures through the service of a BPN is only one tool in a suite of controls aimed at managing the Historic Environment. Other features may be more appropriately protected as Monuments in State Care; Scheduled Historic Monuments; as part of Conservation Areas, or through area plan designations such as Areas of Townscape Character and Local Landscape Policy Areas¹².
- 8.2 Service of a notice on a structure which is already protected as a Listed Building, a Scheduled Historic Monument or a Monument in State care is not appropriate. Research to ensure that a structure is not already protected should form part of initial review of a case. Where a structure is located within an area designation, the merits of increasing protection via the BPN versus reliance on the existing planning controls should be considered.

9. Can councils seek support from HED?

- 9.1 Yes. As the Government's expert advisor on the Historic Environment in Northern Ireland, HED can provide further advice to councils as they decide how best to deploy this power. HED has 40 years experience of carrying out historic buildings surveys across Northern Ireland and 10 years in the service of Building Preservation

¹¹ Article 4 (2): 'Subject to paragraph (4), a direction by a council under this Article shall require the approval of the Department who may approve the direction with or without modifications.'

¹² The Strategic Planning Policy Statement provides more information and definitions for all of these area heritage designations.

Notices. Engagement with councils who want to set up appropriate procedures in regard to this facet of heritage protection is welcomed by HED.



Above: Dundrum Road, Tassagh, B1 Listed Terrace, protected initially by BPN © DfC

Appendix A Typical Building Preservation Notice.

Appendix A (1) Notice for service on owner/ occupier

Appendix A (2) Notice to be served on the building

Appendix A (1)**NOTICE FOR SERVICE TO OWNER/ OCCUPIER****PLANNING ACT (NORTHERN IRELAND) 2011 SECTION 81-83****BUILDING PRESERVATION NOTICE**

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

SERVED BY: XXX District Council

(Serving Officers Details: Name, Grade, and Telephone Number)

TO: *Owners Name and address (if Known)*

This Building Preservation Notice, (the 'Notice') is served by XXX District Council for the purposes of Section 81-82 of the Planning Act (NI) 2011 ("the Act") because it appears to XXX District Council that the building described in the Schedule to this Notice which is not a listed building, is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest.

XXX DISTRICT COUNCIL GIVES NOTICE THAT:

1. The building described in the Schedule ("the Building") appears to XXX District Council to be of special architectural or historic interest and the Department¹³ is considering including the Building in a list of buildings of special architectural or historic interest compiled under Section 80 of the Act.
2. By Section 81(3) of the Act, the Notice shall come into force as soon as it has been served on both the owner and occupier of the Building and shall remain in force for 6 months from the date when it was served or last served.
3. By Section 81(4) of the Act the Notice shall cease to be in force if, before the expiration of that 6 months, the Department either includes the Building in a list compiled under Section 80 of the Act or notifies the owner and occupier of the Building in writing that it does not intend to do so.
4. By Section 81(5) of the Act while the Notice is in force, the provisions of the Act (other than Section 103) shall have effect in relation to the Building as if it were a listed building; and by Section 83 of the Act, if the Notice ceases to be in force by virtue of the expiry of the 6 month period or service of notification, in writing by the Department that it does not intend to list

¹³ Historic Environment Division on behalf of the Department for Communities (DfC)

the Building, then the provisions of Section 83 shall have effect with respect to things done or occurring under the Notice or with reference to the Building. Under Section 83:

- (a) the fact that the Notice has ceased to be in force shall not affect liability for offences committed under the Act with respect to the Building while it was in force;
- (b) any proceedings on or arising out of an application for listed building consent with respect to the Building made while the Notice was in force and any such consent granted while it was in force shall lapse;
- (c) any listed building enforcement notice served under the Act while the Notice was in force shall cease to have effect and any proceedings, including appeal proceedings, relating to the listed building enforcement notice, shall lapse;
- (d) Section 186 (as applied by Section (186 (2)) of the Act shall continue to have effect as respects any expenses incurred by the owner or occupier as mentioned in that Section and with respect to any sums paid on account of such expenses.

NOTE: This Notice does not call for any action on your part unless you propose at any time to demolish the Building or execute or cause to be executed any works (either to the exterior or interior) for the demolition of the building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historical interest. If you wish to carry out such works you will need to obtain listed building consent, in writing from **XXX District Council Planning Authority** before commencing the works.

WARNING

THIS NOTICE TAKES EFFECT ON THE DATE OF SERVICE. THERE IS NO RIGHT OF APPEAL TO THE PLANNING APPEALS COMMISSION AGAINST THIS NOTICE.

Any person who carries out unauthorised works to the Building will be guilty of an offence under Section 85 of the Act and liable:

- A) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £100,000, or both;
- B) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both;

and in determining the amount of any fine imposed on a person convicted of an offence under Section 85 (1) or (5) the court shall have particular regard to any financial benefit which has accrued or is likely to accrue to him in consequence of the offence.

If you need independent advice about the Notice, you are advised to contact a lawyer, planning consultant or other professional advisor specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review.

SCHEDULE

Insert address of building being served.

Dated this (insert date) day of (insert month) 20XX

Signed: (signature)

Authorised Officer on behalf of XXX District Council.

Appendix A (2)**NOTICE TO BE AFFIXED TO STRUCTURE****PLANNING ACT (NORTHERN IRELAND) 2011 SECTION 81-83****BUILDING PRESERVATION NOTICE****IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY****SERVED BY:** *XXX District Council**(Serving Officers Details: Name, Grade, and Telephone Number)***TO:** *Owners Name and address (if Known)*

This Building Preservation Notice, (the 'Notice') is served by *XX District Council* for the purposes of Section 81-82 of the Planning Act (NI) 2011 ("the Act") because it appears to *XX District Council* that the building described in the Schedule to this Notice which is not a listed building, is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest.

XXX DISTRICT COUNCILS GIVES NOTICE THAT:

1. The building described in the Schedule ("the Building") appears to *XXX District Council* to be of special architectural or historic interest and the Department is considering including the Building in a list of buildings of special architectural or historic interest compiled under Section 80 of the Act.
2. By Section 81(3) of the Act, the Notice shall come into force as soon as it has been served on both the owner and occupier of the Building and shall remain in force for 6 months from the date when it was served or last served.
3. By Section 81(4) of the Act the Notice shall cease to be in force if, before the expiration of that 6 months, the Department either includes the Building in a list compiled under Section 80 of the Act or notifies the owner and occupier of the Building in writing that it does not intend to do so.
4. By Section 81(5) of the Act while the Notice is in force, the provisions of the Act (other than Section 103) shall have effect in relation to the Building as if it were a listed building; and by Article 83 of the Act, if the Notice ceases to be in force by virtue of the expiry of the 6 month period or service of notification, in writing by the Department that it does not intend to list the Building, then the provisions of Section 83 shall have effect with respect to things done or occurring under the Notice or with reference to the Building. Under Section 83:

- (a) the fact that the Notice has ceased to be in force shall not affect liability for offences committed under the Act with respect to the Building while it was in force;
- (b) any proceedings on or arising out of an application for listed building consent with respect to the Building made while the Notice was in force and any such consent granted while it was in force shall lapse;
- (c) any listed building enforcement notice served under the Act while the Notice was in force shall cease to have effect and any proceedings, including appeal proceedings, relating to the listed building enforcement notice, shall lapse;
- (d) Section 186 (as applied by Section (186 (2)) of the Act shall continue to have effect as respects any expenses incurred by the XX Council, owner or occupier as mentioned in that Section and with respect to any sums paid on account of such expenses.

5. By Section 82 of the Act:

- (1) If it appears to a council to be urgent that a building preservation notice should come into force, it may, instead of serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building.
- (2) The affixing of a notice under subsection (1) shall be treated for all the purposes of Section 81, this section, Section 83 and sections 86 to 101 as service of the notice.

The notice has been so affixed and by virtue of it being so affixed it is treated as being served for those purposes described in Section 82 (1) and (2) of the Act.

NOTE: This Notice does not call for any action on your part unless you propose at any time to demolish the Building or execute or cause to be executed any works (either to the exterior or interior) for the demolition of the building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historical interest. If you wish to carry out such works you will need to obtain listed building consent, in writing from **XX District Council Planning Authority** before commencing the works.

WARNING

THIS NOTICE TAKES EFFECT ON THE DATE OF SERVICE. THERE IS NO RIGHT OF APPEAL TO THE PLANNING APPEALS COMMISSION AGAINST THIS NOTICE.

Any person who carries out unauthorised works to the Building will be guilty of an offence under Section 85 of the Act and liable:

- A) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £100,000, or both;
- B) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both;

and in determining the amount of any fine imposed on a person convicted of an offence under Section 85 (1) or (5) the court shall have particular regard to any financial benefit which has accrued or is likely to accrue to him in consequence of the offence.

If you need independent advice about the Notice, you are advised to contact a lawyer, planning consultant or other professional advisor specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review.

SCHEDULE

Insert address of building being served.

Dated this (insert date) day of (insert month) 20XX

Signed: (signature)

Authorised Officer on behalf of XX District Council.

Appendix B Listing Query Report Form

Building Name:			
OS Map No:		IG Ref:	
Apparent Current Use:			
Pictures taken – Number:		Type: Digital/ Slides	
Date of Inspection:			
Exterior Description (not more than 100 words)			
Considered by council planning authority on :			
Checklist	Yes	No	
Building appears to satisfy listing criteria			
Building has permission to demolish or significantly alter the			

Decision

Signed: Date

Name & Title of authorising officer

Case Study: Navigation House, Lisburn

Navigation House is a detached three-bay, two-storey, polychromatic brick house, built c. 1866 for the Canal Manager of The Lagan Navigation Company. It is a well proportioned Victorian villa with its original ornate door surround, retaining most of its original external features and its interior. The building was occupied by successive superintendent /managers of the canal, the last of whom was in post from 1928-1954. It is the only canal manager's house on the waterway and is a well preserved remnant of a period when the Lagan Navigation was probably the most commercially successful of all the waterway enterprises in Ulster. Set in its original secluded, landscaped site, with enclosed yard and outbuildings, Navigation House has group value with the listed Lock Keeper's house (HB19/08/005) and Union Lock canal structures (DOW 009:500) directly adjacent.

Navigation House was brought to the attention of the Department by Lisburn City Council's Planning Committee, who asked for a planning application involving the demolition of the building to be deferred pending consideration of its historic interest.

A BPN was served on the building's owners in June 2012, to give the Department time to carry out detailed research and consultation to determine if the house should be the subject of permanent listing as an historic building. Following consideration of a detailed survey and research, evaluation against the listing criteria and consultation with the Historic Buildings Council and Lisburn City Council, the building was listed in December 2012, as a Grade B1.

Hearth Revolving Fund and Lagan Canal Trust have since been working in partnership to conserve the heritage significance of the building and its group value with the associated canal structures. In 2014, Hearth Revolving Fund negotiated a temporary loan from Ulster Garden Villages to acquire Navigation House, and have carried out essential holding repairs.

The Lagan Canal Trust has now relocated their offices to Navigation House, with the future ambition of acquiring the property and reusing the existing building and outbuildings as a visitor centre and teaching centre as part of the 'Discover Waterways Lisburn' project, subject to planning permission, listed building consent and scheduled monument consent.



*Left:
Navigation House,
134 Hillsborough Road,
Lisburn © DfC*



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307

Supporting and sustaining vibrant communities and a strong economy through realising the significant, ongoing value of our historic environment.

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