



March 29th, 2022

Chairman : Councillor A Swan

Vice Chairman : Alderman J Tinsley

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

Councillors : J Craig, M Gregg, U Mackin, J McCarthy and John Palmer

Notice of Meeting

A meeting of the Planning Committee will be held on **Monday, 4th April 2022** at **10:00 am**, in the **Council Chamber / Zoom** for the transaction of business on the undernoted Agenda.

David Burns

Chief Executive

Agenda

Covid-19 Safety Measures

Covid 19 Safety Measures When attending meetings in the Council Chamber you are asked to observe the following measures to ensure the safety of your Council colleagues and members of staff:

Prior to meetings if you are experiencing symptoms of COVID-19 please do not attend. Book a test and self-isolate.

Whilst not compulsory, you are encouraged to satisfy one of the three following conditions before attending meetings:-

- been fully vaccinated for more than two weeks;
- or have had a negative PCR test or rapid lateral flow test taken within 48 hours of meetings (a lateral flow test taken at home will need to be reported into the public reporting system);
- or evidence of a positive PCR test result for COVID-19 within the previous 180 days and following completion of the self-isolation period.

Please be reminded of the following measures which remain in place: Face coverings must be worn indoors unless seated at a desk. They must be worn when leaving the Council Chamber for any reason.

Good hand hygiene should be adhered to and hand sanitiser is available in the ground floor foyer and the Council Chamber.

Social distancing remains strongly advised. Desks will be distanced at 1m apart and you should keep face-to-face contact to a minimum. Lisburn & Castlereagh City Council fully supports the NI Executive in its call for people to make safer choices.

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](#)

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3.0 Minutes of the Planning Committee Meeting held on 7 March 2022

 [PC 07 03 2022 Draft Minute - PU Comments.pdf](#)

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4.0 Report from the Head of Planning and Capital Development

4.1 Schedule of Applications to be Determined:

- (i) LA05/2021/0423/O - Proposed new dwelling and 320m NW of 8 Clontarri Road, Upper Ballinderry, Lisburn, BT28 2JD
 - Appendix 1(a)(i) - DM Officer Report - LA0520210423 Clonttarri Road - A....pdf Page 23
 - Appendix 1(a)(ii)- DM Officer Report - LA0520210423 Clonttarri Road - F....pdf Page 28
- (ii) LA05/2020/0862/O - Proposed 1 ½ storey private dwelling and garage with surrounding garden on Land 20m east of No 52 Gransha Road, Comber.
 - Appendix 1(b) - DM Officer report - LA0520200862O -Gransha Road - FINAL.....pdf Page 44
- (iii) LA05/2020/0614/O – Site for dwelling, garage and associated site works at a side garden of 21 Moss Brook Road, Carryduff.
 - Appendix 1(c) - DM Officer Report - LA0520200614O - Moss Brook Road Infi....pdf Page 58
- (iv) LA05/2020/0208/F - Proposed erection of 6 detached dwellings, including demolition of existing dwelling, associated road layout, car parking & landscaping at 6 Fort Road, Dundonald.
 - Appendix 1(d) - DM Officer Report - LA0520200208F - Fort Road Dundonaldpdf Page 73
- (v) LA05/2021/1106/F – Dwelling and garage on lands 30m south of 9 Pinehill Road, Hillhall Road, Belfast and adjacent to No 4 Dows Road.
 - Appendix 1(e) - DM Officer Report - LA0520211106F - Pinehill Road - FIN....pdf Page 91

4.2 Northern Ireland Housing Conference

- Item 2 - Northern Ireland Housing Conference 11 February 2021 - FINAL.pdf Page 104
- Appendix 2 - Northern_Ireland_Housing_Conference_2022.pdf Page 107

4.3 Statutory Performance Indicators - February 2022

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5.0 Any Other Business

Invitees

- Cllr Nathan Anderson
- Ald James Baird
- Cllr Thomas Beckett
- Mr David Burns
- Mark Burns
- Cllr Ryan Carlin
- Cllr Scott Carson
- Cllr Jonathan Craig
- Ald Jim Dillon
- Ald David Drysdale
- Cllr Sorcha Eastwood
- Ald Allan Ewart
- Cllr Andrew Ewing
- Arlene Fleming
- Barry Flynn
- Cllr John Gallen
- Ald Owen Gawith
- Cllr Alan Givan
- Cllr Andrew Gowan
- Cllr Martin Gregg
- Ald Amanda Grehan
- Cllr Michelle Guy
- Rosaleen Heaney
- Ald Michael Henderson
- Cllr David Honeyford
- Mr Conor Hughes
- Cllr Stuart Hughes
- Cllr John Laverty
- Cllr Simon Lee
- Cllr Hazel Legge
- Cllr Sharon Lowry
- Cllr Uel Mackin
- Ald Stephen Martin
- Cllr Johnny McCarthy
- Cllr Gary McCleave
- Cllr Caleb McCready
- Cara McCrory
- Cllr Aaron McIntyre
- Cllr Ross McLernon
- Cllr Tim Mitchell
- Heather Moore
- Louise Moore

Cllr John Palmer
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Cllr Jenny Palmer
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Ald Paul Porter
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Collette Roe
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Donal Rogan
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Cllr Sharon Skillen
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Barbara Smart
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Pauline Stanfield
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Cllr Alex Swan
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Rachel Taylor
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Ald James Tinsley
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Cllr Nicholas Trimble
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Elaine White
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LISBURN & CASTLEREAGH CITY COUNCIL

MEMBERS DISCLOSURE OF INTERESTS

The Northern Ireland Local Government Code of Conduct for Councillors under Section 6 requires you to declare at the relevant meeting any pecuniary interest that you may have in any matter coming before any meeting of your Council. This information will be recorded in a Statutory Register. On such matters you must not speak or vote. Subject to the provisions of Sections 6.5 to 6.11 of the Code, if such a matter is to be discussed by your Council, you must withdraw from the meeting whilst that matter is being discussed

In addition you must also declare any significant private or personal non-pecuniary interest in a matter arising at a Council meeting (please see also Sections 5.2 and 5.6 and 5.8 of the Code). Subject to the provisions of Sections 6.5 to 6.11 of the Code, you must declare this interest as soon as it becomes apparent and you must withdraw from any Council (including committee or sub committee meeting) when this matter is being discussed.

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

1. Pecuniary Interest

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

Date of Meeting: _____

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

Nature of Pecuniary Interest:

2. Private or Personal non Pecuniary interest

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

Date of Meeting: _____

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

Nature of Private or Personal non Pecuniary Interest:

Name:
Address:

Signed:	Date:

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

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 7 March 2022 at 10.02 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, U Mackin, and J Palmer

IN ATTENDANCE:**Present in Chamber:**

Head of Planning and Capital Development

Principal Planning Officer (RH)

Senior Planning Officer (MB)

Member Services Officer (PS)

Member Services Officer (CR)

Present in Remote Location:

Director of Service Transformation

Senior Planning Officer (RT)

Legal Adviser – 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 those making representations on planning applications would be attending the meeting remotely as would the Legal Adviser.

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

(Alderman J Tinsley arrived at 10.05 am)

1. Apologies

It was agreed that apologies for non-attendance at the meeting would be recorded as follows – Alderman D Drysdale had advised he would be late as had Councillor J Palmer.

2. Declarations of Interest

The Chairman, Councillor A Swan 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 declarations of Interest were made:

- The Chairman, Councillor A Swan referred to LA05//2020/0617/F stating that he had spoken to the applicant but had expressed no opinion.
- Alderman O Gawith referred to LA05/2021/0423/O stating that the applicant was a friend and he had requested a deferral.

After the meeting the following declarations were made by way of submission of a completed Declaration of Interest Form:

- Councillor U Mackin referred to LA05/2020/0617/F stating that he was on the Board of Lagan Valley Regional Park.
- Alderman J Tinsley referred to LA05/2020/0617/F stating that the applicant had spoken to him but he had made no commitment. He also referred to LA05/2020/1056/F stating that he had met with an objector and listened to their concerns but had made no commitment, he also referred to LA05/2020/0011/O stating that the applicant had contacted him but he had made no commitment.

At this stage the meeting was adjourned from 10.10 am to 10.15 am to address technical issues with the cameras in the Chamber.

The Chairman, Councillor A Swan then advised that Members of the Planning Committee (by virtue of being Members of the Council) had significant private or personal non-pecuniary interest in Planning Application LA05/2020/1056/F.

He explained that the dispensation under paragraph 6.6 of the Code of Conduct applied and therefore Members might speak and vote on this application. He advised that, as all Members had the same interest in this case, it was not considered necessary for each Member to individually declare their interest.

3. Minutes of the Planning Committee Meeting held on 7 February 2022

It was proposed by Alderman O Gawith, seconded by Alderman J Tinsley and agreed that the minutes of the Committee meeting held on 7 February 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.

The Head of Planning and Capital Development then advised of the following:

- (i) Application LA05/2017/0021/F has been withdrawn from the schedule to allow for the consideration of new information.
- (ii) Application LA05/2021/0423/O had been withdrawn from the schedule to allow for the consideration of new information.
- (iii) LA05/2018/0862/F had been withdrawn from the schedule as an Order from Court quashing the earlier decision had not yet been received.
- (iv) LA05/2021/0928/) had been withdrawn from the schedule due to special personal and domestic circumstances that prevented the agent from attending the meeting.

(Councillor J Palmer arrived at 10.25 am).

- (1) LA05/2020/0617/F - Proposed two infill dwellings and garages (Amended Form) Between 184 and 188 Hillhall Road, Lisburn

The Senior Planning Officer (RT) presented this application as outlined within the circulated report. She advised that the application had previously been deferred.

The Committee received Mr A Stevens 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:

- The issues arising are the principle of development and design issues.
- He outlined how he considered the policy had been met.

- He referred to similar examples which had been approved in the area.
- He outlined why he considered the proposal would not lead to a ribbon of development.
- He described how the application would integrate.
- He urged approval.

Mr Stevens then responded to Members' queries as follows:

- Councillor U Mackin referred to the refusal reason regarding the pattern of development, he also referred to design issues raised and sought comment. Mr Stevens responded that the Planning Unit had focused on adjacent properties when considering the pattern of development, however he considered that a wider view needed to be taken and in that context he considered that the two sites did respect the pattern of development on the road. He stated that Lagan Valley Regional Park was the dominant factor and referred to other significant houses in the area which had been approved which, he stated, raised issues of consistency.
- Alderman J Tinsley referred to the red line and No 184 asking if there was room for another house to be built there, he was advised by Mr Stevens that this was not the case and Mr Stevens went on to explain the constraints.
- Alderman J Dillon sought clarification on the instances of precedent referred to. With the aid of one of the slides Mr Stevens went on to outline the applications he had been referring to which he stated had been approved in a similar context, he said that it was his opinion that inadequate weight had been attached to these approvals.
- Alderman J Dillon said that the Planning Unit had outlined the reasons why there was a difference with these examples and he asked whether the two sites under consideration lay within the Area Plan. Mr Stevens used a slide to indicate the various Plans under consideration in each of the four cases.

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

- Councillor U Mackin referred to visual impact and explained that he considered these two dwellings would not be particularly visible when travelling along the road from either direction. The Head of Planning and Capital Development, with the aid of a slide, went on to provide context for the reason for refusal and explained that it was important to understand the weight to be attached to policy context offered by BMAP. He said that the challenge was the two discreet nodes on the Hillhall Road. He highlighted these two sections on a map and explained the importance of maintaining a gap between them. He explained how the buildings would be visible and how it had been considered that the proposals would lead to a ribbon of development.

During the ensuing debate, the following comments were made:

- Alderman J Dillon said he had come to the conclusion that the recommendation made by the planning officer was the correct one.
- Councillor A Swan said that in this case he would concur with Alderman J Dillon and stated that he did not consider that there were any reasons to vote against the recommendation.
- Councillor M Gregg agreed with the previous comments. He said he felt the slide showing the other four applications in the area were different and that this proposal would result in urban sprawl.

The Committee, having considered the information provided within the report of the Senior Planning Officer and by those making representations, agreed by a unanimous vote to refuse the application as outlined in the Officer's report.

Adjournment of Meeting

The Chairman, Councillor A Swan, declared the meeting adjourned at 11.05 am

Resumption of Meeting

The Chairman, Councillor A Swan declared the meeting resumed at 11.15 am

- (2) LA05/2020/1056/F - Extension of burial plot spaces at three locations within existing cemetery, Blaris Road, Lisburn.

The Principal Planning Officer (RH) presented this application as outlined within the circulated report. She advised that the application had previously been deferred.

There were no speakers on the application.

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

- Alderman J Tinsley sought clarification on the timescale for the additional works to be carried out and was advised that the removal of the trees would need to be done first with the planting following after that.
- Councillor M Gregg said that for him the removal of so many trees was an issue. He asked whether there was another reason for removing them and whether the Council had a policy on the replacement of trees.

At this stage the meeting was briefly adjourned from 11.30 am to 11.35 am to address technical issues.

- The Head of Planning and Capital Development advised that there was currently limited space in the cemetery and some difficult decisions had needed to be made to address a pressing need. He highlighted information available on the planting plan and explained the reasons for removal of the trees had been balanced against the pressing need for

burial space. He went on to outline how the new trees would be planted in the various locations and which trees were to be retained.

- Alderman J Dillon said that this was a necessary application, the trees could be replaced and they were all relatively young trees.
- Councillor M Gregg said that this was useful information and asked for confirmation that the same number of trees or more would be replaced and also whether there was a retrospective element. The Head of Planning and Capital Development responded that there was no retrospective element and he explained that the Director would provide further clarity on the Council policy on the removal of trees, the only information he had at the moment was the planting plan which had already been outlined.
- Alderman O Gawith referred to a comment within the report which stated that there was no significant risk of flooding. He sought to understand what if any risk existed to enable such a conclusion to be reached. He also sought clarification on the increased capacity which would be created. The Head of Planning and Capital Development explained that the site was relatively close to the River Lagan and as such necessary reports needed to be done to demonstrate flood risk. The Principal Planning Officer then provided information on the consultation responses received. The Head of Planning and Capital Development explained the rationale in respect of the increased capacity highlighting that this was the first phase of a wider scheme and was necessary to meet an immediate and pressing need.

(Alderman D Drysdale arrived at 11.50 am)

At this stage the Director of Service Transformation clarified that the Council had a two for one replacement policy in respect of the removal of trees. He outlined that the Council was represented on a wider project board which was considering cemetery provision at a sub-regional level.

- Councillor J Craig said that he felt that the Council Policy should have been highlighted within the circulated reports.
- Councillor U Mackin sought reassurance regarding the contamination issue. He referred to an application made by Belfast City Council for a cemetery at Drumbeg which had been refused due to potential contamination. With the aid of a slide, the Head of Planning and Capital Development highlighted the location of plots, the topography and other relevant information explaining that the plots, with the exception of four, did not go beyond the current line of plots. Members were reassured that this issue had been considered by the Planning Unit and statutory consultees. He also highlighted the impact of modern engineering techniques which have opened up other pockets of land to be utilised.

During the ensuing debate, the following comments were made:

- Councillor M Gregg stated that he was now content with the proposal given the replacement arrangements outlined. He said he felt that officers could be trusted to ensure this is adhered to. He said it was good to see the Council planning ahead for cemetery provision.

- Councillor J Craig said he would have liked to have seen the tree replacement policy referred to in the report however he was now content.
- Alderman Dillon also confirmed that he was content, he said he had been a member of Council when the cemetery was originally developed and recalled that there were parts which were unable to be developed due to water table levels.
- The Chairman, Councillor A Swan confirmed that he also was content.

The Committee, having considered the information provided within the Report of the Principal Planning Officer agreed by a unanimous vote to approve the application as outlined in the report and subject to the conditions stated therein.

- (3) LA05/2019/0782/F - Proposed alterations to existing residential home to include two storey front and rear extensions with associated site works, new access and rear parking. Works are to incorporate the grounds of adjacent dwellings at 2 & 4 Ashley Park (Amended plans) at Residential Home, 19 Church Road Carryduff.

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

The Committee received Ms T Allen 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:

- She said that she was speaking on behalf of local residents.
- The focus of the objection was on the new access which would impact the residents of Ashley Park.
- The group had no objection to the concept only to the access coming from a residential cul-de-sac.
- The proposal will change the character of the park, there would be nuisance from the home activities and also from construction.
- The site entrance does not allow for the passing of two large vehicles.
- She highlighted inaccuracies in the naming of the cul-de-sac in earlier documentation.
- He highlighted that there was already traffic congestion on Church Road.
- She advised that it was the amenity space to the front of the Ashley Park residents which was utilised by them rather than that at the rear.

Ms Allen then responded to Members' queries as follows:

- Alderman D Drysdale sought clarification on the orientation of the houses and volume of traffic experienced currently. Ms Allen outlined the orientation and explained that traffic was currently fairly light.
- Councillor J Craig asked her to confirm that her main objection was to an additional entrance on Ashley Park. Ms Allen stated that the new entrance would be the only one as the Church Road entrance would be closed to facilitate the extension construction. Councillor Craig then sought

clarification on the location of the new entrance and Ms Allen outlined that two dwellings at the entrance to the cul-de-sac would be removed to allow for the entrance to be created.

- Alderman J Tinsley sought clarification of the use of the residents' amenity space and was advised that residents of Ashley Park had already lost amenity space when the road was built and therefore they tended to use their front gardens rather than the rear gardens.

The Chairman, Councillor A Swan advised the Committee that Alderman M Henderson and Councillor N Anderson had hoped to attend the meeting to make representations on this application but were both unfortunately unable to do so. However they had requested that their written submissions be taken on board by the Committee in making its determination.

The Committee received Mr R Downey 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 advised that the proposed access was at the entrance to Ashley Park so would have minimal impact on the remainder of the cul-de-sac.
- He advised that PSNI accident statistics indicate one collision of a slight nature at the location.
- Regarding issues of amenity, he said that the home had been there for decades with no issues.

There were no questions for Mr Downey from the Committee.

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

- Alderman D Drysdale said that the home had been there for many years, it was a house converted into a business and he asked if there was anything in legislation to prevent this. The Head of Planning and Capital Development used a map to highlight the location of the home and the housing wrapped around it. He said it was proposed to demolish two dwellings, create a new access and close up the existing access to facilitate the new extension. The home was essentially 'a place of residence', and it fitted into the area and could be located in residential areas. He said that the report highlighted the impact of the proposal on neighbouring residents and the question was whether the impact warranted a refusal. He said this had been considered by the officer and it had been decided that it did not.
- Alderman D Drysdale said that this was a commercial building and he asked whether the Planning Unit was sure that there was nothing in statute which limits this use. The Head of Planning and Capital Development said that the proposed use of the land had been assessed and officers could see no harm in the access arrangements from the neighbouring road.
- Councillor J Craig asked what the envisaged traffic movements were and why the residential amenity issue had been ignored by the Planning Unit.

The Head of Planning and Capital Development responded that these issues had been specifically identified when this application had been discussed at the last meeting and subsequently deferred to obtain further information on those issues. He then went on to summarise these and how they had been addressed in the Addendum Report. Mr S Cash from Dfl (Roads) was in attendance at the meeting and he explained the rationale regarding the potential number of trips and how these had been estimated. Councillor J Craig said that this was a substantial nursing home, he said his own experience contradicted the statistics provided by Dfl (Roads), he said that in addition to this there would be staff parking and the impact of shift working to be considered. The Head of Planning and Capital Development highlighted that this issue had also been addressed within the Addendum Report.

(Alderman J Dillon left the meeting at 12.43 pm and returned at 12.50 pm)

- Councillor J Craig said that the proposal was to replace two dwellings with a large facility, and he could not understand why Dfl (Roads) could not see this as an issue. The Head of Planning and Capital Development responded advising that the daily traffic movements calculated in respect of the two houses was 20 and the daily traffic movements calculated in respect of the nursing home was 25, he said that this was the independent advice which had been received from Dfl (Roads). Councillor Craig said that he questioned the accuracy of that information.
- Councillor U Mackin sought clarification on parking statistics within the report and on the use of the phrase 'the absence of alternative data on traffic'. He was advised that the Parking Standards document required 18 spaces to be provided in such a scenario, DCAN required 20 spaces to be provided. There were 17 spaces provided, however there was also on-street provision in the immediate location which also had good public transport links which it was felt provided mitigation. He acknowledged that it would be a challenge for residents to provide traffic surveys, however Mr Cash had confirmed that there had been no issues with residential homes in the area, he said that differences of opinion were normally addressed through contradictory evidence. Councillor U Mackin asked whether any evidence had been produced on the number of trips and he was advised by Mr Cash that there had been no evidence produced, this information had been calculated using a desk top exercise based on professional experience.
- Alderman D Drysdale asked whether planners were content that the new extension would fit into the surrounding area and he was advised that they were and that the proximity of the primary school also had an impact on their decision.
- At this point Ms Allen was permitted by the Chairman to address the Committee again and she stated that there have been no issues in the past because the entrance was not in the location proposed in this application.

During the ensuing debate, the following comments were made:

- Councillor J Craig said he had concerns at the response received from DfI (Roads). He said that this was anything but a small enterprise and he would have thought a traffic survey would have been required. He questioned the accuracy of the number of trips calculated per day, he felt there would be intensification and that the character of the area will have changed and for those reasons he could not support the recommendation.
- Alderman D Drysdale concurred however he stated that he was unsure whether there would be planning reasons to overturn the recommendation.
- Alderman J Tinsley said that the two houses being removed were at the end of the cul-de-sac and traffic would not be driving through it, he said that he would be supporting the recommendation.
- Councillor Swan said he concurred with Alderman Tinsley's comments and suspected that a lot of the fears expressed would not be realised.

The Committee, having considered the information provided within the Report of the Principal Planning Officer, and by those making representations, agreed by a vote of 6:3 with 0 abstentions to approve the application as outlined in the report and subject to the conditions stated therein.

Adjournment of Meeting

The Chairman, Councillor A Swan declared the meeting adjourned at 1.10 pm

Resumption of Meeting

The Chairman, Councillor A Swan declared the meeting resumed at 1.58 pm

- (4) LA05/2021/1178/F – Erection of dwelling house north and adjacent to 32 Killynure Road West, Killynure, Carryduff.

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

The Committee received Mr Gary Thompson 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:

- The design appeared to be the issue with the application. He said this was surprising as it was similar to another approved application in the immediate location at No 30.
- He advised that the floor area was 351 sq metres which was not particularly large and smaller than what had been approved at No 30.
- He stated that the design reduced the mass however the applicant was prepared to reduce the garage and balcony if necessary.
- He said there was adequate amenity space included and he urged approval.

Mr Thompson then responded to Members' queries as follows:

- Alderman J Tinsley asked why the full information regarding groundworks had not been submitted and was advised that there was nothing additional to be shown other than what was submitted.

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

- Alderman J Tinsley asked what additional information the Planning Unit had requested and was advised that clarification had been sought on levels and cross sections however only one cross section had been received and they would normally expect to receive two in order for a proper assessment to be made.
- Councillor J Craig referred to the issue of size, scale and mass which had been raised when the applicant had highlighted similarities with the replacement dwelling at No 30, he sought comment on this. The Senior Planning Officer replied that the approval referred to had yet to be enacted. She said that the design approved was for a contemporary design with barn style elements which there were references to in Building on Tradition.

During the ensuing debate, the following comments were made:

- Alderman O Gawith suggested potentially deferring this to allow for the requested information to be provided. This was considered by the Committee but was not supported due to the fact that there were also issues with the design.

The Committee, having considered the information provided within the Report of the Senior Planning Officer, and by those making representations, agreed by a unanimous vote to refuse the application for the reasons outlined in the Report.

- (5) LA05/2020/0011/O - Proposed replacement of existing stone dwelling 275m south west of 15 Fort Road, Crumlin, Antrim

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

The Committee received Mr Raymond Jordan 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:

- The building has been in family ownership since 1946.
- It has always been referred to as 'Uncle Joe's house'.
- He had employed a conservation expert to provide a report. This goes into the history of the building and was submitted to the Planning Unit.
- There are elements within the structure which point to human habitation.
- This has always been referred to as 'the herd house'
- The recommendation should be overturned by the Committee.

Mr Jordan then responded to Members' queries as follows:

- Councillor M Gregg asked what evidence there was to show that this had been a dwelling. Mr Jordan said that the nature of the building had changed over the years to accommodate farming practices and therefore the characteristics which identified it as a dwelling had been removed.
- Councillor J Palmer asked why the requested information had not been submitted to NIEA and NED as requested, he was advised that a bat report had been carried out and that another would be done in May.
- Alderman D Drysdale referred to the comment 'it has not been demonstrated that there would be no detriment to protected species' and asked if there were any reports to support the fact that there would be no detriment to protected species. Mr Jordan responded that a bat survey had been carried out and that the second one would be carried out in May.
- The Chairman, Councillor A Swan asked when the building had been Uncle Joe's house. Mr Jordan commented that he did not recall when but that it had always been referred to that as far as he could remember.

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

- Alderman D Drysdale asked what additional information would be required in terms of bat surveys and was advised that the survey submitted had been inadequate and that further information had been sought which could not be provided until May.
- Councillor J Craig asked whether the applicant had been provided with adequate time in which to provide the survey information. The Head of Planning and Capital Development advised that it would be normal practice to have two surveys carried out in the same season, this was a tried and tested procedure. However in this instance only one survey had been provided. He said that had not been considered reasonable for the Planning Unit to continue to wait until the next appropriate season to obtain a survey when the earlier report will have pointed to the need for additional survey information and the principle of development was not agreed.
- Councillor J Craig asked whether there was any evidence with respect to the uncle and he was advised that this was the first time the uncle had been referred to.
- Alderman J Tinsley sought clarification on the characteristics of a dwelling which were referred to by Mr Jordan. The Head of Planning and Capital Development said that these features were the corbelled brick work externally which support guttering, the internal roof structure and the internal flush rendering, the external harling and the high quality of the build and materials. However characteristics such as a chimney, domestic windows, internal partitioning were not present and neither was there any evidence of utilities all of which are considered to be essential characteristics of a dwelling house.
- Councillor J Palmer asked whether the committee could be sure that the request for information had actually been sent and the Head of Planning and Capital development confirmed that they had.

- Councillor U Mackin referred to the Planning Policy as interpreted by the consultant Mr Moore asking how this differed from the Planning Unit's interpretation. The Head of Planning and Capital Development proceeded to outline how the planners had interpreted the policy in this case whilst considering whether the essential characteristics of a dwelling were present.

During the ensuing debate, the following comments were made:

- The Chairman, Councillor A Swan said that he would be supporting the recommendation in this instance.

The Committee, having considered the information provided within the Report of the Senior Planning Officer, and by those making representations, agreed by a unanimous vote to refuse the application for the reasons outlined in the report.

- (6) 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 (amended information) at 531 Saintfield Road Belfast BT8 8ES.

The above item had been withdrawn from the schedule to allow for additional information to be considered.

- (7) LA05/2021/0423/O - Proposed new dwelling and 320m NW of 8 Clontarrif Road, Upper Ballinderry, Lisburn, BT28 2JD

The above item had been withdrawn from the schedule to allow for additional information to be considered.

- (8) LA05/2018/0862/F - Proposed Infill site for 2 dwellings between 26 & 30 Magheraconluce Road, Hillsborough.

The above item had been withdrawn from the schedule to allow for additional information to be considered.

- (9) LA05/2021/0928/O – Site for a dwelling garage including ancillary siteworks 30m north of Garlandstown Road, Glenavy

The above item had been withdrawn from the schedule due to special domestic circumstances involving one of the speakers.

Adjournment of Meeting

The Chairman, Councillor A Swan declared the meeting adjourned at 2.51 pm

Resumption of Meeting

The Chairman, Councillor A Swan declared the meeting resumed at 3.00 pm

4.2 Item 2 - Statutory Performance Indicators – January 2022

Members were provided with information on the above and a verbal summary was provided by the Head of Planning and Capital Development.

Councillor M Gregg wished to acknowledge the efforts of officers and sought an update on the new Planning Portal. This was provided by the Head of Planning and Capital Development who said that the indicative time for going live was Autumn 2022 however there remained some issues to be addressed between now and then.

Councillor J Craig asked if there was any aspect of the Planning System which had fallen behind and he was advised that the unit had been focusing on the issue of Development in the Countryside given the ongoing issues and that this would have an impact and would require careful management.

There was some discussion on the process of calling in application and how this needed to be balanced in terms of local accountability.

It was proposed by Councillor M Gregg, seconded by Councillor J Craig and agreed that the information be noted.

4.3 Northern Ireland Audit Office (NIAO) Report - Planning in Northern Ireland

Members were provided with a copy of a report published by the NIAO on 1 February 2022 which undertook a high level review of how effective the planning system was operating and how effectively it was being governed. They were also provided with a copy of the associated media release.

There was some discussion on the report and the Head of Planning and Capital Development said that there were lessons to be learned and he went on to advise that reports would ensue in due course in that respect.

Alderman A Grehan stated that, on considering the recommendations, she felt that a workshop should be held to discuss them. The Head of Planning and Capital Development said that this request would be taken on board.

Councillor J Craig said that he wondered how many applications failed due to being of poor quality. The Head of Planning and Capital Development said that Councils had been making the case for some time now that the bar for validating applications was very low and he then went on to outline how this was being addressed by way of legislative validation checklist.

It was proposed by Alderman D Drysdale seconded by Alderman J Tinsley and that the information be noted.

4.4 Update on Planning Advice Note (PAN) on Implementation of Strategic Planning Policy for Development in the Countryside

Members were reminded of the background associated with issuing of the Planning Advice Note on the implementation of strategic policy for development in the countryside on 2 August 2021 and the events that had taken place since then. They were advised that in light of the disruption and cost being incurred by this Council, the Director of Service Transformation had written to the Chief Planner on 22 January 2022 inviting the department to:

- (i) Deal more fully with the issue of the withdrawal by addressing the period during which the PAN was in existence; and
- (ii) Ensure that all stakeholders including this Council were properly consulted with in relation to any further proposed changes to planning policy in future as ought to be the case.

Members were provided with a copy of the relevant correspondence and it was proposed by Alderman A Grehan seconded by Alderman J Tinsley and agreed that the information be noted.

4.5 Notification by telecommunication operator(s) of intention to utilise permitted development rights

Members were provided with correspondence from Fibrus indicating their proposed intention to exercise Permitted Development at Ballycairn Road, Aghalee BT67 0DR to install electronic communications apparatus.

It was proposed by Councillor M Gregg seconded by Councillor J Craig and agreed that the information be noted.

4.6 Review of the Implementation of the Planning Act (NI) 2011

Members were provided with a copy of the Review of the Implementation of the Planning Act (NI) 2011 which had been carried out by the Department for Infrastructure who had an oversight role in respect of the operation of the Planning System in Northern Ireland.

The Head of Planning and Capital Development provided the Committee with a verbal update during which he stated that he felt that some of the more fundamental issues had not been addressed.

There was some discussion on how the system in Northern Ireland compared with that in the rest of Great Britain and at the culmination of the discussion it was proposed by Councillor M Gregg, seconded by Councillor J Craig and agreed that the information be noted.

5. Any Other Business

1. The Chairman, Councillor A Swan
Late Submissions of information

The Chairman drew attention to the issue of the acceptance of late information being submitted for consideration when there is a cut-off time for this in place, he asked how the Legal Advisor viewed this. The Legal Advisor advised of the implications should a strict enforcement of the cut-off time be enforced stating that some flexibility was necessary.

(During the above discussion, Councillor J Craig left the meeting at 3.37pm)

There being no further business, the meeting concluded at 3.40 pm.

CHAIRMAN / MAYOR



Planning Committee

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Decision/

TITLE: Item 1 - Schedule of Planning Applications to be determined

Background and Key Issues:

Background

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

Key Issues

1. The applications are presented in accordance with the current scheme of delegation. There are five applications in total. Five are local applications, four of which have been called-in and one 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) LA05/2021/0423/O - Proposed new dwelling and 320m NW of 8 Clontariff Road, Upper Ballinderry, Lisburn, BT28 2JD
Recommendation – Refusal
 - (b) LA05/2020/0862/O - Proposed 1 ½ storey private dwelling and garage with surrounding garden on Land 20m east of No 52 Gransha Road, Comber.
Recommendation – Refusal
 - (c) LA05/2020/0614/O – Site for dwelling, garage and associated site works at a side garden of 21 Moss Brook Road, Carryduff.
Recommendation - Refusal
 - (d) LA05/2020/0208/F - Proposed erection of 6 detached dwellings, including demolition of existing dwelling, associated road layout, car parking & landscaping at 6 Fort Road, Dundonald.
Recommendation – Approval
 - (e) LA05/2021/1106/F – Dwelling and garage on lands 30m south of 9 Pinehill Road, Hillhall Road, Belfast and adjacent to No 4 Dows Road.
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

N/A

If yes, what was the outcome?:

Option 1		Option 2		Option 3	
Screen out without mitigation	Yes/No	Screen out with mitigation	Yes/No	Screen in for a full EQIA	Yes/No

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

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

N/A

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

SUBJECT TO PLANNING APPROVAL:

No

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

APPENDICES:

APPENDIX 1(a)(i) – LA05/2021/0423/O
APPENDIX 1(a)(ii) – LA05/2021/0423/O (officer report 7 March 2022)
APPENDIX 1(b) – LA05/2020/0862/O
APPENDIX 1(c) - LA05/2020/0614/O
APPENDIX 1(d) - LA05/2020/0208/F
APPENDIX 1(e) - LA05/2021/1106/F

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	04 April 2022
Committee Interest	Local Application (Called In) - Addendum
Application Reference	LA05/2021/0423/O
Date of Application	18 April 2021
District Electoral Area	Killultagh
Proposal Description	Proposed new dwelling and garage
Location	Site 320 metres NW of 8 Clontarrif Road, Upper Ballinderry, Lisburn
Representations	None
Case Officer	Margaret Manley
Recommendation	Refusal

Summary of Recommendation

1. A recommendation to refuse planning permission was presented to the Committee at its meeting in March 2022 as it is considered the proposal was 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 was also considered to be contrary to the SPPS and Policy CTY10 (a) of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active.
3. It was also considered to be contrary to the SPPS and Policy CTY10 (c) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm access to the dwelling is not obtained from an existing lane and it does not merit being considered as an exceptional case.

4. On 06 March 2022 the applicant indicated that new information was being made available in respect of the operation of the farm business. In light of the pending submission it was considered prudent to remove the application from the Schedule to allow for the information to be considered.

Further Consideration

5. A summary of the additional information submitted by the applicant on 10 March 2022 and further evidence received on 18 March 2022 to demonstrate how the proposal meets the policy requirements of CTY 10 is outlined below.
6. The applicant states that the farm is in greater activity today than it has been in the past 30 years.
7. Reference is made to the farm having been registered since 1992 when it was allocated its farm business number.
8. The submission explains that since that date, there have been farm business accounts completed every year up to the present date. Reference is also made to the farm having availed of a tree planting scheme in 1991-1992 which only ended in the last 2 years.
9. Reference is made to the family having kept horses on the land in the 1990's and 2000's and that they rented out some fields to another farmer during this time for beef stock.
10. The submission explains that since 2006, another farmer has rented the lands with conacre agreements in place to reflect this. It also explains that the leased acreage has increased in the last 16 years and that it was decided in 2019 that a Transfer of Entitlement (as per DAERA) was the most straightforward way to address the management of farm payments.
11. Documents were provided to illustrate confirmation of transfer of Basic Payment Scheme Entitlements from the applicant to a Mr and Mrs Best.
12. The submission also advises that since 2019, the majority of fields have been re-fenced and the riverbank has been given a 5 metre maintenance strip to protect the river eco system. Old hedges and scraggy undergrowth has been cleared and field drinkers has been reinstated for livestock.
13. It is not explained whether the planning applicant undertook the work or paid a contractor do it on his behalf. No invoices are supplied.
14. The submission also explains that the applicants are exploring other opportunities to progress the farm and make it both financially and environmentally viable as the next generation in their family takes an active role in the land.

15. A letter from a chartered accountant was provided on 18 March 2022 from an accountant dated 14 March 2022. Whilst this letter provides confirmation that Dr and Mrs Bell have operated a farming partnership for a number of years and that tax returns, together with appropriate adjustments for the individual returns have been filed annually with HM Revenue and Customs, no detail is provided.
16. The submission received on the 10 March 2022 further states that the applicant has ceased third party employment and that he now has the time required to invest in the farm.
17. The view is expressed that the family wish to return the use of the outbuilding on the land for livestock and that they plan to build a modest farm cottage to complement the surroundings.
18. The applicant has stated that the proposed siting has not been selected randomly. They family wish to build an environmentally friendly houses that will make the most of available solar gains, ground source heat pump for heating and ventilation to reduce the demands energy demands and carbon footprint. They wish to include a market garden and orchard to increase food supply for both crucial pollinators and to the local general public.
19. The submission explains that the main section of the proposed house is going to be built/clad in stone to reflect other buildings on the farm. The applicant claims that there is clear visual link between the farm outhouse and the proposed position of the dwelling (100 metres apart).
20. They maintain that this location is necessary to make best use of solar gain. It also explains that the proposed driveway makes part use of an existing old access laneway.
21. The additional information submitted not considered sufficient to demonstrate that the requirements of criteria (a) of the policy is meet. There is no evidence that the applicant actively farms the land. It is taken in con-acre by another farm business and no information is provided to suggest the applicant keeps the land in good agricultural condition.
22. If the tax returns are only for the income from the con-acre agreement then this is not sufficient to demonstrate the requirement of the policy is being met.
23. In fact the con-acre agreement provided on 18 March 2022 has a duration from April 2018 to March 2023 and that this agreement clearly states that within the period of the lease, the tenant will maintain hedgerows, gateways and laneway and that existing stock fencing will be renewed/replaced and water margins will be renewed. This reinforces the advice provided previously that the proposed site is associated with the other farm business.
24. The lease agreement also states that for the duration of the lease, the Basic Payment Scheme entitlements will be transferred from Bell to Best during the

month of March. This is considered to be further evidence that the land is actively farmed by someone other than the applicant.

25. No new information is provided to deal with the point raised in the earlier assessment that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm access to the dwelling is not obtained from an existing lane. Criteria (c) of the policy is not met for the reasons previously offered.

Conclusions

26. The detail of this addendum should be read in conjunction with the main officers report previously presented to the Committee on 07 March 2022 which is provided as part of the papers for this meeting.
27. The advice offered previously is not altered and the recommendation to refuse planning permission as outlined in the initial report is not changed for the reasons outlined above that criteria (a) and (c) of the policy are not met.

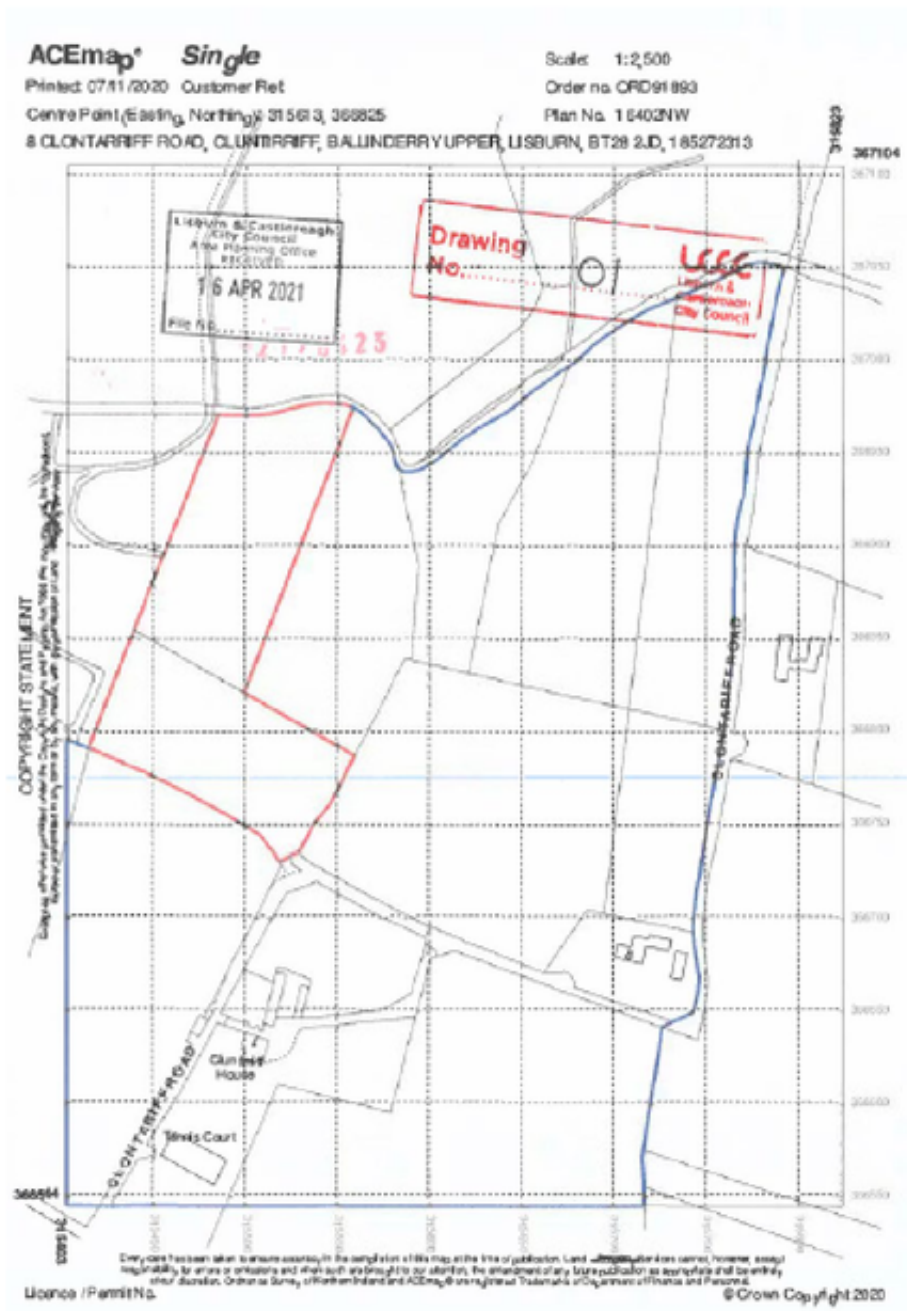
Recommendation

27. It is recommended that planning permission is refused.

Reasons

28. The following refusal reasons are recommended:
 - The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
 - The proposal is contrary to the SPPS and Policy CTY10 (a) of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active. The proposed site is located on land associated with another farm business.
 - The proposal is contrary to the SPPS and Policy CTY10 (c) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm access to the dwelling is not obtained from an existing lane and it does not merit being considered as an exceptional case.

Site Location Plan – LA05/2021/0423/O



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	07 March 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/0423/O
Date of Application	18 April 2021
District Electoral Area	Killultagh
Proposal Description	Proposed new dwelling and garage under Policy PPS 21 CTY10
Location	Site 320 metres NW of 8 Clontarrif Road, Upper Ballinderry, Lisburn
Representations	None
Case Officer	Margaret Manley
Recommendation	Refusal

Summary of Recommendation

1. This is a local application. The application is presented to the Planning Committee in accordance with the Protocol for the Operation of the Planning Committee as it has been Called In.
2. The above application is presented to the Planning Committee with a recommendation to refuse as it is considered 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.
3. The proposal is also considered to be contrary to the SPPS and Policy CTY10 (a) of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active.
4. The proposal is contrary to the SPPS and Policy CTY10 (c) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the

proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm access to the dwelling is not obtained from an existing lane and it does not merit being considered as an exceptional case.

Description of Site and Surroundings

5. The application site is approximately 1.8 hectares in size and is a rectangular L shaped plot cut out of a roadside field.
6. A watercourse runs along the north boundary of site and the land adjacent to this is in agricultural use. The balance of the land and the southern section of the site is comprised of an area of broadleaf woodland (approximately 0.93Ha). The site boundaries include several mature trees and hedgerow.
7. The application site is located in the countryside approximately 0.7 Km west south west of the settlement of Upper Ballinderry. A dwelling at 1 Clontarriff Road is the closest occupied property.
8. The area surrounding is mainly rural in character and the land is mainly in agricultural use.

Proposed Development

9. This application seeks outline planning permission for a dwelling and garage on a farm.

Relevant Planning History

10. There is no previous planning history associated with this site.

Consultations

11. The following consultations were carried out:

Consultee	Response
Dfl Roads	No objections
NI Water	No objections
Environmental Health	No objections
NIEA - Water Management Unit	No objections

Consultee	Response
NIEA – Historic Environment Division	No objections
Rivers Agency	No objections
DAERA	The farm business ID identified on the Form P1C has been in existence for more than 6 years. However the business has not claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes since 2018. The application site is also not on land for which payments are currently being claimed by the farm business.

Representations

12. No representations in opposition to the application have been received.

Consideration and Assessment

Local Development Plan

13. 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.
14. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan (BMAP) 2015 had in its entirety not been lawfully adopted.
15. As a consequence of this decision, the Lisburn Area Plan (LAP) 2001 is now the statutory up to date LDP. Draft BMAP remains a material consideration.
16. The site lies within the open countryside within the Lisburn Area Plan 2001 and draft BMAP.

Regional Policy Considerations

17. 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.
18. 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.

19. Paragraph 3.8 of the SPPS states that planning authorities in determining planning applications should be guided by the principle 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.
20. In practice this means that development that 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.
21. 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.
22. Having considered the content of the SPPS against the retained policies as set out in Planning Policy Statement 21 Sustainable Development, no distinguishable differences are found that should be reconciled in favour of the SPPS.

Sustainable Development in the Countryside

23. PPS 21 – Sustainable Development in the Countryside sets out the planning policies for development in the countryside.
24. Policy CTY1 – Development in the Countryside sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.
25. One of these types of development is a dwelling on a farm in accordance with Policy CTY10.

Dwelling on a Farm

26. Policy CTY 10 - Dwellings on farms states that planning permission will be granted for a dwelling on a farm where all of the following criteria can be met:
 - (a) the farm business is currently active and has been established for at least 6 years;
 - (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
 - (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane

27. The policy also states that exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building group(s)
28. The guidance at page 85 of the Building on Tradition document suggests that new dwellings on farms should be:
 - Sited as close as possible to the existing cluster;
 - Located so that it relates to existing established field boundaries;
 - Designed to respect and reinterpret traditional patterns of siting, scale, massing and form;
 - Link where possible to existing mature hedges and/or stands of mature trees.
29. The P1C form submitted with the planning application states the owner of the active farm business lives at 8 Clontarrif Road, Upper Ballinderry, Lisburn.
30. DAERA confirmed that the farm business ID identified on the P1c form was allocated on 19 January 1992 and the farm business ID falls under Category 1.
31. The farm business last claimed payments through the Basic Payment Scheme/Agri Environment Scheme in 2018. This was the only year the payments were made out of the last 6 year requisite period as stipulated in policy.
32. Furthermore, DAERA have confirmed that the application site is not located on lands for which payments are currently being claimed by the farm business.
33. The applicant was requested to provide additional information to prove active farming from 2018 to present. In email correspondence dated 21 August 2021, the applicant advised that since 2018 local farmers from Aghalee Road have been renting the land.
34. The correspondence states 'as they have been upgrading fences and hedges they have been claiming the business payment as each year we have transferred the entitlement as per DAERA protocol'.
35. Given that a third party has been renting the land, maintaining it in good agricultural condition and claiming the business payment since 2018 and DAERA have confirmed the farm business under which this application has been made has not claimed Single Farm payments since 2018 there is not enough evidence to prove active farming over the required period of 6 years.

36. As previously mentioned DAERA have also confirmed that the application site is not located on land for which payments are currently being claimed under the applicant's farm business identification number.
37. No other supplementary evidence is provided to demonstrate at least six years current activity on the farm and the applicant cannot rely on the land being taken in con-acre as evidence of activity. No business accounts are provided.
38. The proposal is therefore considered contrary to criteria (a) in that the applicant has failed to provide sufficient evidence to demonstrate the farm business is currently active and has been established for at least 6 years. This part of the policy test is not met.
39. With regard to criterion (b), a farm ownership map was submitted with the planning application to demonstrate the extent of the farm holding and the extent of the application site. A DAERA business map is not available as farm payments are not claimed.
40. That said, a planning history search against the farm ownership map provided demonstrates that no dwellings or development opportunities out-with settlement limits have been sold off from the farm within 10 years of the date of the application. The proposal is considered to comply with criteria (b).
41. In terms of criterion (c) the applicant has provided an indicative layout showing the proposed dwelling located in the northern section of the application site. The address of the applicant/owner of the active farm business is noted as 8 Clontarriff Road, Upper Ballinderry.
42. This dwelling and its associated outbuildings are located approximately 290 metres south of the proposed dwelling. The agent was given the opportunity to demonstrate what established group of buildings on the farm the proposed dwelling would be visually linked or sited to cluster with and no information was provided.
43. Given this separation distance it is considered that the proposed dwelling is not visually linked or sited to cluster with this group of buildings on the farm and that it is contrary to criteria (c).
44. Policy also directs that where practicable, access to the dwelling should be obtained from an existing lane.
45. There is no evidence of an established access apart from an agricultural access to the site. Instead the proposal seeks to create a new vehicular access to serve the dwelling at the proposed site.
46. No statement is provided to explain why it is not practicable to use an existing lane or to justify it being treated as an exception to the policy.
47. For the reasons outlined above, it is considered that the proposal fails to satisfy the policy tests associated with criteria (a) and (c).

Integration and Design

48. Policy CTY 13 - Integration and Design of Buildings in the Countryside states that planning permission will be granted for a building in the countryside where it can be visual integrated into the surrounding landscape.
49. Policy CTY 13 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
50. Paragraph 4.1.0 of Building on Tradition states that policies are structured to direct development to locate within existing small communities, at the edge of small settlements, within existing built clusters, adjacent to established farm groups or if a case can be made to depart from these, to fully integrate with the surrounding landscape.
51. With regard to criteria (a) – (d), the indicative site layout plan submitted in support of the application shows an indicative siting for a new dwelling and garage in the north section of the application site set back from the road by some 480 metres.
52. Given the set back from the road and the level of existing mature vegetation in the southern section of the site it is considered that a dwelling would not be a prominent feature in the landscape. Furthermore, it is considered that a significant amount of new landscaping is not required for integration.
53. In relation to criterion (e) this is an outline application and detailed drawings of the proposed house type are not required to be submitted. That said, a dwelling of appropriate design consistent with the broad design principles set out in Building on Tradition could be submitted at Reserved Matters stage.
54. With regard to criteria (g) and as demonstrated above with the context of policy CTY 10 (c), the applicant has not demonstrated how the proposed dwelling is visually linked or sited to cluster with an established group of buildings on a farm.

Rural Character

55. Policy CTY 14 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area.
56. 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.
57. Given the distance of set back from the road and the nature of the surrounding topography the proposed dwelling will not appear prominent in the local landscape.
58. Taking account of the separation distance from the nearest buildings the proposal will not read with other buildings to create a suburban style build-up of development or create a ribbon of development.
59. Within this context, it is considered the proposal will not have a detrimental impact on the character of this rural area and a refusal under this particular policy requirement could not be sustained.

Non Mains Sewerage

60. 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.
61. The P1 form indicates that foul sewage will be disposed of by way of septic tank.
62. Whilst NED recommend a change from a standard septic tank to installation of a package treatment plant, both Environmental Health, Water Management Unit and NI Water have considered the detail of the application and offer no object in relation to the potential for a pollution problem to arise.
63. Details of septic tank/biodisc and the area of subsoil irrigation must however be provided at reserved matters stage.

64. Based on the advice received, it is considered that the applicant has demonstrated that the proposal will not create or add to a pollution problem and therefore complies with policy CTY 16.

Access, Movement and Parking

65. PPS 3 – Access, Movement and Parking sets out policies to ensure that any new development does not create a traffic hazard.
66. 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.
67. The proposed dwelling involves the creation of a new access. The visibility splays required for this access are 2.4 metres x 45 metres in both directions and forward sight distance of 45 metres.
68. DfI Roads have considered the detail submitted with the application and no objections are offered.
69. Based on a review of the detail and advice from DfI Roads, it is considered that an access can be provided in accordance with policy AMP 2 without prejudice to road safety or inconveniencing the flow of traffic.

Planning and Flood Risk

70. Planning Policy Statement 15 – Planning and Flood Risk sets out planning policies 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
71. Rivers Agency in a response received on 8 June 2021 requested a site location and layout map for the proposed dwelling and garage to ensure they could provide an accurate appraisal of this application in relation to flood risk and drainage.
72. A site layout plan showing an indicative location of the proposed dwelling and garage was submitted on 16 July 2021. In a response received on 04 October 2021, Rivers Agency advised that the development does not lie within the 1 in 100 year fluvial floodplain and as such, they would have no specific reason to object to the proposed development from a flood risk perspective.

73. In relation to Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure Rivers Agency advised that in accordance with paragraph 6.32 of the Revised Policy PPS 15 FLD 2, it is essential that an adjacent working strip is retained to facilitate future maintenance by Dfl Rivers, other statutory undertaker or the riparian landowners.
74. Advice received is that a 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.
75. In relation to Policy FLD3 - Development and Surface Water Rivers Agency advise that a drainage assessment maybe required if the following thresholds have been exceeded:
 - It is a development comprising of 10 or more dwelling units
 - It is a development site in excess of 1 hectare
 - It is a change of use involving new buildings and or hard surfacing exceeding 1000 square metres
76. Rivers Agency advised that if the site exceeded any of the above thresholds as part of the proposed works then Dfl Rivers would require a Drainage Assessment to be submitted as part of a new consultation for our consideration.
77. An indicative layout showing the proposed level of hard surfacing was submitted by the Agent. Based on this submission, it is considered that the level of hard surfacing will not exceed 1000m². That said, it is recommended that a condition is associated with the outline permission to advise that a Drainage Assessment shall be submitted at reserved matters stage in the event hard surfacing greater than 1000m².
78. Rivers Agency have advised Policy FLD4 - Artificial Modification of watercourses is not applicable in this case.
79. In relation to Policy FLD5 - Development in Proximity to Reservoirs- Dfl Rivers reservoir inundation maps indicate that this site is not in a potential area of inundation emanating from a reservoir.
80. Based on a review of the information and advice from Rivers Agency, it is contended that the proposed development complies with the policies FLD 1 and 3 of PSS 15.

Archaeology and the Built Heritage

81. Paragraph 6.12 of the SPPS states that Listed Buildings of special architectural or historic interest are key elements of our built heritage and are often important for their intrinsic value and for their contribution to the character and quality of settlements and the countryside. It is important therefore that development proposals impacting upon such buildings and their settings are assessed,

- paying due regard to these considerations, as well as the rarity of the type of structure and any features of special architectural or historic interest which it possesses.
82. Paragraph 6.3 of the SPPS notes that the Planning system has a key role in the stewardship of our archaeological and built heritage. The aim of the SPPS in relation to Archaeology and the Built Heritage is to manage change in positive ways so as to safeguard that which society regards as significant whilst facilitating development that will contribute to the ongoing preservation, conservation and enhancement of these assets.
 83. Planning Policy Statement (PPS) 6 - Planning, Archaeology and the Built Heritage sets out planning policies for the protection and conservation of archaeological remains and features of the built heritage and advises on the treatment of these issues in development plans.
 84. As stated previously, the site lies in close proximity to 1 Clontarriff Road (Clontarriff House) which is a Grade B1 listed building which is of architectural and historic importance and is protected by Section 80 of the Planning Act (NI) 2011.
 85. Policy BH11 of PPS6 - 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.
 86. Historic Environment Division in a response received on 8 July 2021 advised that they were content that the proposal satisfies the policy requirements of SPPS 6.12 and BH11 PPS6, subject to conditions in relation to the ridge height of any proposed building and retention of existing vegetation.
 87. The reason for this condition was to ensure that proposal would not impact on the character and setting of the listed building, ensuring the proposal does not become prominent and a competing focus and to respect the traditional building materials and techniques found on these buildings.
 88. Based on the information provided and the advice received, it is accepted that a building could be designed so as not to adversely affect the setting of the adjacent listed building. It is therefore evident that the proposal complies with the requirements of policy BH11 of PPS 6.

Natural Heritage

89. Paragraph 6.169 of the SPPS states that the diversity of Northern Ireland's habitats, species, landscapes and earth science features (i.e natural heritage) is an important and highly valued asset of our society. Our natural heritage provides a wide range of opportunities for enjoyment, recreation and sustainable economic activity. The conservation, enhancement and restoration of the abundance, quality, diversity, and distinctiveness of the region's natural heritage are also fundamental to the overall health and well-being of our society.
90. Planning Policy Statement 2 – Natural Heritage, sets out the Planning policies for the conservation, protection and enhancement of our natural heritage. Natural Heritage is defined as the diversity of our habitats, species, landscapes and earth science features.
91. 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.
92. 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.
93. 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.
94. 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.
95. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:
 - priority habitats;

- priority species;
 - active peatland;
 - ancient and long-established woodland;
 - features of earth science conservation importance;
 - features of the landscape which are of major importance for wild flora and fauna;
 - rare or threatened native species;
 - wetlands (includes river corridors); or
 - other natural heritage features worthy of protection.
47. The policy 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.
96. A biodiversity checklist and Preliminary Ecological Appraisal [PEA] was submitted in support of the application on 13 September 2021.
97. The PEA provides an assessment of the site and habitats, protected species, designated sites and potential impacts of the development and mitigation.
98. The Assessment concludes that it is highly unlikely that the development would have a negative impact on badgers, bats, priority habitats, or on designated sites as long as suitable mitigation is put in place.
99. Within this context, the assessment notes that the footprint of the dwelling and garage will be entirely within the improved and species poor pasture field and that the arrangement and ultimate location of the proposed buildings, and controls of sewage and foul water from the property must be designed in such a way as to meet sufficient standards to eliminate risk of pollution of the river from the site.
100. The assessment also recommends that a construction management plan is drawn up to ensure that construction techniques and methods do not give rise to pollution of the river through spillages of sediment, toxic materials, cement and fuels during construction.
101. In relation to the active badger setts on the boundary of the development site, the PEA recommends that a buffer zone of 25 metres be put in place using high visibility fencing for the duration of building work, with no personnel, equipment or materials be permitted. The footprint of the dwelling and garage must be outside his zone and any fencing around the property should be designed to allow badgers to pass unimpeded.
102. The PEA noted that the site was likely to have high potential for foraging bats due to the presence of the river, extensive areas of broadleaved plantation woodland and scattered mature trees and field boundaries. That said, the absence of trees within the site for roosting bats meant that the development

would have no impact. Mature trees along the site access were considered to have low potential for roosting bats during summer months and as such, it was recommended that trimming or felling of such trees must be carried out during the period October – March inclusive to avoid any disturbance to bats.

103. Natural Environment Division were consulted as part of the processing of the application. A response received on 01 October 2021 advised the proposal is subject to the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) (known as the Habitats Regulations). The application site is hydrologically connected to Lough Neagh Area of Special Scientific Interest (ASSI) and Lough Neagh and Lough Beg Special Protection Area (SPA) and Ramsar areas.
104. It also advised that the application site may contain badgers and nesting birds, protected by the Wildlife (Northern Ireland) Order 1985 (as amended) (known as the Wildlife Order).
105. The response advised that NED had considered the impacts of the proposal on designated sites and other natural heritage interests. In summary, the advice received provided the following comment by way of recommendations:
 - The access lane proposed is shown to be constructed through plantation woodland, necessitating the removal of a number of trees. As these are part of an established woodland, appropriate compensatory planting would be required to mitigate against this habitat loss;
 - The indicative dwelling and garage is shown to be approximately 10 metres from the watercourse. NED welcomes a change in the proposal from a standard septic tank to the installation of a Package Treatment Plant as these produce a higher quality effluent;
 - Accept that the development is unlikely to have a significant effect on downstream designated sites providing an appropriate buffer of at least 10 metres is maintained between all construction works and/or contamination sources and the watercourse.
Site vegetation clearance works should not be undertaken during the bird breeding season unless an appropriate survey has been carried out.
106. Based on a review of the detail and advice received, it is contended that with appropriate mitigation as outlined, proposal would comply with key policy tests associated with PPS 2.

Conclusions

107. The application is presented with a recommendation to refuse as it is considered 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.

108. The proposal is also considered to be contrary to the SPPS and Policy CTY10 (a) of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active.
109. The proposal is contrary to the SPPS and Policy CTY10 (c) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm access to the dwelling is not obtained from an existing lane and it does not merit being considered as an exceptional case

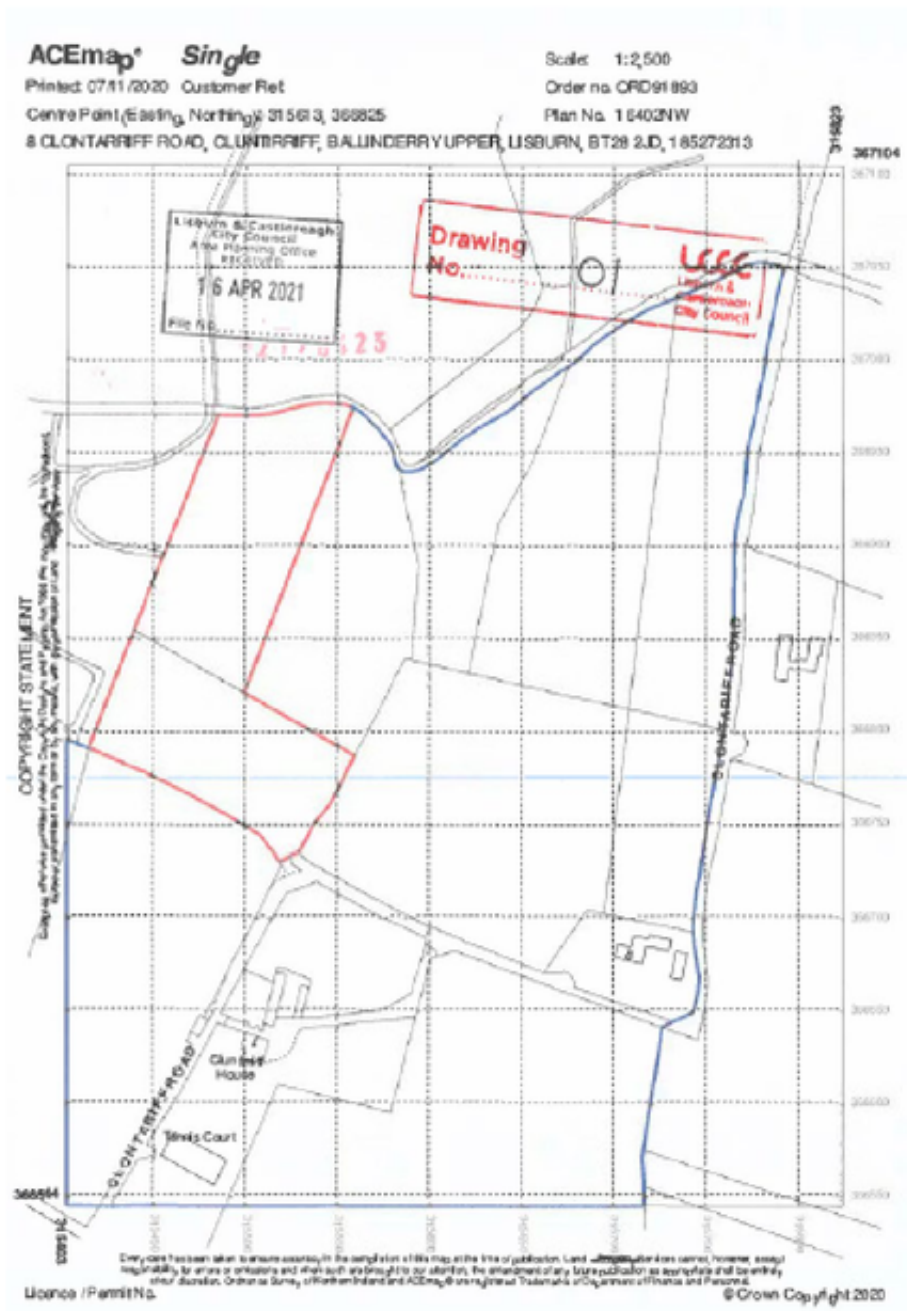
Recommendation

100. It is recommended that planning permission is refused.

Reasons

101. The following refusal reasons are recommended:
- The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
 - The proposal is contrary to the SPPS and Policy CTY10 (a) of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active. The proposed site is located on land associated with another farm business.
 - The proposal is contrary to the SPPS and Policy CTY10 (c) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm access to the dwelling is not obtained from an existing lane and it does not merit being considered as an exceptional case

Site Location Plan – LA05/2021/0423/O



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	04 April 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2020/0862/O
Date of Application	27/10/2020
District Electoral Area	Castlereagh East
Proposal Description	Proposed one and a half storey private dwelling and garage
Location	Land 20m east of 52 Gransha Road, Dundonald.
Representations	Two
Recommendation	REFUSAL

Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation in that it has been Called In.
2. The application is presented to the Planning Committee with a recommendation to refuse as it is considered that the proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape, development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and the development if approved will visually intrude into the open countryside.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for a new dwelling to integrate into the landscape and will rely primarily on the use of new landscaping for integration
4. It is also considered that the proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing buildings and the building would, if permitted not

respect the traditional pattern of settlement exhibited in that area and would therefore result in detrimental change to the rural character of the countryside.

Description of Site and Surroundings

5. The site is located east of 52 Gransha Road, Comber and is set back approximately 40 metres from the main road. The land within is the private garden of the dwelling and falls west to east and also in a southerly direction toward the church, church hall and the Gransha Road beyond.
6. There are a group of mature trees along the southern boundary of the site, these are approximately 10-15 metres in height. These trees fill the views onto the main road between the church and the church hall.
7. The site is located within the rural area. There is some build-up of development with a church hall to the south-east, and church to the south-west.

Proposed Development

8. The application is for a proposed one and a half storey private dwelling and garage.

Relevant Planning History

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

Application Reference	Site Address	Proposal	Decision
LA05/2019/0329/RM	Approx 20m south of 52 Gransha Road, Newtownards, BT23 5RF-	Proposed new cluster dwelling and garage	Permission Granted 24/06/2020
LA05/2017/0676/O	Approx 20m to the south of No 52 Gransha Road, Newtownards, BT23 5RF	Proposed new cluster dwelling and garage	Permission granted
Y/2012/0160/O	East of 52 Gransha Road, Comber, County Down, BT23 5RF	Site for erection of dwelling	Appeal dismissed – permission refused

10. A recommendation to refuse planning permission for LA05/2017/0676/O was presented to the planning committee meeting in June 2018. The application was for a dwelling under policy CTY 2A and was located immediately to the south of the site.
11. The recommendation to of the planning officer was not agreed and a dwelling was subsequently approved. The reasons for overturning the recommendation are set out in the minute of the meeting as follows:
 - The committee considered that the application was compliant with policy CTY 2a of PPS 21 and that all of the criteria for cluster development were met in full;
 - The Committee also felt that the application would not have an adverse effect on the setting of the listed building as appropriate additional screening could support screening already in place and mitigate against any adverse impact.
12. Approval of Reserved Matters (LA05/2019/0329/RM) was then approved in March 2019 and is not time expired. As the planning history remains extant it is a material consideration to this proposal in that the principle of development in a cluster was accepted.
13. The application site is distinguishable from the planning history however as it comprises land to the south that extends development further to the east encroaching into the open countryside.
14. This is consistent with the PAC decision to refuse planning permission for a dwelling on the same site within the context of planning application Y/2012/0160/O.

Planning Policy Context

15. The relevant planning policy context which relates to the application is as follows:
 - Lisburn Area Plan 2001
 - Draft Belfast Metropolitan Area Plan (BMAP) 2015
 - Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS)
 - Planning Policy Statement 2 (PPS2): Natural Heritage
 - Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
 - Planning Policy Statement 21: Sustainable Development in the Countryside.
 - Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside
 - DCAN 15: Vehicular Access Standards

Consultations

16. 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	Content

Representations

17. Two letters of objection have been received from 50 Gransha Road. The issue raised relate to the use of the access leading to the site and to concerns that the applicant has no right of way to use lane nor has requested to use their land for access purposes.

Consideration and Assessment

18. The main issues to consider in the determination of this planning application are:

- Local Area Plan
- Regional Policy Considerations
- Sustainable Development in the Countryside
 - Dwelling within a Cluster
 - Ribbon Development
 - Integration and Design
 - Rural Character
 - Development Relying on Non-Mains Sewerage
- Access, Movement and Parking
- Natural Heritage

Local Development Plan

19. 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.

20. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had in its entirety, not been lawfully adopted.
21. As a consequence of this decision, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
22. In both plans, the application site is identified in the open countryside beyond any defined settlement limit and as there is no distinguishable difference in the local plan context, significant weight is attached to draft BMAP and its draft policies which direct the assessment to be carried out in accordance with prevailing regional policy.

Regional Policy Considerations

23. The Strategic Planning Policy Statement (SPPS) published in September 2017 states that until the Council adopts the plan strategy for its new Local Development Plan there will be a transition period in operation.
24. During this period, planning policy within existing and 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.
25. The SPPS states that planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
26. Paragraph 6.65 states that 'the aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS'.
27. Paragraph 6.70 also states that 'all development in the countryside must integrate into its setting, respect the character, and be appropriately designed.
28. 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.
29. In terms of new dwellings in existing clusters strategic policy directs that provision should be made for a dwelling at an existing cluster of development which lies outside a farm provided it appears as a visual entity in the landscape; and is associated with a focal point; and the development can be absorbed into the existing cluster through rounding off and consolidation and will not

significantly alter its existing character, or visually intrude into the open countryside.

30. No conflict arises between the provisions of the Strategic Planning Policy Statement (2015) and the retained policy – Planning Policy Statement 21: Sustainable Development in the Countryside. Consequently, PPS 21 provides the relevant Planning policy context in this instance.

Sustainable Development in the Countryside

31. PPS 21 – Sustainable Development in the Countryside sets out the planning policies for development in the countryside.
32. Policy CTY 1 - Development in the Countryside makes provision for a range of different types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.
33. 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.
34. The application is for a proposed dwelling to be considered against the requirements of policy CTY 2A.

New dwellings in existing clusters

35. Policy CTY 2A of PPS 21 states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
 - the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
 - the cluster appears as a visual entity in the local landscape;
 - the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
 - the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
 - development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and

- development would not adversely impact on residential amenity.
36. Paragraph 4.3.0 of Building on Traditions acknowledges that Policy CTY2A of PPS 21, Sustainable Development in the Countryside, defines what constitutes a cluster and that it sets down very clear guidance on how new developments can integrate with these. The guidance also acknowledges that a key requirement is that the site selected has a suitable degree of enclosure and is bounded on two sides with other development in the cluster.
 37. Paragraph 4.2 of Building on Traditional makes reference to visual integration. The guidance recommends that proposals should work with the landscape to avoid prominent and elevated locations and retaining as many hedgerows trees and natural features as possible. These matters are considered in more detail below.
 38. The proposed site lies outside of a farm and the dwellings at 46, 48 and 52 Gransha Road are part of a group of dwellings adjacent to a church and church hall to the south east. The first criterion of the policy is therefore met.
 39. Although there is a defined group of buildings within close proximity to one another, the visual relationship between these buildings does not lend itself to a cluster of development which appears as a visual entity in the landscape from any viewpoints along the Gransha Road. This is due to the distance between the identified buildings, the curvature on the road, the intervening vegetation and the undulating topography. For these reasons it is considered that the second criterion is not met.
 40. The site is located immediately to the rear of a large church and associated community buildings which would suffice as a community building and as such, the third criteria is met.
 41. The irregular shaped site is bound on two sides by other development. To the south east the site is bound by the Church Hall and its ancillary car park; to the west it is bound by the dwelling and its ancillary buildings known as 52 Gransha Road. However, the application site forms part of a larger side garden of a dwelling and lacks a suitable degree of enclosure and will extend development further east and visually intrude into the open countryside. The fourth criteria is not met.
 42. The development of the site cannot be absorbed within an existing cluster, and it is considered that the proposal, if approved, would alter the existing character. The fifth criteria is not met.
 43. In relation to the last criteria the Council is satisfied that the development if approved would not have any direct impact upon the residential amenity of the neighbouring occupied dwellings.
 44. As the proposal fails to meet all [my emphasis] of the criteria within Policy CTY 2A it also fails to comply with Policy CTY 1.

Ribbon Development

45. Policy CTY 8 – Ribbon Development states that 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.
46. A building is defined in statute to include a structure or erection, and any part of a building as so defined.
47. Paragraph 5.32 of the Justification and Amplification section within Policy CTY 8 states that 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.
48. It then goes on to say at paragraph 5.33 that 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.
49. The dwellings at 46 and 48 Gransha Road both share frontages onto the Gransha road and they are approximately 140 metres and 190 metres away from the application site respectively.
50. 52 Gransha and the application site do not have a frontage onto Gransha Road. They are both served by an access from Gransha Road however an access point in itself does not constitute a frontage to the road.
51. The application site is located to the rear of the existing church and Church Hall with boundary vegetation between. The first part of the policy test is not met as it does not have frontage to the Gransha Road or the private lane to the dwelling at 52 Gransha Road.

Integration and Design

52. 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.

53. 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.
54. The proposed site is open and exposed along the eastern and south eastern boundaries. Additionally, as a result of the rise of the topography within the site, a new dwelling located here will be prominent and unable to provide a suitable degree of enclosure for integration into the landscape.
55. The proposal will therefore rely primarily on new landscaping for integration contrary to criteria (c) of Policy CTY 13.

Rural Character

56. Policy CTY14 - Rural Character states planning permission will be granted for a building in the countryside where it does not cause detrimental change to or further erode the rural character of the area.
57. A new building will be unacceptable where:
- (a) it is unduly prominent in the landscape; or
 - (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
 - (c) it does not respect the traditional pattern of settlement exhibited in that area; or
 - (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
 - (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character
58. Paragraph 5.77 the justification and amplification states that a new building may have little impact by itself. However, when taken cumulatively with other existing and approved buildings and their ancillary features in the vicinity, it could result in a build-up of development detrimental to the rural character of that area.
59. Paragraph 5.79 also states that in order to maintain and protect the rural character of an area the new building should respect the traditional pattern of

settlement; that is, the disposition and visual appearance of land and buildings in the locality of the proposed development.

60. In assessing the cumulative impact of a building on rural character the matters taken into consideration include the following:
 - a. The inter-visibility of the proposed building with existing and approved development.
 - b. The vulnerability of the landscape and its capacity to absorb further development; and
 - c. The siting, scale and design of the proposed development.
61. When the site is viewed from both long and short distance viewpoints whilst travelling along the Gransha Road in and East/West direction and when viewed from adjacent public assembly points in the church car park and playing fields, would read as a suburban style build-up of development when viewed with existing buildings and is therefore unacceptable under criterion (b).
62. The proposal also entails the development within the side garden of 52 extending the built form in a north eastern direction away from the existing grouping. This layout would not respect the settlement pattern and spacing of buildings found in the locality and is therefore unacceptable under criterion (c). The proposal therefore would result in a detrimental change to the character of the area.
63. It is considered that the proposal does not comply with policy CTY 14 and would have a negative impact on the rural character of the area.

Development Relying on Non-Mains Sewerage

64. 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.
65. Detail submitted with the application indicates that surface water will be disposed of via a soakaway and that foul sewage will be disposed of to the mains.
66. Both Environmental Health and NI Water have considered the detail of the application and offer no objections in principle.
67. Based on the advice received, it is considered that the proposal will not create or add to a pollution problem.

Access, Movement and Parking

68. 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.
69. 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.
70. The site location plan indicates that access is to be obtained via the existing laneway that leads to 52. The red line has shown the extent of the visibility splays provided and included the laneway.
71. DfI Roads has no objection in principle to the proposal on road safety or traffic impact grounds and have provided standard conditions.
72. The Council has no reason to disagree with the advice from DfI Roads and is satisfied that the requirements of policy AMP 2 of PPS3 are met in full.

Natural Heritage

73. PPS 2 - Natural Heritage makes provision for ensuring that development does not harm or have a negative impact on any natural heritage or conservation.
74. There are no works on site that would lead to concerns over the impact of the proposal on any natural heritage interests and vegetation on the defined boundaries can be conditioned to be retained.
75. It is considered that the proposal would not have a negative impact on any natural heritage and complies with PPS 2.

Consideration of Representations

76. As explained, two letters of objection have been received from the occupier of 50 Gransha Road. The issue raised on both occasions relate to the utilisation of the access leading to the site and the objector claims that the applicant has no

right of way to use lane nor has requested to use their land for access purposes.

77. The agent has confirmed in an email that the applicant has a right of way to access the site via the shared lane. A certificate C was completed and notice served on the owners of the Gransha Presbyterian Church. No further objection was received however land ownership remains a matter between the two parties involved.

Conclusions

78. Based on careful consideration of all the relevant material planning considerations, it is contended that the proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape, development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and the development if approved will visually intrude into the open countryside.
79. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for a new dwelling to integrate into the landscape and will rely primarily on the use of new landscaping for integration.
80. It is also considered that the proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing buildings and the building would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in detrimental change to the rural character of the countryside.

Recommendation

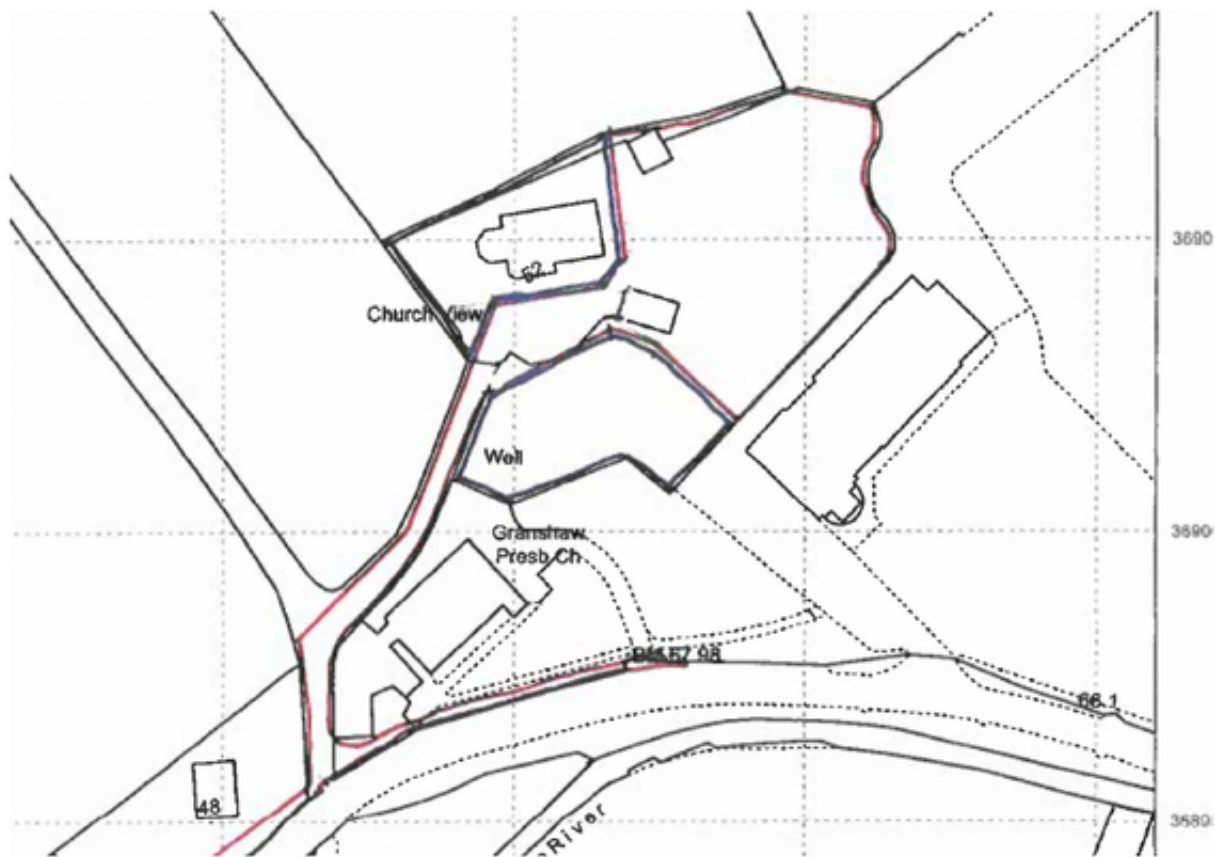
81. It is recommended that planning permission is refused.

Reasons for refusal

82. The following refusal reasons are recommended:
 - The proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape, development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and will visually intrude into the open countryside.

- The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for a new dwelling to integrate into the landscape and will rely primarily on the use of new landscaping for integration.
- The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing buildings and the building would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in detrimental change to the rural character of the countryside.

Site Location Plan – LA05/2020/0862/O



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	04 April 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2020/0614/O
Date of Application	10 August 2020
District Electoral Area	Castlereagh East
Proposal Description	Site for dwelling, garage and associated site works
Location	Side garden of 21 Moss Brook Road, Carryduff, BT8 8AJ
Representations	None
Case Officer	Cara Breen
Recommendation	REFUSAL

Summary of Recommendation

1. This application is categorised as a Local Planning application. It is presented to the Committee for determination in accordance with the Scheme of Delegation, in that it has been Called In.
2. The application is presented with a recommendation to refuse as it is contended 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.
3. It is also considered that the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that development if approved would fail to respect the existing development pattern along the Moss Brook Road and if permitted would add to a ribbon of development along Moss Brook Road.
4. In addition, the proposal is also contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would if permitted result in a suburban style build-up of development when viewed with

existing buildings, does not respect the traditional pattern of settlement exhibited in the area and it would add to a ribbon of development along Moss Brook Road.

Description of Site and Surroundings

5. The application site, is a 0.05 hectare rectangular shaped parcel of land which currently forms part of the private garden of an existing residential property at 21 Moss Brook Road, Carryduff.
6. The site is accessed via the vehicular entrance which serves the dwelling at 21 Moss Brook Road. The land within is relatively flat throughout.
7. The roadside (south western) boundary is defined by a mature mixed species hedgerow. The rear (north eastern) boundary is demarcated by mature conifer trees. The south eastern boundary is defined by a 1.2 metre (approximately) high post and rail timber fence with a tree and planting to both the inside and outside. The north western boundary was undefined.
8. The application site is adjacent to a henhouse/greenhouse immediately to the North West and the dwelling and garages/outbuildings, at 21 immediately to the south east. Beyond this the area is rural in character and the land predominantly agricultural in use.

Proposed Development

9. Outline planning permission is sought for a site for a dwelling, garage and associated site works.

Relevant Planning History

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

Planning Reference	Proposal Description	Decision
Y/2014/0014/O	Erection of bungalow	Permission Refused
Y/1982/0171	Extension and Improvements to existing cottage	Permission Granted

Planning Policy Context

11. The relevant planning policy and related guidance is as follows:

- Regional Development Strategy (2035)
- Belfast Urban Area Plan (2001)
- Draft Belfast Metropolitan Area Plan (dBMAP) (2004)
- Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development (2015)
- Planning Policy Statement 2 (PPS 2): Natural Heritage
- Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
- Planning Policy Statement 15 (PPS 15): (Revised) Planning and Flood Risk
- Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside
- Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside
- DCAN 15: Vehicular Access Standards

Consultations

12. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
LCCC Environmental Health	No Objection
NI Water	No Objection
DAERA: Drainage and Water	No Objection
DfI Rivers PAMU	No Objection

Representations

13. No representations were received by the Council in relation to the proposed development.

Consideration and Assessment

14. The main issues to consider in the determination of this planning application are:

- Local Development Plan
- Regional Policy Considerations
- Sustainable Development in the Countryside
 - Development in the Countryside
 - Ribbon Development
 - Integration and Design
 - Rural Character
 - Development relying on Non-mains sewerage
- Natural Heritage
 - Species Protected by Law
- Access, Movement and Parking
 - Access to Public Roads
- Planning and Flood Risk
 - Development and Surface Water (Pluvial) Flood Risk outside Flood Plains

Local Development Plan

15. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications regard must be had to the requirements of the local development plan and that determination of applications must be in accordance with the plan unless material considerations indicate otherwise.
16. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had in its entirety, not been lawfully adopted.
17. As a consequence of this decision, the Belfast Urban Area Plan (2001) is the statutory development plan for the area however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
18. The application site is identified within the open countryside, out with any defined settlement limit, in all relevant plans. There are no other designations are applicable to the application site.

Regional Policy Considerations

19. The Strategic Planning Policy Statement (SPPS) published in September 2015, indicates that until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation. During this period, planning policy within existing retained documents and guidance will apply.
20. It is stated that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. For example, where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than retained

policies this should not be judged to lessen the weight to be afforded to the retained policy.

21. Paragraph 3.8 of the SPPS indicates 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.
22. Paragraph 6.65 states that the aim of the SPPS with regards to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS.
23. Paragraph 6.70 states that all development in the countryside must integrate into its setting, respect rural character, and be appropriately designed.
24. The SPPS notes 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.
25. In terms of infill/ribbon development 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 and that planning permission will be refused for a building which creates or adds to a ribbon of development.'

Sustainable Development in the Countryside

26. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside.
27. Policy CTY 1 - Development in the Countryside makes provision for a range of different types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.
28. 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.
29. The proposal description, as per question 5 of the submitted P1 Form, refers to the proposal as; *Site for dwelling, garage and associated site works (**Infill** opportunity as per **CTY 8** of PPS 21).*

Ribbon Development

30. Ribbon Development states that 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.
31. For the purposes 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.
 32. Paragraph 5.32 of the justification and amplification to Policy CTY 8 states that 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.
 38. Paragraph 5.33 states that 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.
 33. Paragraph 5.34 recognises 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.
 34. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated. Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings.
 35. Paragraph 4.5.1 of Building on Tradition; A Sustainable Design Guide for the Northern Ireland Countryside states that 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. It goes on to state that 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.
 36. The initial step in determining whether an 'infill' opportunity exists is to identify whether an otherwise substantial and continuously built up frontage is present on the ground.

37. A context map is supplied with the planning application in which the applicant identifies the detached single storey garage/outhouse and the single storey dwelling at 21 Moss Brook Road to the south east of the application site and the henhouse/greenhouse at 21 Moss Brook Road to the north west of the application site as the substantially and continuously built up frontage. The gap is between the dwelling and the henhouse.
38. Although the corner of the garage or 'outhouses' (as referred to on the context Map), appear to join the corner of the dwelling (where the rear elevation of the dwelling joins its south eastern facing side elevation) it is noted that on the ground that only the overhang of the garage/outhouses roof touches the dwelling and there is a visible gap between the garage/outhouses and the dwelling.
39. It was also noted from the site inspection that the extended dual pitched/flat roofed double domestic garage/outhouse (closest to the dwelling) is only linked to the larger dual pitched domestic garage (adjacent to the south eastern boundary of 21 Moss Brook) via a cage type structure which appears to be for the purposes of containing animal(s).
40. The dwelling, garage and henhouse present a frontage to Moss Brook Road and constitute 'buildings' as per the definition in Section 250 of the Planning (Northern Ireland) Act (2011) .
41. The second step in the process of determining whether an infill opportunity exists or not is to identify if the gap site is small. For the purpose of policy that is; 'sufficient only to accommodate up to a maximum of two houses.'
42. Policy CTY 8, relates to the gap between road frontage buildings. The gap is measured between the two closest buildings. In this case the distance from the dwelling to the hen house is 33.5 metres and this is a small gap for the purpose of assessing the proposal.
43. The third element that is required in order to satisfy the policy test is that the existing development pattern along the frontage must be respected in terms of; size, scale, siting and plot size.
44. As the proposed application site forms part of a single curtilage, there are few examples along the Moss Brook Road against which a direct comparison of the development pattern can be made.
45. The proposal would essentially subdivide the existing curtilage, with a plot size of 0.16 hectares, into three separate parcels each measuring (from east to west);
 - 0.1 hectares;
 - 0.05 hectares; and
 - 0.007 hectares
46. The existing frontage width of 21 Moss Brook Road currently equates to approximately 75 metres. The proposal would result in the subdivision of the plot into 3 individual plots with frontages of (east to west);

- 45m;
 - 28.5m; and
 - 2m
47. It is therefore considered that the third element of the test cannot be satisfied and that the proposed development would be not in keeping with the established pattern of development along Moss Brook Road by reason of its size
48. Typically Moss Brook Road is made up of large detached dwellings in large plots with wide frontages. The dwellings are predominantly roadside but also dispersed and not sited close together as would be the case in this application
49. A number of other plots not visually linked to the site but typical of the area are considered for the comparison. The majority of the dwellings do not have frontages to the roads they are down laneways however the nearest two dwellings with roadside frontages are 22 Moss Brook Road (46.6m frontage) and 11 Moss Brook Road (77m frontage). This further consolidates the view that the proposal would not be in-keeping with the established pattern of development exhibited in that area.
50. The fourth and final step of the exceptions test of Policy CTY 8 that must be considered is whether the proposal meets other Planning and environmental requirements. These matters are dealt with later in the report.

Integration and Design

51. 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 lists several instances where a new building in the countryside will be deemed to be unacceptable.
52. It is noted that this application seeks outline approval only and as such, full plans have not been submitted for consideration, nor have they been requested during the processing of the application.
53. The Context Map submitted in support of the application depicts how a dwelling and garage could be configured within the application site. It shows a dwelling with a footprint of approximately 109 metres squared and a garage with a footprint of approximately 36 metres squared.
54. It is acknowledged that the application site, as outlined in red on the submitted Site Location Plan, is relatively level in gradient throughout, with mature conifer trees to the rear boundary and the surrounding drumlin landscape predominantly rising away from the site.
55. The single storey dwelling at 21 is located immediately to the south east of the site aiding with enclosure.

56. Taking the above factors into account, in addition to the application of a ridge height restriction condition/under build restriction condition of no more than 5.5m above finished floor level/no more than 0.45 metres above existing ground level and finished floor level respectively, it is contended that a dwelling/garage could be accommodated within the application site without appearing as a prominent feature in the landscape.
57. Mature conifer trees define the rear (north eastern) boundary of the application site and a mature mixed species hedgerow demarcates the roadside (south western) boundary.
58. The south eastern boundary is defined by a 1.2 metres (approximately) high post and rail timber fence with a tree/planting to the inside/outside. The north western boundary (as per the red line) was undefined at the time of site inspection.
59. Whilst it is acknowledged that the roadside boundary/a portion of the roadside boundary would require removal for the purposes of accommodating the required visibility splays, any approval would be subject to a condition relating to the retention of existing boundary treatments. It is also noted that enclosure would be aided by the existing dwelling in situ immediately to the south east of the application site.
60. Whilst it is acknowledged that new landscaping and augmentation would be required, particularly behind any required visibility splays, taking the above into account, it is not perceived that any proposed dwelling would rely primarily on new landscaping for the purposes of integration.
61. However, taking the plot size and position of the site, adjacent to the roadside, it is not contended that the proposal would involve a large sweeping (suburban) style driveway or large front garden.
62. The application site is also relatively level in gradient throughout and therefore, it is not contended that there would be any requirement for large retaining structures or significant cut and fill (excavation). It is considered that any ancillary works would integrate with their surroundings, however, they would be subject to full review as part of any Reserved Matters application should the Outline application receive approval.
63. As noted above, it is considered that a ridge height restriction condition and an under-build restriction condition would be required with any approval. Conditions requiring the proposed dwelling/garage being designed/built in accordance with Building on Tradition guidance would also be applied to any approval. The proposed dwelling would then be considered against the Building on Tradition design guidance, as required by the Strategic Planning Policy Statement for Northern Ireland; Planning for Sustainable Development (2015) as part of the Reserved Matters assessment following any approval of Outline permission.
64. As confirmed by question 20 of the P1 Form, the application does not relate to a dwelling on a farm and therefore in this particular instance, criterion (g) is not applicable.

Rural Character

65. Policy CTY 14 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Policy CTY 14 denotes a series of instances where a new building would be considered unacceptable.
66. It is acknowledged that the application site, as outlined in red on the submitted Site Location Plan, is relatively level in gradient throughout, with mature conifer trees to the rear boundary and the surrounding drumlin landscape predominantly rising away from the site.
67. The single storey dwelling at 21 is located immediately to the south east of the site aiding with enclosure.
68. The proposal does not satisfy the exceptions test of Policy CTY 8 and for the reasons outlined above, it is considered that the proposal would add to a ribbon of development by virtue of visual linkage (linking the henhouse/greenhouse with the dwelling and garages/outbuildings at 21, would not respect the traditional pattern of settlement exhibited in the area and would result in a suburban style build-up of development along the northern edge of Moss Brook Road.

Development Relying on Non-Mains Sewerage

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 P1 Form indicates that the method of disposal of foul sewage is proposed to be via a septic tank.
71. The Councils Environmental Health were consulted as part of the processing of the application. In a response, dated 11th September 2020, they advised that they had no objection in principle, however, at the subsequent planning stage the applicant shall provide a detailed site plan which includes the location of the proposed dwelling, the septic tank/biodisc and the area of subsoil irrigation for the disposal of effluent. The drawing should also include the position of the septic tank and soakaway for any other relevant adjacent dwelling.
72. Based on the information provided and advice received, there are no concerns with regards to the proposal and Policy CTY 16 of Planning Policy Statement 21: Sustainable Development in the Countryside.

Natural Heritage

73. PPS 2: Natural Heritage, makes provision to further sustainable development by ensuring that biological and geological diversity are conserved and

- enhanced as an integral part of social, economic and environmental development.
74. Policy NH 2 of PPS 2: Natural Heritage relates to protected species. It notes that development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.
75. 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.
76. 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.
77. The application site currently forms part of the lawned/maintained side garden of the dwelling at No. 21 Moss Brook Road.
78. No buildings were in situ on the application site (red line) at the time of site inspection and therefore no demolition would be required to accommodate a proposed dwelling/garage on the site.
79. It is noted that the removal of roadside hedgerow is likely to be required in order to accommodate necessary visibility splays, however compensatory planting would be required behind the visibility splays (as per a condition). The retention of all other boundary vegetation could be conditioned as part of any approval.
80. Taking the above into account, it is not considered that the proposal would cause demonstrable harm to any natural heritage features. Standard wildlife/conservation informatives which draw the applicant's/developer's attention to the relevant legislation could be applied to any approval.

Access, Movement and Parking

81. PPS 3 - Access, Movement and Parking sets out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.
82. Policy AMP 2 – Access to Public Roads of PPS 3 outlines a number of scenarios whereby direct access to a public road or the intensification of the use of an existing access to a public road would be granted.
83. The Site Location Plan/Context Map provides an indicative/approximate position for a proposed vehicular access on to Moss Brook Road to allow a 70m forward site distance. It is noted that Moss Brook Road is not a designated Protected Route.
84. DfI Roads were consulted as part of the processing of the application. In their most recent consultation response (following the submission of amendments), dated 12th January 2021, they offer no objection to the proposal, subject to the inclusion of stipulated conditions, as per their consultation response, with any approval.
85. Taking the above into account, the Council has no reason to disagree with the advice provided by DfI Roads.

Planning and Flood Risk

86. Planning Policy Statement 15 (Revised): Planning and Flood Risk sets out policies to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.
87. A portion of the application site falls within an identified surface flood zone.
88. Policy FLD 3 – Development and Surface Water (Pluvial) Flood Risk outside Flood Plains, outlines the thresholds etc. for when a Drainage Assessment is required.
89. It notes that 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.
90. DfI Rivers PAMU were consulted as part of the processing of the application. In their consultation response, dated 21st September 2020, they offer no objection to the proposal and provide a series of informatives to be included with any approval.
91. Taking the above into account, there are no concerns with regards to the proposal insofar as it pertains to PPS 15.

Conclusion

92. For the reasons outlined in the report, the application is presented with a recommendation to refuse as it is contended 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.
93. It is also considered that the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that development if approved would fail to respect the existing development pattern along the Moss Brook Road and if permitted would add to a ribbon of development along Moss Brook Road.
94. In addition, the proposal is also contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would if permitted result in a suburban style build up of development when viewed with existing buildings, does not respect the traditional pattern of settlement exhibited in the area and it would add to a ribbon of development along Moss Brook Road.

Recommendation

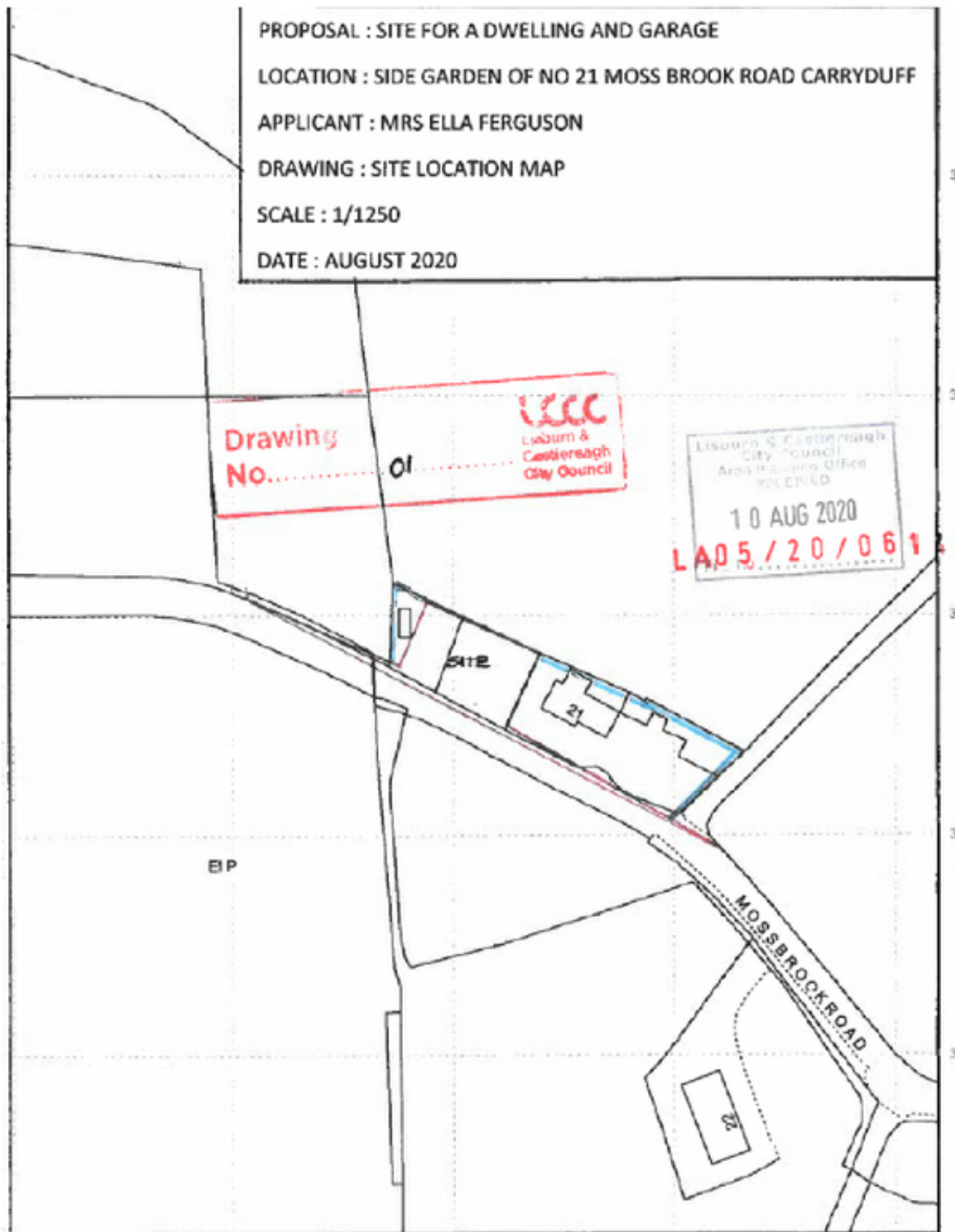
95. It is recommended that planning permission is refused for the reasons outlined below.

Refusal Reasons

96. The following refusal reasons are recommended:
 - 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.
 - The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that development if approved would fail to respect the existing development pattern along the Moss Brook Road and if permitted would add to a ribbon of development along Moss Brook Road.

- The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would if permitted result in a suburban style build up of development when viewed with existing buildings, does not respect the traditional pattern of settlement exhibited in the area and it would add to a ribbon of development along Moss Brook Road.

Site Location Plan - LA05/2020/0614/O



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	04 April 2022
Committee Interest	Local Application (Called In)
Application Reference	LA05/2020/0208/F
Date of Application	03 May 2020
District Electoral Area	Castlereagh East
Proposal Description	Proposed erection of 6 detached dwellings, including demolition of existing dwelling, associated road layout, car parking & landscaping.
Location	6 Fort Road, Dundonald
Representations	Eighteen
Case Officer	Brenda Ferguson
Recommendation	Approval

Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
2. It is presented with a recommendation to approve as it is considered that the requirements of the SPPS, policy QD 1 of PPS 7 and policy LC1 of the second addendum of PPS 7 are met in full in that the detailed layout and design of the proposed scheme creates a quality residential environment and when the buildings are constructed will not adversely impact on the character of the area or have a detrimental impact on the amenity of existing residents in properties adjoining the site.
3. It is also considered that the proposal complies with the SPPS and key policy tests associated with PPS 2 in that the preliminary ecological assessment submitted in support of the application demonstrates that the proposed

development will not have a negative impact on any protected species or natural heritage features within the site.

4. It is considered that the proposal complies with the SPPS and policy tests associated with PPS 3. DfI Roads has confirmed that it has no objection to the general layout and arrangement of the access or the internal road layout on the grounds of roads safety or traffic impact.
5. The proposed development complies with policy tests set out in the SPPS and PPS 15 in that the floodplain does not enter the boundary of the site and a drainage assessment containing suitable drainage mitigation measures will ensure no risk from a drainage or flood risk perspective exists.

Description of Site and Surroundings

6. The site comprises a 1.5 storey white rendered dwelling set within landscaped gardens to the north and east. It is located along the Fort Road Dundonald.
7. Boundaries are comprised of hedging and other mature vegetation along the southern portion of the site. The topography is such that the site slopes up towards the south west where the highest point along the side boundary with 8 Fort Road.
8. The building at 4 Fort Road is a one and a half storey red brick and rendered detached building and 8 Fort Road is a two-storey render and brick detached building. Forthill and Forthill Close consists mainly of 1.5 storey chalet bungalows.

Proposed Development

9. Proposed erection of six detached dwellings (including demolition of existing dwelling), associated road layout, car parking & landscaping.

Relevant Planning History

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

Planning Policy Context

11. The relevant planning policy context which relates to the application is as follows:
 - Belfast Urban Area Plan 2001

- Draft Belfast Metropolitan Area Plan (BMAP) 2015: Lisburn Countryside
- Strategic Planning Policy Statement for Northern Ireland 2015
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 7: Quality Residential Environments
- Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 15: Planning and Flood Risk

Consultations

12. The following consultations were carried out:

Consultee	Response
DfI Roads	No objection
NIEA Water Management Unit	No objections
NIEA Natural Heritage	No objections
Environmental Health	No objections
NI Water	No objections
Rivers Agency	No objections
Historic Environment Division	No objections

Representations

13. Eighteen letters of objection have been received from local residents. Issues raised include;

- Introduction of three-storey semi-detached houses which, due to topography of site, would stand considerably above the height of the existing dwellings on 6 Fort Road and bungalows on Fort Hill.
- Overlooking concerns caused by dwellings on elevated site
- Loss of light and privacy - large trees which once formed the boundary have been reduced to under 6 foot and have removed any privacy which is a concern as dwellings are two-storey.
- No right of access over lands at 1 Forthill. Strip of land that applicant seeks to use to gain exit onto Fort Hill and visibility splays encroach into objectors property
- Two-storey semi-detached houses detract from the character of adjoining houses in Fort Hill as existing houses are detached bungalows
- Removal of trees opens up the site and replacement of bungalow with two- storey dwellings would result in overlooking
- Damage to habitats - Removal of trees with possible bats roosting

- Trees have been cut down to under six foot as opposed to just trimming the canopy
- Plans inaccurate and do not take into account the exact location of 1 Fort Hill Close in relation to the proposed development
- Traffic management - pedestrian safety concerns
- Retaining wall to rear of 1 Fort Hill Close along with drainage/flooding concerns due to construction and flow of groundwater

Consideration and Assessment

14. The main issues to consider in the determination of this planning application are:

- Local Development Plan
- Principle of Development
- Quality Residential Environments
 - Impact on Character of Area
 - Layout / Design / Materials
 - Provision of Open Space/Landscaping
 - Residential Amenity
- Safeguarding the Character of Established Residential Areas
 - Protecting Local Character, Environmental Quality and Residential Amenity
- Access, Movement and Parking
- Natural Heritage
- Planning and Flood Risk

Local Development Plan

14. 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.
15. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan (BMAP) 2015 had in its entirety not been lawfully adopted.
16. As a consequence of this decision, the Belfast Urban Area Plan (BUAP) 2001 is the statutory development plan for the area, however, draft BMAP remains a material consideration.
15. The site is situated within the Belfast Urban Area as designated under the Belfast Urban Area Plan 2001 and Metropolitan Castlereagh in the draft Belfast Metropolitan Area Plan 2015.

16. As there is no distinguishable difference in the local plan context, significant weight is attached to draft BMAP and its draft policies which direct the assessment to be carried out in accordance with prevailing regional policy.

Regional Policy Considerations

17. 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.
18. 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.
19. The SPPS states that planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
20. The SPPS states that the policy approach must be to facilitate and promote more sustainable housing development within existing urban areas and the provision of mixed housing development with homes in a range of sizes and tenures.
21. It also states that good design identifies and makes positive uses of the assets of a site and the characteristics of its surroundings to determine the most appropriate form of development.
22. Strategic policy states that the key to successful place-making is the relationship between different buildings; the relationship between buildings and streets etc. and that the compatibility of a development with its immediate and wider context, and the settlement pattern of a particular area are important considerations.

Quality Residential Environments

23. PPS 7 - Quality Residential Environments sets out the Department's planning policies for achieving quality in new residential development. The policies contained in this Statement apply to all residential development proposals with the exception of proposals for single dwellings in the countryside.
24. Policy QD 1 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment.

25. It directs that the design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. All proposals for residential development will be expected to conform to criteria (a) – (i) contained within Policy QD 1.
26. Policy LC1 of the second addendum to PPS 7 - Protecting Local Character, Environmental Quality and Residential Amenity states that in established residential areas a key consideration is to ensure that new residential schemes are sensitive in design terms to people living in existing neighbourhoods and that the development is in harmony with the local character of the established residential area.
27. The following are criteria of Policy QD1 of PPS 7 to ensure compliance with Policy LC1 of the addendum to PPS 7.

Impact on Character of Area

28. The immediate area could be said to encompass the Fort Road and Forthill residential developments. The character of the area is largely defined by detached housing in the form of either 1.5 storey chalet bungalows or two-storey dwellings.
29. The properties have reasonable sized front and rear gardens and density overall could be described as being low/medium.
30. In terms of the layout, plot size and density the proposed development is for 6 detached dwellings on a 0.22 hectares site. In terms of density, this represents just over 27 dwellings per hectare
31. It is therefore considered that the spacing, layout and plot sizes of the dwellings within Fort Road and Forthill the general arrangement would be in keeping with the character of the area.
32. The scale and massing of the proposal is also in keeping with the local context and is not out of character with the established residential area.
33. Policy LC 1 has been complied with in that the density is considered to be consistent with the density in the surrounding established area.

Layout/Design/Materials

34. The proposed layout of the dwellings and design of the buildings is consistent with the form of housing found in the local context. The dwellings are sensitively positioned within the site, with rear gardens and in-curtilage car parking provision that is consistent with the guidance set out in the Creating Places document.

35. The design of the dwellings draw upon the characteristics of the area and are broadly in line with the existing built form in the immediate context in terms of height, scale and massing.
36. Whilst more modern in appearance to the dwellings in Forthill they are akin to more recent housing developments within Fort Road, particularly Fort Manor. The low eaves height has been maintained throughout the various house types which ties in with the overall character of the area.
37. The dwellings would be sympathetic in terms of massing, style and form and are not in conflict with existing properties which encompass the boundaries of the site.
38. Five house types are proposed within the development, house type A, A1, A*, B and C.
39. House type A is a two-storey detached four bedroom dwelling. This dwelling will have a ridge height of approximately of 9 metres and includes a single storey sunroom to the rear. The materials proposed for the dwelling include a mixture of red facing brick/white render with dark grey concrete roof tiles, and black UPVC rainwater goods.
40. House type A1 is similar in design and size as house type A. It is a two-storey detached four bedroom dwelling. This dwelling will have a ridge height of approximately of 8.8 metres and includes a single storey sunroom to the side. The materials are the same as house type A.
41. House type A* is also a two-storey detached four bedroom dwelling. This dwelling will have a ridge height of approximately of 9 metres. The materials proposed for the dwelling are the same as the previous house types.
42. House type B is a two and a half-storey detached four bedroom property with a ridge height of approximately 9.5m. Second floor level accommodation is provided in the roof space only. Finishes are the same as previous.
43. House type C is a two-storey detached four bedroom property. Finishes are as per the previous house types.
44. These finishes are compatible with those found on the existing dwellings in the surrounding area and the design of the buildings and proposed construction materials are acceptable and will not harm the overall character of the area.
45. The proposed layout is designed to ensure that there is appropriate separation distances between each plot.
46. The separation distances from the rear of the proposed dwellings to the common boundary is a minimum of 11.7 metres ensuring there is sufficient back to back separation distance between each unit and the closest dwelling.

47. Site section drawings have been provided with the application which demonstrates the relationship between the proposed and existing housing units taking into account changes in levels across the site.
48. On balance and having regard to the relationship between each plot to the adjacent housing it is considered that the guidance recommended in Creating Places is met.

Residential Amenity

49. It is considered that there will be no unacceptable adverse impact on the existing properties in Forthill and Fort Hill Close in terms of overlooking, overshadowing, loss of light and consequent loss of privacy.
50. All dwellings are a minimum of 11 metres to the eastern boundary which abuts the properties 1, 3 and 5 Forthill and 1 Fort Hill Close. Dwellings 04 and 05 are 2.5 storey however their rear elevation is located approximately 12.8 metres from the boundary and is a minimum of 21.8 metres from 5 Forthill.
51. Dwelling 06 is 11.7 metres to the rear boundary. Its positioning and orientation within the site means that there will be no rear windows overlooking either 5 Forthill or 1 Fort Hill Close.
52. The side gable of the proposed dwelling is located 2 metres from the side boundary of 1 Fort Hill Close however only low level landing and bathroom windows are proposed along this elevation. The dwelling is located a sufficient distance away from the rear of 1 Fort Hill Close and no issues regarding overlooking, overshadowing or loss of light will arise as a result of the proposed dwelling.
53. It is considered that the proposal will not create conflict or result in unacceptable adverse effects in terms of overlooking, loss of light, overshadowing, noise or other disturbance.
54. The design as proposed ensures that no overlooking would be caused however it is recommended that the Permitted Developments rights are removed in that any alterations to the roofs in the form of a new window could cause overlooking and would need to be assessed through a separate planning application process.

Provision of Open Space / Landscaping

55. Each dwelling will have front and rear amenity space with an additional area of maintained open space at the southern corner of the site where the existing trees are to be retained and protected.

56. The rear private garden areas have been allocated an average of around 120 square metres per dwelling. This is acceptable for detached properties of this size and scale and it is considered there is sufficient private open space catered for within the development.
57. Landscaping proposals have been submitted which includes a detailed planning schedule. The existing hedge along the eastern boundary is to be retained and augmented with additional heavy standard tree planting.
58. The group of mature trees to the south are to be retained and protected and the existing retaining wall and boundary hedge above is to be retained (side boundary with 8 Fort Road). The existing wall to the south and eastern boundaries is to be retained. Additional planting and landscaping is proposed within the development also.
59. It is considered that the provision of private open space, and the landscaping and boundary treatments proposed is acceptable.

Safeguarding the Character of Established Residential Areas

60. The addendum to PPS 7 – Safeguarding the Character of Established Residential Areas provides additional planning policies on the protection of local character, environmental quality and residential amenity within established residential areas.

Protecting Local Character, Environmental Quality and Residential amenity

61. Policy LC1 – Protecting Local Character, Environmental Quality and Residential Amenity states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings or the infilling of vacant sites (including extended garden areas) to accommodate new housing where all of the criteria in policy QD1 of PPS 7 and all the additional criteria set out below are met:
 - (a) **the proposed density is not significantly higher than that found in the established residential area;**
62. As detailed above, the proposed plot size is similar to that found within the local area which demonstrates that the proposed development is in keeping with the local character/pattern of established residential area. The proposed density is over twenty seven dwellings per hectare.
 - (b) **the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and**
63. As demonstrated within the context of policy QD1 considerations, the proposed development is in keeping with the overall character and environmental quality of the established residential area.

64. The general area currently consists of 1.5-2 storey detached dwellings. The proposal is for 6 two and a half storey detached dwellings and is considered to be acceptable in this context. Similar sized dwellings can be seen in Fort Manor further along the Fort Road.

(c) all dwelling units and apartments are built to a size not less than those set out in Annex A.

65. The associated Annex A sets out space standards against which new dwellings units should comply to ensure that adequate living conditions are provided. Space standards comprise a calculation of internal floor space area. The addendum states that two-storey 4 bedroom houses should be a minimum of 100 / 110 metres square.
66. The proposed house sizes range in size from 185 Square metres (House Type A/ A*) to 161 square metres (House Type B). This detail demonstrates that the dwelling units proposed are in excess of the space standards as set out in Annex A of the addendum.

Access, Movement and Parking

67. 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.
68. 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.
69. Policy AMP1 – Creating an Accessible Environment aims to create an accessible environment for everyone.
70. 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.
71. Policy AMP7 – Car Parking and Servicing Arrangements requires proposals to provide adequate provision for car parking and appropriate servicing arrangements.

72. The P1 form states that the proposal involves the closing up of the existing access to the site and the construction of a new access to the public road at Forthill.
73. The existing access is to be closed off and the footpath reinstated. The visibility splays have been shown on the site layout and in-curtilage parking has been provided within the site.
74. Provision is made for two in curtilage parking spaces to each unit and there is also provision for 6 visitor parking spaces within the overall scheme.
75. DfI Roads have been consulted and have no objection subject to condition
76. Based on a review of the detail and advice from DfI Roads it is considered that the proposed development will not prejudice the safety and convenience of road users and that it complies with the relevant policy tests set out in policies AMP 2 and AMP 7 of PPS 3.

Natural Heritage

77. PPS 2 – Natural Heritage, sets out the planning policies for the conservation, protection and enhancement of our natural heritage.
78. A biodiversity checklist was submitted for consideration and NED responded with concerns and seeking clarification that the trees within the southern section of the site would be retained and protected.
79. Additional ecological information was submitted by the agent and received on 25 May 2021. The statement confirmed that the trees located within the southern section of the site are to remain and will be retained and protected as indicated on the landscape proposals drawing.
80. Trees previously located elsewhere within the site have since been removed. No further surveys are required due to the retention of the existing group of trees. Photographs of the current site conditions have been submitted alongside the statement to verify the findings.
81. Based on the detail above and the latest advice from Natural Environment Division no further consultation with NED is necessary and are content that the proposal is not will not have an adverse impact on natural heritage features.

Flooding and Drainage

82. 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.

83. With regard to Policy FLD 1 – Development in Flood Plains DfI Rivers have advised that a designated culverted watercourse known as the Quarry Stream flows immediately just outside of the south east boundary but that the floodplain does not enter the boundary of the site.
84. The design levels of the finished floors, roads, paths and gardens are set to be a min 600mm above the floodplain level of the Quarry Stream immediately just outside the south east boundary. DFI Rivers are content the proposal meets the requirements of Policy FLD 1.
85. With regard to Policy FLD 2 – Protection of Flood Defence and Drainage Infrastructure considerations a revised Drainage Assessment (Revision B) was submitted for consideration on 27/ October 2021. The revisions show a maintenance strip and DFI Rivers now have no objections to the proposal.
86. In relation to Policy FLD 3 – Development and Surface Water DFI Rivers have confirmed that they are content with the revised drainage drawing C-01 Revision B containing drainage mitigation measures.
87. In terms of Policy FLD 4 – Artificial Modification of Water Courses, DfI Rivers Agency have advised this criteria is not applicable based on the information provided.
88. In terms of Policy FLD 5 – Development in proximity to Reservoirs, DfI have advised this criteria is not applicable based on the information provided.
89. Water Management Unit has also confirmed that it has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to the applicant adhering to standing advice and any relevant statutory permissions being obtained.
90. Based on the information submitted and the advice received, it is considered that the proposal complies with PPS 15 and that no risk from a drainage or flood risk perspective exists.

Consideration of Representations

91. Eighteen letters of objection have been received from local residents. Consideration of the issues raised is set out below:
 - Introduction of three storey semi-detached houses which, due to topography of site, would stand considerably above the height of the existing dwellings on Fort Road and bungalows on Fort Hill.
92. A revised layout was submitted for consideration on 26th February 2021 along with revised house type B elevations. The elevations show that dwellings 01-03

are two storey with low eaves height and dwellings 04-06 are 2.5 storey with roof space accommodation on the 2nd floor only.

93. The finished floor levels of all dwellings have been provided and taking into consideration the height of the dwellings and the distance to the boundaries, the proposed dwellings would not be overbearing nor would they cause loss of light or privacy to neighbouring properties.
 - Overlooking concerns caused by dwellings on elevated site
94. All dwellings proposed are suitable distances to the boundaries. The layout has been revised and dwellings 04-06 have been pushed back further into the site and are a minimum of 11m to the boundary of dwellings at Fort Hill Close. The dwellings have been designed so as not to overlook any of the surrounding properties.
 - Loss of light and privacy - large trees which once formed the boundary have been reduced to under 6 foot and have removed any privacy which is a concern as dwellings are 2 storey.
95. There will be no loss of light or loss of privacy into neighbouring properties as a result of the development. Landscaping proposals have been submitted which indicate existing trees to the south to be retained as well as existing hedging with additional proposed planting to the east and within the site.
 - No right of access over lands at 1 Forthill. Strip of land that applicant seeks to use to gain exit onto Fort Hill and visibility splays encroach into objector's property
96. The applicant has submitted an adoption map from DFI roads which shows the lands in question to form part of an adopted strip which is part of a verge controlled by roads.
 - 2 storey semi-detached houses detract from the character of adjoining houses in Fort Hill as existing houses are detached bungalows
97. The building at 8 Fort Road is two storey and Fort Hill consists of chalet bungalows. The dwellings have been designed to function as two storey properties however have the appearance of low two storey dwellings due to their proposed low eaves height. The dwellings to the rear have roof space accommodation only.
 - Removal of trees opens up the site and replacement of bungalow with 2 storey dwellings would result in overlooking
98. It is considered that no overlooking will occur and planting proposals have been submitted which will maintain privacy between the site and neighbouring properties.
 - Damage to habitats - Removal of trees with possible bats roosting

99. The impact of the proposal on natural heritage interests has been considered. A biodiversity checklist along with an accompanying ecological statement, revised landscaping proposals and additional ecological information have been submitted to date. Evidence shows that a number of trees were removed prior to submission of application. These were said to have negligible bat roost potential. The landscaping proposals show the existing trees on site to be retained therefore avoiding the need for a bat roost potential survey. The proposal will not have any adverse impact on habitats and natural heritage interests.
- Trees have been cut down to under six foot as opposed to just trimming the canopy
100. Should the trees form part of the site and if they are within the ownership of the applicant they can be trimmed as is deemed necessary. The trees within the site are not protected under the Tree Protection Order.
- Plans inaccurate and do not take into account the exact location of no. 1 Fort Hill Close in relation to the proposed development
101. A site location plan, site layout and landscaping proposals drawing have all been submitted which show the approximate positioning of no. 1 Fort Hill Close in relation to the site boundary and proposed dwellings. The drawings appear to reflect the position of said property on the ground and on google imagery and aerial maps.
- Traffic management - pedestrian safety concerns
102. DFI Roads have commented on the proposed layout, parking and access arrangements. They have no objections and the proposal is said to comply with Planning Policy Statement 3: Access, Movement and Parking.
- Retaining wall to rear of 1 Fort Hill Close along with drainage/flooding concerns due to construction and flow of groundwater
103. The existing and proposed retaining walls have been considered. The proposed retaining walls are no greater than 1.5 metres in height and sections have been provided to show the difference in existing and proposed levels.
104. A drainage assessment and drainage layout drawing has been submitted for consideration by Rivers Agency. Schedule 6 consent to discharge has been obtained and Rivers Agency has no reasons to disagree with the findings in the drainage report. All consultees are content from a drainage and flood perspective and it is concluded that no flooding concerns will arise as a result of the proposed development.

Conclusions

105. This application is presented to the Planning Committee with a recommendation to approve as it is also considered that the requirements of the SPPS and policy QD 1 of PPS 7 are met in full in that the detailed layout and design of the proposed scheme creates a quality residential environment and when the buildings are constructed will not adversely impact on the character of the area or have a detrimental impact on the amenity of existing residents in properties adjoining the site.
106. It is also considered that the proposal complies with the SPPS and key policy tests associated with PPS 2 in that the biodiversity checklist and accompanying additional ecological information submitted in support of the application demonstrates that the proposed development will not have a negative impact on any protected species or natural heritage features within the site.
107. It is considered that the proposal complies with the SPPS and policy tests associated with PPS 3 and DfI Roads has confirmed that it has no objection to the general layout and arrangement of the roads within the proposed development on the grounds of roads safety or traffic impact.
108. The proposed development complies with policy tests set out in the SPPS and PPS 15 in that the floodplain does not enter the boundary of the site and a drainage assessment containing suitable drainage mitigation measures will ensure no risk from a drainage or flood risk perspective exists.

Recommendation

109. It is recommended that planning permission is approved subject to conditions.

Condition(s)

110. The following conditions are recommended should the proposal be permitted.
1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
 2. The vehicular accesses, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02/3, bearing the date stamp 25 May 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 gradients to the dwellings hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway 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. 02/3, bearing date stamp 25 May 2021 to provide adequate facilities for parking and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

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. No other development hereby permitted shall be occupied until the existing access has been permanently closed and the footway properly reinstated to DfI - Roads satisfaction.

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

7. Subject to the above conditions, the development shall be carried out in accordance with the stamped approved Drawing No: 02/3 bearing the date stamp 25 May 2021.

Reason: To ensure the development is carried out in accordance with the approved plans

8. 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 during the first available planting season prior to the occupation of any part of the development.

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

9. No retained tree shall be cut down, uprooted or destroyed or have its roots damaged within the root protection area nor shall arboriculture work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written consent of the Council.

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

10. 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.



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	04 April 2022
Committee Interest	Local Application (Mandatory)
Application Reference	LA05/2021/1106/F
Date of Application	08/10/2021
District Electoral Area	Downshire East
Proposal Description	Dwelling and garage
Location	30m south of 9 Pinehill Road, Hillhall Road, Belfast and adjacent to No 4 Dows Road
Representations	0
Case Officer	Catherine Gray
Recommendation	APPROVAL

Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Scheme of Delegation in that it is a mandatory application in that the applicant is an Elected Member of the Council.
2. It is presented with a recommendation to approve as it is considered that the requirements of the SPPS, Policy QD 1 of PPS 7 and Policy LC1 the second addendum to PPS 7 are met in full in that the detailed layout and design of the proposed scheme creates a quality residential environment and when the buildings are constructed will not adversely impact on the character of the area or have a detrimental impact on the amenity of existing residents in property adjoining the site.
3. It is also considered that the proposal complies with the SPPS and key policy tests associated with Policy NH2 and NH5 of PPS 2 in that the preliminary ecological assessment submitted in support of the application demonstrates that the proposed development will not have a negative impact on any protected species or natural heritage features within the site.

4. It is considered that the proposal complies with the SPPS and Policy AMP 2 of PPS 3 in the general layout and arrangement of the access demonstrates that the access will not prejudice road safety or significantly inconvenience the flow of traffic.
5. The proposed development complies with policy tests set out in the SPPS and PPS 15 in that the floodplain does not enter the boundary of the site and a drainage assessment containing suitable drainage mitigation measures will ensure no risk from a drainage or flood risk perspective exists.

Description of Site and Surroundings

6. The application site is a grassed paddock located to the eastern side of the Dows Road and is just south of and adjacent to 9 Pinehill Road.
7. The site abuts the edge of the road along its western boundary and the boundary is currently undefined. The southern boundary is defined by a wooden ranch style fence which separates the site from a recently constructed and occupied dwelling at 4 Dows Road.
8. The northern boundary is defined by wooden timber panel fencing with some trees planted along. This is the boundary with the two storey dwelling at 9 Pinehill Road. The eastern boundary is defined by fencing and mature trees and vegetation. It is the boundary between the site and an adjacent agricultural field to the east.
9. The application site is the most northern portion of a larger site approved for three dwellings in which the middle dwelling house, adjacent and south of the application site has already been erected.
10. The surrounding area is semi-rural in character and part of an extended row of existing dwellings along a road frontage adjacent to and opposite the site. The land beyond this is rural in character and mainly in agricultural use.

Proposed Development

11. The application is for full planning permission for a dwelling and garage.

Relevant Planning History

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

Application Reference	Site Address	Proposal	Decision
S/2010/0936/F	2-4 Dows Road, Belfast, BT8 8LB	Erection of 3 dwellings	Permission Granted 04/02/2012
LA05/2020/0278/F	4 Dow's Road, Belfast, BT8 8LB	Minor amendments to plans and elevations to house type B in previous approval S/2010/0936/F.	Permission Granted 07/08/2020

13. The planning history is a material consideration weighed in the assessment of this application.
14. Full planning permission was granted under file reference S/2010/0936/F for 3 dwellings, which comprised sites A, B and C as denoted on the site location plan dated 14 Sept 2021 (submitted with this application).
15. This application is for the portion of the original history of approval and known as site A. It is also noted that there was a subsequent application reference LA05/2020/0278/F for a change of house type for site B, which has already been built and completed on the ground.

Planning Policy Context

16. The relevant planning policy and guidance which relates to the application is as follows:
- Regional Development Strategy 2035
 - Belfast Urban Area Plan (BUAP) 2001
 - Draft Belfast Metropolitan Area Plan 2015
 - Strategic Planning Policy for Northern Ireland (SPPS): Planning for Sustainable Development
 - Planning Policy Statement 2 (PPS 2) : Natural Heritage
 - Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
 - Planning Policy Statement 7 (PPS 7): Quality Residential Environments
 - PPS 7 (Addendum): Safeguarding the Character of Established Residential Areas
 - Planning Policy Statement 15 (PPS 15): Planning and Flood Risk
 - Creating Places

Consultations

17. The following consultations were carried out:

Consultee	Response
Dfl Roads	No Objection
LCCC Environmental Health	No Objection
NI Water	No Objection
NIE	No Objection
Dfl Rivers Agency	No Objection

Representations

18. No representations have been made in respect of this application.

Consideration and Assessment

19. The main issues to consider in the determination of this planning application are:

- Local Development Plan Context
- Principle of Development
- Quality Residential Environments
 - Impact on character of area
 - Residential amenity
 - Layout / Design / Materials
 - Provision of Open Space / Landscaping
- Access, Movement and Parking
- Natural Heritage
- Flooding and Drainage

Local Development Plan

20. 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.
21. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan (BMAP) 2015 had in its entirety not been lawfully adopted.
22. As a consequence of this decision, the Belfast Urban Area Plan (BUAP) 2001 is the statutory development plan for the area, however, draft BMAP remains a

material consideration.

23. Within the Lisburn Area Plan (LAP), the subject site is located outside the settlement development limit for Ballycarn. The application site was not initially identified within the proposed settlement development limit as set out within the draft BMAP when published in 2004.
24. However, representations were made through the plan making process for BMAP to have the application lands included within the development limit. The representations were discussed at the public inquiry before the Planning Appeals Commission (PAC).
25. The recommendations from the PAC which followed the inquiry was that the lands should be included within the Settlement Development Limit of Ballycarn.
26. In a recent publication the Chief Planner for Northern Ireland advised that for those planning authorities subject to draft BMAP, that the draft plan along with representations received to the draft plan and the PAC inquiry report remains as material considerations to be weighed by the decision-maker.
27. The PAC Inquiry Report into draft BMAP recommended that this land be included within the settlement limit. This advice was accepted by the Department for the Environment and the land identified in the adopted Plan as within the Settlement Limit of Ballycarn.
28. Whilst the adopted Plan remains unlawful significant weight is attached to the findings of the PAC and this is consistent with the advice of the Chief Planner.
29. This existing planning context, both built and approved, are important material planning considerations which are afforded significant weight in the assessment of this application.

Principle of Development

30. 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.
31. 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.
32. 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.
33. The SPPS states that planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed

development will cause demonstrable harm to interests of acknowledged importance.

34. The SPSS states that the policy approach must be to facilitate and promote more sustainable housing development within existing urban areas and the provision of mixed housing development with homes in a range of sizes and tenures.
35. It also states that good design identifies and makes positive uses of the assets of a site and the characteristics of its surroundings to determine the most appropriate form of development.

Quality Residential Environments

36. PPS 7 – Quality Residential Environments sets out planning policies for achieving quality in new residential developments.
37. Policy QD1 – Quality in New Residential Development is a key policy test. It states that planning permission will only be granted for new residential development where it is demonstrated it will create a quality and sustainable residential environment.
38. The policy directs that the design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.
39. Policy LC1 of the addendum to PPS 7 - Protecting Local Character, Environmental Quality and Residential Amenity states that in established residential areas a key consideration is to ensure that new residential schemes are sensitive in design terms to people living in existing neighbourhoods and that the development is in harmony with the local character of the established residential area.
40. The following are criteria of Policy QD1 of PPS 7 to ensure compliance with Policy LC1 of the addendum to PPS 7.

Impact on Character of Area

41. The proposed site is situated within an established residential area. There are dwelling houses to the north, west and south of the site. All of the surrounding dwellings have a frontage to a road and the dwellings are positioned on their sites towards the middle with a garden area to the front and rear.
42. In terms of site layout the propose dwelling is positioned towards the middle of the site with a garden area to the front and rear of the dwelling and is in keeping with the character of the surrounding area.
43. There is a mixture of single and two storey dwellings in the surrounding area. This proposal is for a single storey dwelling. It is considered that the house type proposed is appropriate to the character and topography of the site in terms of its layout, scale, proportion, massing and appearance.

44. The plot size and general layout arrangements of the proposal is comparable to others in the local vicinity of the site.
45. Policy LC 1 has been complied with in that the density is considered to be consistent with the density in the surrounding established area.

Layout/Design/Materials

46. The proposed dwelling and its layout is consistent with the form of housing found in the local context. The dwelling is sensitively positioned within the site, with front and rear gardens and in curtilage car parking provision.
47. The proposed dwelling is a 4 bedroom, single storey and has a maximum ridge height of 6.3m above the finished floor level. The windows are vertical in emphasis and there is an appropriate solid to void ratio.
48. The design of the dwelling draws upon the characteristics of the existing buildings and similar in character to ones found in the surrounding area.
49. The materials to be used in the construction of the dwelling include flat concrete interlocking tiles, black/charcoal in colour, smooth render painted white and natural basalt stone to the walls, aluminium gutters and all windows and doors to be dark grey UPVC double glazed. These are considered to be acceptable for the site and context.
50. These finishes match those found on the existing dwellings in the surrounding area and the design of the building and proposed construction materials are acceptable and will not harm the overall character of the area.
51. A single storey garage is also proposed and positioned to the rear of the site It has a ridge height of 3.8m above the ground level and all material finishes are to match that of the dwelling. It is considered to be acceptable.

Residential Amenity

52. The dwelling is orientated to face the road and is situated 14m from the road edge at its narrowest point. The private amenity space associated with the dwelling is to the rear.
53. At the closest point the dwelling is 14.5m from the neighbouring dwelling to the south, and 18.5m from the dwelling to the north. The existing boundary treatments between the proposal and the neighbouring sites are to be retained.
54. Due to the dwellings positioning, design, and separation distances it is considered that the proposal will not create conflict or result in unacceptable adverse effects in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

Provision of Open Space / Landscaping

55. The level of private amenity (measured as the rear garden) and illustrated in the proposed site layout plan is approximately 222 square metres and is considered to be acceptable. There is also a front and side garden area for additional space. The amenity space is in line with the standards specified in Creating Places.
56. Landscaping has been provided in the form of boundary treatments and the existing hedging, trees and boundary treatments are to be retained.
57. It is considered that the provision of private open space, and the landscaping proposed is acceptable.

Parking and Access

58. 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.
59. Policy AMP2 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 AMP3 Access to Protected Routes.
60. A new access is proposed from the Dows Road and there is provision within the site for the parking and manoeuvring of three vehicles. Along with an additional parking space within the proposed garage.
61. DfI Roads have been consulted and have no objections to the proposal subject to standard conditions.
62. Based on the information submitted and taking on board the advice from DfI Roads is considered that the proposal would not prejudice the safety and convenience of road users and that it complies with the relevant policy tests set out in policy AMP 2 of PPS 3.

Natural Heritage

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

64. Policy NH 2 relates to protected species. It notes that development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.
65. 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.
66. 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.
67. The site is currently a level grassed area and all existing boundary vegetation and trees are to be retained.
68. There are no conditions on site that lend itself to any concerns with regards to any natural heritage or protected species. It is considered that the proposal complies with PPS 2.

Flooding and Drainage

69. 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.
70. With regards to Policy FLD 1 - Development in Fluvial and coastal Flood Plains, DfI Rivers advise that the site does not lie within the 1 in 100 year fluvial flood plain and that the undesignated watercourse bounding the western boundary of the site has not been modelled due to its catchment size.
71. They advise that flood level rests with the developer and that in accordance with PPS 15, FLD 1 development will only be suitable to that part of the site which is found to be outside the determined flood plain. It states the responsibility and implementation of flood risk measures rests with the

developer and their professional advisers.

72. With regards to Policy FLD 2 - Protection of Flood Defence and Drainage Infrastructure, River Agency advise that there are no watercourses which are designated under the terms of the Drainage (NI) Order 1973 within the site. And that there is an undesignated watercourse that runs parallel to Dows Road flowing south to north. They advise that a suitable maintenance strip of minimum 5m must be in place and that access to and from the maintenance strip should be available at all times.
73. With regards to Policy FLD 3 - Development and Surface Water, Rivers Agency advise that their Flood Maps (NI) indicates that a large portion of the site lies within an area of predicted pluvial flooding. They advise that a Drainage Assessment is not required by the policy but the developer should be advised to carry out their own assessment of flood risk and construct in a manner that minimises flood risk to the proposed development and elsewhere.
74. With regards to Policy FLD 4 - Artificial Modification of watercourses, Rivers Agency advise that the policy states that 'The planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following circumstances: 1) Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof; 2) 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.'
75. And with regards to policy FLD 5 Development in Proximity to Reservoirs, Rivers Agency advise that it is not applicable to this site.
76. A drainage assessment is not required for this application as it does not meet the thresholds.
77. To the inside of the western boundary there is an open drain and it is proposed to provide a piped drain for a small portion to gain access to the site.
78. Policy FLD 4 Artificial Modification of Watercourses makes provision to culvert a short length of a watercourse when it is necessary to provide access to a development site. It is considered that the proposal complies with policy in this regard.
79. A 5m maintenance strip along the undesignated watercourse/drain has been provided in accordance with policy FLD 2, and this is identified on the layout plan dated 13th January 2022.
80. NI Water were also consulted on the proposal and have raised no objections. The proposal therefore complies with PPS 15.

Conclusions

81. This application is presented to the Planning Committee with a recommendation to approve as it is considered that the requirements of the SPPS and Policy QD 1 of PPS 7 and Policy LC1 of its addendum are met in full in that the detailed layout and design of the proposed scheme creates a quality residential environment and when the buildings are constructed will not adversely impact on the character of the area or have a detrimental impact on the amenity of existing residents in property adjoining the site.
82. It is also considered that the proposal complies with the SPPS and key policy tests associated with PPS 2 in that the preliminary ecological assessment submitted in support of the application demonstrates that the proposed development will not have a negative impact on any protected species or natural heritage features within the site.
83. It is considered that the proposal complies with the SPPS and Policy AMP 2 of PPS 3 in the general layout and arrangement of the access demonstrates that the access will not prejudice road safety or significantly inconvenience the flow of traffic.
84. The proposed development complies with policy tests set out in the SPPS and PPS 15 in that the floodplain does not enter the boundary of the site and a drainage assessment containing suitable drainage mitigation measures will ensure no risk from a drainage or flood risk perspective exists.

Recommendation

85. It is recommended that planning permission is approved.

Condition(s)

86. The following conditions are recommended:
 - The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
 - The vehicular access, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02A, bearing the date stamp 13 January 2022, prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

- The access gradient to the dwelling hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

- No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved Drawing No. 02A, bearing date stamp 13 January 2022 to provide adequate facilities for parking and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

- Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility splays, forward sight lines or access shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant's expense.

Reason: In the interest of road safety and the convenience of road users.

- All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

Site Location Plan – LA05/2021/1106/F

ACEmap® Single

Printed: 22/10/2019 Customer Ref:

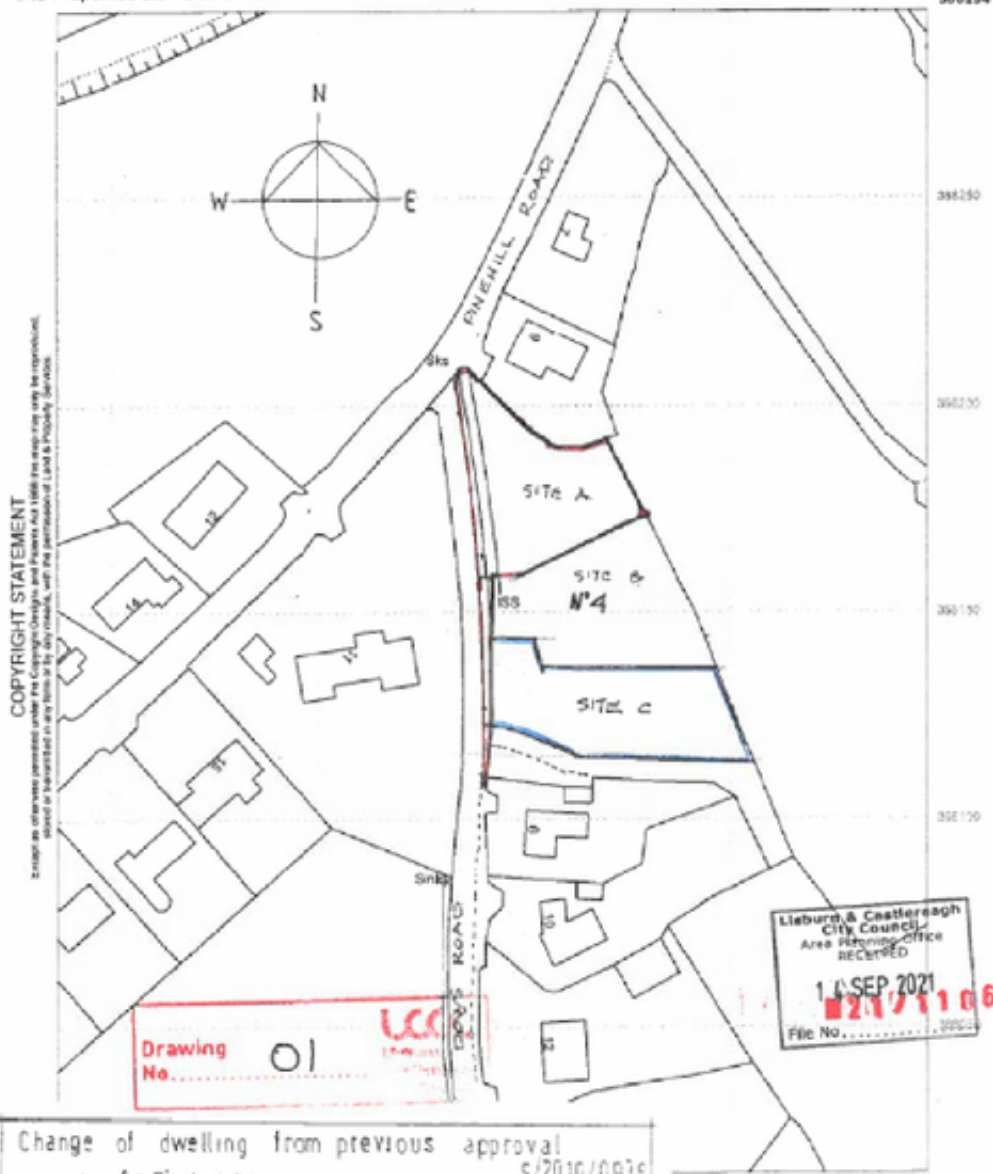
Centre Point (Easting, Northing): 332292, 366155

TAS Properties Ltd - Dow's Road

Scale: 1:1,250

Order no. ORD77367

Plan No. 16601SW



Change of dwelling from previous approval
 30m South of Pinchill Rd, Hillhall Rd, BELFAST S/2016/0936
 Adj to 4 Dow's Road.

CLIENT: TAS HOMES

Date: SEPT. 2021

SCALE: 1/1250

Party Services cannot, however, accept
 liability as appropriate under the
 terms of Finance and Personnel
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Planning Committee

4 April 20221

Report from:

Head of Planning and Capital Development

Item for Decision

TITLE: Item 2 – Northern Ireland Housing Conference

Background and Key Issues:

Background

1. The Northern Ireland Housing Conference 2022 is to return to an in-person format on Wednesday 11 May in the La Mon Hotel, Belfast.
2. The conference will bring together key stakeholders and look at how we can fulfil the need for safe, affordable housing both now and in the future.
3. The conference comes at a time of great change. A key priority of the restored Executive is 'Investing in our Future' – effective planning will be a key component to ensure Northern Ireland's economic and social potential can be realised, particular as we approach the recovery phase of the COVID -19 pandemic.

Key Issues

1. Issues to be examined by an expert panel of speakers includes:
 - Future housing policy outlook in Northern Ireland
 - The future outlook for the housing market
 - Creating greater agility through technology
 - ESG reporting on the social housing sector

- The post Covid workplace
- Housing and the drive to net zero
- The legacy of Covid-19: Supporting those in housing stress
- Effective tenant participation
- The challenge of allocating social housing
- Managing competing pressures in the provision of social housing
- Housing Associations: Planning for a post-Covid future
- Innovation in housing: Reimagining better ways to live
- Collaboration for better results

2. The fee for local government sector is £225 + VAT - £270.

Recommendation:

It is recommended that the Chairman and/or Vice Chairman or their nominees be nominated to attend this conference.

Finance and Resource Implications:

Finance implications as mentioned above in terms of delegate fee.

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

N/A

If yes, what was the outcome?:

Option 1		Option 2		Option 3	
Screen out without mitigation	Yes/No	Screen out with mitigation	Yes/No	Screen in for a full EQIA	Yes/No

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:

N/A

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 – Northern Ireland Housing Conference Brochure - 11 May 2022

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

Northern Ireland Housing Conference 2022



Wednesday 11th May • La Mon Hotel, Belfast

agendaNi

Digital | Events | Print

Focused conference

agendaNi is organising its annual Northern Ireland Housing Conference, which has become well established as the major annual event for all those with an interest or role in housing in Northern Ireland. As with previous years, it will have a genuine, in depth understanding of the key issues via a high-level panel of local and visiting speakers. The conference is an important date in the diary of housing professionals across the region.

As we begin 2022 and start to emerge from the worst of the Covid-19 pandemic, the shortage of affordable and quality housing is continuing to have a major impact on many people's lives. With the collapse of the Northern Ireland Executive in early February and another political crisis looming, there is a danger that any of the progress made will be disrupted and plans set out in the draft Housing Supply Strategy much more difficult to deliver. The strategy aims to set out a framework and pathway for action to 2037 and will involve collaborative working across central and local government and with the private and voluntary and community sectors, as well as the lived experiences of a range of users.

The decision by the Minister for Communities to launch a major revitalisation programme, to reform the Northern Ireland Housing Executive so that it can borrow to invest in its homes and add to new supply also represents a major opportunity, and is planned for delivery in 2025.

During the pandemic, the numbers on social housing waiting lists has risen. Figures from the end of March 2021 show that 43,971 are on the list – the highest number Northern Ireland has seen for years with nearly 70 per cent of these households considered to be in housing stress. While the Housing Supply Strategy and transformation of the Housing Executive aims to tackle years of undersupply of housing and address the acute housing need, it must be with the right kind of homes and in the places people want to live.

The legacy of Covid-19 and looking to the future

The legacy of Covid-19 is perhaps starting to emerge. This last phase of the pandemic is one which may be drawn out, and certainly leaves behind a different world. It has undoubtedly left a legacy of innovation and disruption, forcing radical changes in the way we live and work, with digital access and collaboration becoming key. Digital inclusion and effective tenant participation is more important than ever before. Most organisations are resetting rather than reverting to old ways of working.

For the most vulnerable, the need for wraparound services will be crucial, particularly with the massive pressures on our health and social care system. At the end of January, the Northern Ireland Housing Executive launched the consultation on the Supporting People Three Year Draft Strategic Plan and Covid-19 Recovery Plan 2022-2025.

As well as those in social housing, there is also the need to protect private renters. The Private Tenancies Bill, which is at Committee Stage, aims to provide increased protections for

people and families living in the private rented sector. For many young adults, this sector is their only housing option given the barriers to homeownership. With young people disproportionately affected by the pandemic in general, and the rising cost of living for everyone, a perfect storm is being created for homelessness.

As we look to the future there will also be a massive shift towards creating sustainable homes and communities. We will see an acceleration of the decarbonisation of homes and the response to the climate emergency in the housing sector. The use of ESG reporting in the social housing sector is also increasing, which can deliver positive outcomes for society, the economy and the environment.

This year the Northern Ireland Housing Conference will return to an in-person format. Once again, it will bring together key stakeholders and look at how we can fulfil the need for safe, affordable housing both now and in the future.



A high level panel of local and visiting speakers will examine key issues including:

- Future **housing policy outlook** in Northern Ireland
- The future outlook for the **housing market**
- Creating greater agility through **technology**
- **ESG reporting** in the social housing sector
- The post-Covid **workplace**
- Housing and the drive to **net zero**
- The legacy of Covid-19: Supporting those in **housing stress**
- Effective **tenant participation**
- The challenge of **allocating** social housing
- Managing **competing pressures** in the provision of social housing
- Housing Associations: Planning for a **post-Covid future**
- **Innovation** in housing: Reimagining better ways to live
- **Collaboration** for better results

Programme

- 0830 Registration and morning coffee
- 0900 **Chairman's welcome and introduction**
Professor Paddy Gray OBE, Professor of Housing, [Ulster University](#)
- Priorities for housing in Northern Ireland**
Mark O'Donnell, Deputy Secretary, Housing, Urban Regeneration and Local Government
[Department for Communities](#)
- Supporting those who are homeless or in housing stress: The legacy of Covid-19**
Nicola McCrudden, Chief Executive Officer
[Homeless Connect](#)
- The future outlook for the housing market**
Jordan Buchanan, Chief Economist, [PropertyPal](#)
- Investing in delivery: The future of housing services in Northern Ireland**
Grainia Long, Chief Executive
[Northern Ireland Housing Executive](#)
- Questions & answers / Panel discussion
- 1045 Networking break
- 1115 **Greater agility through technology: The post-Covid workplace**
Paul Taylor, Innovation Coach, [Bromford](#)
- Tenant participation: Giving tenants a meaningful voice**
Loma Wilson, Director of Communities
[Radius Housing](#)
- Creating sustainable homes and communities: The drive towards net zero through collaboration**
Gary Orr, Group Chief Executive
[Abri](#) and [Greener Futures Partnership](#)
- Overcoming the challenges around the allocation of social housing**
Carol McTaggart, Group Chief Executive
[Clanmil Housing](#)
- ESG reporting: Delivering positive outcomes for society, the economy and the environment**
Rob Lane, Chief Property Officer
[Clarion Housing Group](#) (invited)
- Questions & answers / Panel discussion
- 1315 Networking lunch
- 1400 **PANEL DISCUSSION: The future of housing services: Managing competing pressures**
- Paul Isherwood, Director of Asset Management
[Northern Ireland Housing Executive](#)
Joanna McArdle, Director, [Barclays Bank](#)
Michael McDonnell, Chief Executive
[Choice Housing](#)
Paul Price, Head of Housing Policy & Oversight
[Department for Communities](#) (invited)
- 1500 Chairman's summary and conference close



I wish to:

- Reserve ___ places at the Housing Conference
Delegate fee £225 + VAT @ 20% = £270
- Discounted rate for Housing Associations and the voluntary/community sector
£175 + VAT @ 20% = £210

Delegate details

Name (Mr/Mrs/Miss/Ms/Dr): _____

Job title: _____

Organisation: _____

Address: _____

_____ Postcode: _____

Telephone: _____

Email: _____

Payment options

I enclose a cheque for £ _____
Payable to 'bmf Business Services'

Please invoice me

Please debit my Visa / Mastercard

Card number

□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□
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Name of card holder _____

Signature _____

Expiry date _____

Security code _____

(Please provide card billing address if different from company address)

Cancellations/substitutions

Please note that once ordered delegate places cannot be cancelled.

You can unsubscribe from receiving information at any time. Please let us know by emailing info@agendani.com or by phoning 028 9261 9933

Who should attend?

The conference will be of interest to all stakeholders involved in all aspects of housing, funding and management including senior managers in the public, private and third sectors in Northern Ireland. The conference will be of particular interest to:

110

- Professionals in housing policy and delivery;
- Government departments and agencies;
- Those providing benefits advice;
- Housing associations;
- Policy / public affairs advisors;
- The construction industry;
- Project funders;
- Legal advisors;
- Housing and planning consultants;
- The community / voluntary sector / NGOs;
- Local elected representatives.

Networking opportunity

The conference is structured in a way to provide a high level of interaction between speakers and delegates.

There will be plentiful opportunities for questions as well as discussion in each of the sessions. In the breaks and margins of the event there will also be ample scope for business development.

Benefits of attending

Delegates attending the conference will:

- ✓ Look at the future of housing policy in Northern Ireland
- ✓ Discuss the legacy of Covid-19 and the future of housing delivery
- ✓ Analyse all the key issues
- ✓ Hear about innovative solutions being applied elsewhere

How to register



Online
www.agendani.com/events



By phone
028 9261 9933



By email
registration@agendani.com

Acknowledgement of registration

Confirmation of registration will be sent to all delegates. Joining instructions will be sent out following receipt of registration details. If you have not received your acknowledgement within 48 hours please contact Ashley Green at registration@agendani.com to confirm your booking.





Planning Committee

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 3 - Statutory Performance Indicators – February 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. 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 February 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 February 2022 was 22.6 weeks. A slight backlog in the number of applications being issued this month is again evident. This is as a consequence of ongoing issues with the operation of the Planning Portal which has experienced software failures repeatedly over a three week period in January and issues specific to a number of the recent judicial review challenges.
4. In year performance to date is 16.6 weeks which is a significant improvement in the timeliness of decision making for this category of application when compared to the previous year.
5. Performance in relation to major applications for February 2022 was 26.2 weeks [decision in relation to Lidl, Carryduff application]. In year performance year to date in relation to majors is 106.8 weeks.
6. 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.
7. Processing major applications remains a priority for the planning unit. In total, 8 major application have been presented to the Planning Committee for determination this business year to date.

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

N/A

If yes, what was the outcome?:

Option 1 Screen out without mitigation	Yes/No	Option 2 Screen out with mitigation	Yes/No	Option 3 Screen in for a full EQIA	Yes/No
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Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

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

N/A

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

SUBJECT TO PLANNING APPROVAL: No

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

APPENDICES: APPENDIX 3 – Statutory Performance Indicators – February 2022

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

Statutory targets monthly update - February 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	-	0.0	0.0%	103	71	14.4	50.7%	36	19	25.4	84.2%
May	3	1	66.8	0.0%	95	74	15.1	50.0%	40	34	13.5	88.2%
June	1	-	0.0	0.0%	96	108	16.1	47.2%	41	36	20.5	83.3%
July	0	-	0.0	0.0%	83	63	19.4	38.1%	22	10	22.0	100.0%
August	0	1	106.8	0.0%	80	76	16.1	47.4%	18	42	16.2	90.5%
September	1	1	89.2	0.0%	80	93	15.4	47.3%	23	33	28.1	81.8%
October	0	2	116.5	0.0%	87	87	16.6	43.7%	31	29	34.0	75.9%
November	0	1	164.2	0.0%	95	87	18.4	43.7%	22	27	26.0	81.5%
December	0	-	0.0	0.0%	65	58	16.6	46.6%	12	23	27.9	87.0%
January	0	1	106.8	0.0%	86	55	14.2	52.7%	25	13	28.4	84.6%
February	0	1	26.2	100.0%	87	60	22.6	43.3%	18	26	25.5	84.6%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	5	8	106.8	12.5%	957	832	16.6	46.4%	288	292	25.2	84.9%

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

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 4 - Appeal Decision in respect of planning application LA05/2020/0705/O

Background and Key Issues:

Background

1. An application for an Infill dwelling and garage on lands to the south east of 18 Clogher Road was refused planning permission on 02 March 2021 as it was considered that there were no overriding reasons, that no gap existed and the development would not respect the existing development pattern long the frontage in terms of size, scale, siting and plot size.
2. It was also considered that the development would if permitted result in the addition of ribbon development along the Clogher Road and that it would result in a suburban style build-up of development when viewed with existing and approved buildings resulting in a detrimental change to the rural character of the countryside.
3. An appeal was lodged with the Planning Appeals Commission on 16 March 2021. The procedure followed in this case was written representation with Commission site visit on 15 October 2021. The main issue in the appeal was whether the proposed development was acceptable in the open countryside.
4. A decision received on 28 February 2022 indicated that the appeal was dismissed and all refusal reasons had been sustained.

Key Issues

1. The main issues to consider in this appeal are whether the proposed development would be acceptable in principle in the countryside and whether it would erode the rural character of the area.
2. Paragraph 6.6 acknowledges that there was no dispute between the parties that the site layout within a substantial and continuously built-up frontage which comprised 10, 14, 16, 18 and 20 Clogher Road.
3. The Commissioner at paragraph 6.7 states that the express reference to the word 'development' as opposed to the word 'creation' and which precedes the policy wording of a small gap site within the headnote to Policy CTY 8 demonstrates that the policy does not envisage the creation of a gap but rather that the gap must already be existing.
4. The view is expressed that this is a baseline policy requirement and that the proposal would artificially create a gap by the part demolition of the existing dwelling at 18 Clogher Road. This Commission is clear that this scenario is not envisaged by the policy.
5. At paragraph 6.9, the Commissioner notes that the predominant pattern on Clogher Road within the vicinity of the appeal site is defined by single detached dwellings set within large plots with generous spacing and roadside frontage.
6. The view is further expressed at paragraph 6.10 that the sub-division of plot at number 18 Clogher Road to create two plots would result in frontages significantly less than those along the existing frontage with the dwellings appearing to be crammed into smaller plots.
7. The Commissioner at paragraph 6.13 states that the use of a condition to form a gap site is not in accordance with the policy.
8. At paragraph 6.15, the Commissioner expresses the view that the appeal proposal would distort what is generally the generous spacing between dwellings that characterise this part of the Clogher Road settlement pattern and for this reason, the development would not respect the traditional pattern of settlement exhibited in this area.
9. The appeal decision also addressed the approach taken by another Council in granting permission for a dwelling in a similar circumstance and the finding of the Commission related to this. It is noted that the proposal at Clogher Road did not sit on all fours with this example and it was correct for the Council not to attach significant weight to this example.
10. Our approach to consideration of policy is endorsed and the key learning in respect of what a gap is has been noted.

Recommendation:

It is recommended that the Committee notes the report and decision of the Commission in respect of the planning appeal - LA05/2020/0705/O.

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? No

If no, please provide explanation/rationale

N/A

If yes, what was the outcome?:

Option 1		Option 2		Option 3	
Screen out without mitigation	Yes/No	Screen out with mitigation	Yes/No	Screen in for a full EQIA	Yes/No

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

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

N/A

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

SUBJECT TO PLANNING APPROVAL:

No

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

APPENDICES:

Appendix 4(a)– Appeal Decision Report LA05/2020/0705/O
Appendix 4(b) – Appeal Decision LA05/2020/0705/O

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

**Appeal by
N & A Lucas
against the refusal of outline planning permission for a proposed
infill dwelling and garage
at
Lands south east of 18 Clogher Road, Lisburn**

**Report
by
Commissioner Kevin Gillespie**

Planning Authority Reference: LA05/2020/0705/O

Procedure: Written Representations

Commissioner Site Visit: 15th October 2021

Report Date: 17th February 2022

1.0 **BACKGROUND**

1.1 Lisburn and Castlereagh City Council received the application on 9th September 2020 and advertised it in the local press on 18th September 2020. By notice dated 2nd March 2021 the Council refused permission giving the following reasons:

1. **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 and could not be located in a settlement, or it is otherwise allocated for development in a development plan.**
2. **The proposal is contrary to the SPPS and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it fails to meet the provisions for an infill development as no gaps exists within the application site and the development would not respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and would if permitted result in the addition of ribbon development along the Clogher Road.**
3. **The proposal is contrary to the SPPS and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and it would not if permitted respect the traditional pattern of settlement exhibited in the area and it would, if permitted add to a ribbon of development along the Clogher Road and would therefore result in a detrimental change to the rural character of the countryside.**

1.2 The Commission received the appeal on 16th March 2021 and advertised it in the local press on 12th April 2021. Four representations in total were received from third parties.

2.0 **SITE AND SURROUNDINGS**

2.1 The appeal site is located on Clogher Road approximately 360 metres south east of its junction with Plantation Road. The appeal site comprises a single storey detached dwelling (No. 18 Clogher Road) which is 'L' shaped in its footprint. It has lawned gardens to its north and west, a stoned access drive incorporating a low-level planted border to its east and an elevated area of mature trees and hedging to its south.

2.2 The site is bounded by mature hedging along its northern and western boundaries, hedging and trees along its southern boundary and by a white rendered stepped wall along its eastern boundary which includes a single entrance framed by pillars which provides access/egress directly from Clogher Road.

2.3 The appeal site lies in a row of five dwellings. To the north of the appeal site lies No. 16 Clogher Road, a detached single storey dwelling with an integral undercroft garage. To the west lies agricultural land. To the south lies No. 20 Clogher Road, a detached single storey dwelling with a detached double garage and to the east lies Clogher Road itself beyond which is mainly agricultural land.

- 2.4 The topography of the land generally rises in a south eastern direction from No. 10 Clogher Road towards the appeal site and beyond.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 The Strategic Planning Policy Statement for Northern Ireland (SPPS) at paragraph 6.70 states that all development in the countryside must integrate into its setting, respect rural character and be appropriately designed. No distinguishable differences are found between the SPPS and the retained policies of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) that need reconciled in favour of the SPPS.
- 3.2 Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered acceptable in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8. It follows that if the development complies with Policy CTY 8 it will also comply with Policy CTY 1 of PPS 21.
- 3.3 Policy CTY 1 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'. There is no evidence to demonstrate that there are overriding reasons why the development is essential. The proposal is unacceptable in principle and contrary to Policy CTY 1. As the proposal fails to meet Policy CTY 8, it therefore also fails to meet Policy CTY 1 of PPS 21.
- 3.4 Policy CTY 8 of PPS 21 says that 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 to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The policy defines a substantial and continuously built-up frontage to include a line of 3 or more buildings along a road frontage without accompanying development to the rear.
- 3.5 The appeal site is within a substantial and continuously built-up frontage of development created by the dwellings at Nos. 10, 14, 16 and 20 Clogher Road. Each presents a frontage to the road and the application is found to be compliant with this part of the policy.
- 3.6 The site is occupied by No. 18 Clogher Road and no gap exists to accommodate the proposed dwelling. Drawing No. 03 indicates a gap could be created by demolishing a large section of the existing dwelling and a new dwelling could be sited in this newly formed gap. As the existing site is to be sub-divided, two new curtilages would be created and a new separate access for the new dwelling.
- 3.7 A proposal for infill is based on the circumstances on the ground at the time of inspection and not what may be created should a gap be artificially created at some point in the future. No gap exists at present on this site.

- 3.8 The policy directs consideration of the existing pattern of development in the assessment of a gap site. The frontage of the application site measures 69.7m. The frontages of Nos. 10, 14, 16 and 20 Clogher Road measure 50.7m, 48.4m, 53.8m and 53.2m respectively giving an average frontage of 55.16m within the identified substantial and continuously built-up frontage. The sub-division of the plot belonging to No. 18 will create two plots measuring 41.5m and 28.5m. This does not respect the existing development pattern in terms of frontage size.
- 3.9 In terms of plot size, the application site measures 0.4 hectares. Those associated with 10, 14, 16 and 20 Clogher Road measure 0.2 hectares, 0.3 hectares, 0.3 hectares and 0.3 hectares respectively. The average plot size is 0.3 hectares. The proposed development would create two new plot sizes - 0.25 hectares for House A and 0.17 hectares for House B which are below the average plot size for sites within the identified substantial and continuously built-up frontage.
- 3.10 In respect of distances between buildings within the identified substantial and continuously built up frontage, there is 40.4m between numbers 10 and 14 Clogher Road, 14.7m between numbers 14 and 16 Clogher Road, 30.3m between numbers 16 and 18 Clogher Road and 45m between numbers 18 and 20 Clogher Road with an average distance between buildings of 32.6m. If permitted, the development would provide a separation distance of 8.5m between the new dwelling and the dwelling at 18 Clogher Road. This further illustrates that the proposal would not respect the existing development pattern in terms of the siting.
- 3.11 No gap exists in this part of the Clogher Road frontage. If a gap did exist, the proposed development would still be contrary to Policies CTY 1 and CTY 8 of PPS 21 in that a new dwelling would not respect the existing development pattern along the frontage in terms of plot size and siting, and would, if permitted add to a ribbon of development along Clogher Road.
- 3.12 Policy CTY 14 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. There are no issues of concern in respect to prominence taking into account the existing site context, the rise in the road and the land towards the south east and the potential for existing mature vegetation to be retained. A condition restricting ridge height could further address any potential impact on the rural character of the area.
- 3.13 The introduction of a dwelling into the plot would result in a suburban style build-up of development given the established character of development observed within the local area. In turn, the pattern of development found within the local area would not be respected in terms of frontages and plot sizes with the new plots creating smaller frontages and plots than the average found in the immediate locality. By introducing a dwelling on this site, the plot at No. 18 is sub-divided creating two new smaller plots which do not respect the traditional pattern of settlement found in this area. The proposal fails to be considered as a gap site and will add to an existing ribbon of development along the Clogher Road.
- 3.14 If this appeal is allowed, the following conditions in summary are suggested on a without prejudice basis:

- Time limit;
- Submission of 1:500 access plan showing the access to be constructed in accordance with RS1 form;
- Provision of 3 parking spaces within the curtilage of the site;
- No obstructing features within the visibility splays;
- Details of external wall and window finishes to be approved in writing by the Council;
- Ridge height of the dwelling restricted to less than 5.7 metres above finished floor level and angle of roof pitch not to exceed 40 degrees;
- Depth of underbuilding between finished floor level and existing ground level not to exceed 0.45 metres;
- Submission of Plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels to be approved prior to development taking place;
- No dwelling to be occupied until all new boundaries are defined by a timber post and wire fence with a native species hedgerow/trees and mixed woodland species shrubs;
- Details of all proposed tree and shrub planting and a programme of works to be approved by the Council and carried out in accordance with those details;
- Existing natural screenings indicated on Drawing 03 to be retained. Replacement native species tree/hedge to be planted if any retained tree or hedge is removed, dies or is seriously damaged within 5 years from the date of occupation; and
- The proposal to be in general conformity with Drawing 03.

4.0 THIRD PARTIES' CASE

- 4.1 The objectors reiterated most of the concerns raised by the Council around the principle of development and the site specific aspects, but also included the following arguments.
- 4.2 The appeal proposal would create a precedent for an unsustainable process leading to a cumulative and destructive impact on the rural character of Clogher Road contrary to Policy CTY 8 of PPS 21.
- 4.3 The proposal does not qualify for permission under Policy CTY 3 or Policy CTY 6 of PPS 21.
- 4.4 The proposal is contrary to Policy DES 7 of the Planning Strategy for Rural Northern Ireland (PSRNI) as it will add to a ribbon of development and does not qualify as an exception as the new building will not respect the existing development pattern along the frontage in respect of size, scale and siting.
- 4.5 With regard to Policy CTY 16, there is no main sewer serving Clogher Road and there are no proposals in the application regarding non-mains sewage that demonstrate that this issue will be dealt with environmentally and safely by an on-site septic tank. On this point the application should fail.
- 4.6 Clogher Road has become a rat-race at times caused by drivers using it to circumnavigate the traffic problems along the Saintfield Road. It is narrow in parts, is

shared by residential traffic, cyclists, service vehicles, horse riders, agricultural machinery and walkers and there is no footpath on any of its length. Any ill-advised development that would add to this dilemma would be very unwelcome.

- 4.7 The proposed Concept Plan appears to contain a misleading suggestion that a wooded laneway which lies towards No. 20 Clogher Road is in fact part of the current property No. 18 Clogher Road. This laneway belongs to No. 20 Clogher Road.
- 4.8 Appeal 2019/A0138 for an infill dwelling and garage at Rathkeel Road, Broughshane is different because in that case the site lay in open countryside on flat land while the current application is within a confined space in an established row of houses. This cannot be considered similar and used as a precedent to grant the current appeal.
- 4.9 The other case quoted, LA02/2018/0880/O, for a one and a half storey infill dwelling and garage between 171 and 175b Knocken Road, Ballymena likewise shows in the accompanying photo a substantial area of flat land with no residential buildings to be demolished. This is in contrast to the current appeal for a small non-essential dwelling requiring the demolition of a substantial section of a mature and prominent residence. It must be that clearance of a steeply rising bank, mature shrubbery (and likely mature trees) will be necessary.
- 4.10 The appellant tries to justify the demolition of part of the L-shaped bungalow at No. 18 to make somewhat limited room for a dwelling which will leave an 'end-on' view of the remainder of the building. This will contrast to the front facing aspect of the remaining dwellings in the row. This leads to an urban style of development. If demolition is permitted and a small dwelling allowed it will certainly add to a ribbon development.
- 4.11 Paragraph 5.12 of the appellant's Statement of Case states that a small opening for access will be made. This seems to be planned near to the upper boundary where the topography of a steep rise will necessitate that the driveway access will have to drop downwards several feet to be level with that of No. 18. There is not enough detail in the application to take these difficulties into consideration and how they would be overcome. This again adds to the fact that this proposed dwelling is not essential nor necessary in this rural setting.
- 4.12 The assertion that removal of the existing garage and bedroom does not require planning permission and can be conditioned to occur under Development Management Practice Note 20: Use of Planning Conditions is not a given and requires planners to make removal of this portion of the existing house a condition before approval of the plan.

5.0 APPELLANT'S CASE

- 5.1 The appeal site is located within a substantial and continuously built-up frontage made up of 10, 14, 16, 18 and 20 Clogher Road in accordance with the definition contained within Policy CTY 8 of PPS 21. The Council's primary concern however is the absence of an existing gap within the frontage to accommodate the proposed infill dwelling.

- 5.2 In 2019/A0138, the Planning Appeals Commission granted permission for a single infill dwelling and garage on a site subject to a condition requiring the demolition of the existing building on it to create a gap. The Council has given no weight to this appeal decision as there have been no infill planning approvals granted on this basis in the Lisburn and Castlereagh City Council area and consider it a poor decision.
- 5.3 There is no consideration of the use of conditions to secure demolition of buildings to secure compliance with Policy CTY 8. Paragraph 1.1 of Development Management Practice Note 20: Use of Planning Conditions states "If used appropriately, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission". The use of a planning condition to secure the demolition of part of the existing dwelling at No. 18 Clogher Road is acceptable in order to secure compliance with the policy requirements of Policy CTY 8 as endorsed by 2019/A0138 and application LA02/2018/0880/O (which was considered as part of that appeal. Like the subject appeal site, both of these sites contained built development and were located within a substantial and built-up frontage.
- 5.4 It is clear that a continuous and built-up frontage exists along this section of Clogher Road with or without that part of the dwelling at No. 18 that is proposed to be demolished, an act which can be secured by condition prior to the commencement of development. The fact that in this case only part of a building is required to be demolished as opposed to the entire building is irrelevant and not a distinguishing factor. In these circumstances, the absence of an existing gap does not render the proposal unacceptable in terms of Policy CTY 8 of PPS 21.
- 5.5 There are four tests that must be met in order to meet the requirements of CTY 8.
- 5.6 The gap site must be within an otherwise substantial and continuously built-up frontage (Test 1) is detailed previously.
- 5.7 The gap site is small (Test 2). The amplification text of Policy CTY 8 states that for the purposes of this policy, the 'gap' is between buildings. There is an existing gap between No. 18 and 20 Clogher Road. As part of the appeal proposal, the footprint of the existing dwelling at No. 18 is to be reduced by removing the existing garage and 2 No. bedrooms. The resulting gap between No. 18 and the dwelling at No. 20 is 58m. The part demolition of No. 20 does not require planning permission and can be conditioned prior to the commencement of development. In the context of existing development along the frontage, this gap is small and not excessive.
- 5.8 The existing development pattern along the frontage must be respected (Test 3). Policy CTY 8 requires that the development of a small gap site respects the existing pattern of development along the frontage in terms of size, scale, siting and plot size. In respect of size, the footprint of the proposed infill dwelling can be conditioned to be comparable to the footprints of the existing dwellings at Nos. 14 and 20 Clogher Road (i.e. 180 – 200 sq m). The garage footprint can be conditioned to 25 sq m.
- 5.9 In respect of scale, development on this side of Clogher Road is made up of single storey bungalows. A standard condition restricting the ridge height (5.5m) and floor area of the proposed dwelling and garage can be imposed to ensure the scale of development is appropriate.

- 5.10 In respect of siting, the proposed development is set well back from the road frontage to respect existing building setbacks along this frontage. If the proximity of the proposed dwelling to No. 18 (as reduced) is of concern, a new dwelling could be set back further into the site (like No. 10 and 20 along this frontage) to produce a separation distance comparable to that which exists between No's 14 and 16 (14m). The position of a dwelling on the plot could be secured by condition by shading an area on the site location plan. It is clear from the site location plan that the setback, orientation and separation distances of dwellings along this frontage is varied and not uniform.
- 5.11 In respect of plot sizes along Clogher Road, these are:
- No. 10 – 0.28 hectares
 - No. 14 – 0.34 hectares
 - No. 16 – 0.24 hectares
 - No. 18 – 0.44 hectares
 - No. 20 – 0.27 hectares

The Council's plot sizes have been rounded to 1 decimal place which lacks accuracy for the purpose of assessment under CTY 8.

- 5.12 When split, No. 18 will create two plots of 0.24 hectares for the existing dwelling and 0.20 hectares for the proposed infill dwelling. The test is that plot size 'respects the existing pattern of development'. There are varying shapes and sizes of plots along this frontage and the locations and orientation of buildings within. The kink in the boundary between Nos. 14 and 16 is similar to the boundary alignment and plot shapes between the infill site from the reduced plot at No. 18. The infill plot created is 38m at its widest, the plot at No. 16 measures 34m at its midpoint. While the frontage width of the appeal site and site area may be marginally smaller than other plots in the frontage, this is not fatal to the proposal as when viewed holistically, the two plots created do respect the pattern of development along this frontage.
- 5.13 The Council's use of average plot sizes, building separation distances and frontage lengths to consider this part of the policy is suggestive that where averages are not met by the proposal, it simply fails to respect the existing pattern of development and is therefore contrary to CTY 8. This strict approach fails to acknowledge the range of plot sizes and dimensions all of which contribute to the settlement pattern along the frontage which is an important overall consideration.
- 5.14 Other planning and environmental requirements must be met (Test 4). The existing boundary vegetation along the site boundaries will be retained. No vegetation removal is necessary to provide visibility splays. The topography of the setting slopes downwards towards the north-west allowing a dwelling of a similar scale and massing to the existing development along the frontage to blend in comfortably with the landform and together with existing vegetation, benefit from a strong degree of visual integration. The proposal does not offend Policy CTY 13.
- 5.15 The proposal meets Policy CTY 14 as it respects the existing settlement pattern along this part of Clogher Road. A modestly scaled dwelling on the site will not

appear unduly prominent in the landscape and will be appropriately sited and visually integrated. The proposal has been demonstrated to meet Policy CTY 8 and as a result will not create or add to a ribbon of development. The requirements of Policy CTY 14 are therefore met.

- 5.16 Visibility splays of 2.4m x 100m are achievable in both directions on Clogher Road which exceed DfI Roads requirement of 2m x 60m. The proposal is therefore compliant with Planning Policy Statement 3: Access, Movement and Parking (PPS 3).
- 5.17 The site does not include the agricultural lane between Nos. 18 and 20 Clogher Road as confirmed with the Council in email correspondence on file dated 9th November 2020.
- 5.18 No case is made for this application under Policy CTY 6 of PPS 21.
- 5.19 Policy DES 7 of the Planning Strategy for Rural Northern Ireland (PSRNI) has been superseded by PPS 21 and is not applicable.
- 5.20 Details in respect of a septic tank on the site can be conditioned to be provided as part of the Reserved Matters approval in the event this appeal succeeds.

6.0 CONSIDERATION

- 6.1 The main issues in this appeal are whether the proposed development would be acceptable in principle in the countryside and whether it would erode the rural character of the area.
- 6.2 Section 45(1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The adopted Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal on 18th May 2017. As a result of this, the Lisburn Area Plan 2001 (LAP) operates as the local development plan (LDP) for the area where the appeal site is located with the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, remaining a material consideration. In both LAP and dBMAP, the appeal site is located in the countryside and is zoned as green belt. However, the preamble of PPS 21 states that its policy provisions will take precedence over green belts designated in existing statutory development plans. As the plan policies relevant to green belt designation are now outdated having been overtaken by a succession of regional policy for development in the countryside, no determining weight can be attached to them. There are no other provisions in the plans that are material to the determination of the appeal.
- 6.3 The Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS) sets out transitional arrangements that will operate until a Plan Strategy is adopted. During the transitional period, the SPPS retains certain existing Planning Policy Statements (PPSs) including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). In line with the transitional arrangements, as there is no conflict or change in policy direction between the provisions of the SPPS and retained policy, PPS 21 provides the policy context for assessing this

- appeal. Policy DES 7 of the Planning Strategy for Rural Northern Ireland (PSRNI) has been superseded by Policy CTY 8 of PPS 21.
- 6.4 Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Several instances when planning permission will be granted for an individual dwelling house are outlined. The appellant argues that the appeal proposal represents the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8 of PPS 21.
- 6.5 Policy CTY 8 indicates that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception to the policy 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.
- 6.6 There was no dispute between the parties that the site lies within a substantial and continuously built-up frontage which comprises numbers 10, 14, 16, 18 and 20 Clogher Road. However, both the Council and the objectors argued that no gap site exists.
- 6.7 The express reference to the word 'development' as opposed to the word 'creation' and which precedes the policy wording "of a small gap site" within the headnote to Policy CTY 8, demonstrates that the policy does not envisage the creation of a gap site but rather that the gap must be existing. This is a baseline policy requirement. The proposal would artificially create a gap by the part demolition of the existing dwelling at No. 18 Clogher Road. This scenario is clearly not envisaged by the policy.
- 6.8 Policy CTY 8 goes on to require that the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The amplification text indicates that for the purposes of this policy, the 'gap' is between buildings.
- 6.9 The predominant pattern of development on Clogher Road within the vicinity of the appeal site is defined by single detached dwellings set within large plots with mainly generous spacing between dwellings and with each dwelling having roadside frontage. The buildings appear suburban in character.
- 6.10 The sub-division of the plot at No. 18 Clogher Road to create two plots would result in frontage sizes significantly less than those along the existing frontage. A separation distance of some 8.5m between the proposed infill dwelling and the dwelling at No. 18 Clogher Road would be considerably less than what is typically displayed. The resultant plot sizes for the proposed new dwelling and for No. 18 Clogher Road would not respect the existing plot sizes because they would appear smaller in comparison. The proposed development would therefore result in two dwellings that would appear as crammed into smaller plots. This would be appreciable in the street scene giving rise to further build-up of development. For

these reasons, the proposal would not respect the existing pattern of development along the frontage. The conditions suggested by the appellants would not overcome these policy objections.

- 6.11 Paragraph 5.32 of the Justification and Amplification to Policy CTY 8 states that ribbon development creates and reinforces a built-up appearance to roads, footpaths and private laneways and that such development has consistently been opposed and will continue to be unacceptable. Paragraph 5.33 of the amplification goes on to clarify that a ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line and that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have common frontage or they are visually linked. In this case, the appeal proposal would have a common frontage to Clogher Road with numbers 10, 14, 16, 18 and 20 and it would also be visually linked with Nos. 18 and 20 Clogher Road in particular thereby adding to the existing ribbon of development along this part of the road. The proposed development would therefore fail to meet the requirements of Policy CTY 8 of PPS 21.
- 6.12 The appellant argued that the approach of using demolition in order to create a gap site is endorsed by appeal decision 2019/A0138. To support his argument, the appellant also referred to paragraph 1.1 of Development Management Practice Note 20: Use of Planning Conditions (DMPN 20) and argued that the use of a condition to secure the demolition of part of the existing dwelling would therefore be an acceptable means to attain compliance with Policy CTY 8.
- 6.13 The above appeal, which took into account LA02/2018/0880/O, was considered in its own specific evidential context and was in a different area. For the reasons given above, use of a condition to form a gap site is not in accordance with the policy. The aforementioned appeal decision does not justify setting aside the planning and environmental objections to this proposal. The second reason for refusal based on Policy CTY 8 of PPS 21 is therefore sustained.
- 6.14 Policy CTY 14 'Rural Character' states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It goes on to state that a new building will be unacceptable where it does not respect the traditional pattern of settlement in that area.
- 6.15 The appeal proposal would distort what is generally the generous spacing between dwellings that characterises this part of the Clogher Road settlement pattern. For this reason, the appeal proposal would not respect the traditional pattern of settlement exhibited in the area. Moreover, as already indicated, it would add to ribbon development at this location leading to a suburban style of build-up. This would further erode the rural character of this area contrary to Policy CTY 14. Accordingly, the Council's third reason for refusal is sustained.
- 6.16 The objectors raised the matter of visual integration and argued that the site lacks long established natural boundaries and would rely mainly on the use of new landscaping for integration. The existing vegetation along the eastern, southern and western boundaries could be retained via the imposition of a condition with new vegetation also being conditioned to be provided prior to the occupation of the new

dwelling. This is sufficient to ensure that a new dwelling and garage on the appeal site would be satisfactorily integrated into the surrounding countryside.

- 6.17 In regard to the other concerns raised, no evidence was presented to persuade me how the appeal proposal would fail to comply with Policies CTY 3 or CTY 6 of PPS 21. With respect to the matter of the alleged misleading information contained in the Concept Plan, I am satisfied that the red line of the application site does not include the agricultural lane between Nos. 18 and 20 Clogher Road. In respect of traffic generated, I am satisfied that the volume of traffic that would be associated with one additional single dwelling would not prejudice road safety or significantly inconvenience the free flow of traffic on Clogher Road and that the access to the site would be safe. Finally, there is no persuasive evidence that the development would create or add to a pollution problem. I am reinforced in this by the lack of objection from the Council on this matter. The above issues raised by the objectors would not individually or cumulatively warrant the dismissal of the appeal.
- 6.18 Policy CTY 1 of PPS 21 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 nearby settlement. I was given no persuasive evidence that constituted overriding reasons to demonstrate why the proposed development is essential and could not be located in a nearby settlement. The appeal proposal is not acceptable in principle and fails to meet the requirements of Policy CTY 1 of PPS 21. The Council's first reason for refusal is sustained.
- 6.19 I have concluded that the appeal proposal is not acceptable in principle and that it would erode the rural character of the area. As all reasons for refusal have been sustained, the appeal must fail.

7.0 RECOMMENDATION

- 7.1 As all three reasons for refusal are sustained, I recommend to the Commission that the appeal be dismissed, and outline planning permission be refused.
- 7.2 This recommendation relates to the following drawings: -

Number	Title	Scale	Date Received
01	OS Map	1:2500	9th September 2020
02	Existing Site Plan	1:500	9th September 2020
03	Proposed Concept Plan	1:500	9th September 2020

List of Documents

Planning Authority:-	“A1” Lisburn and Castlereagh City Council Statement of Case
Appellant(s):-	“B1” Gravis Planning Statement of Case “B2” Gravis Planning Rebuttal Statement
Third Parties:-	“C1a” Third Party No.1 Statement of Case “C1b” Third Party No. 2 Statement of Case “C1c” Third Party No. 3 Statement of Case “C2c” Third Party No. 3 Rebuttal Statement



Appeal Decision

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Appeal Reference: 2020/A0157
Appeal by: N & A Lucas
Appeal against: The refusal of outline planning permission
Proposed Development: Infill dwelling and garage
Location: Lands south east of No. 18 Clogher Road, Lisburn
Planning Authority: Lisburn and Castlereagh City Council
Application Reference: LA05/2020/0705/O
Procedure: Written Representations
Decision by: The Commission, dated 23 February 2022

The Commission has considered the report by Commissioner Gillespie and accepts his analysis of the issues and recommendation that the appeal should fail. The Commission agrees that the reasons for refusal have been sustained.

Decision – the appeal is dismissed and outline planning permission is refused.

This decision is based on the following drawings: -

Number	Title	Scale	Date Received
01	OS Map	1:2500	9th September 2020
02	Existing Site Plan	1:500	9th September 2020
03	Proposed Concept Plan	1:500	9th September 2020

PAMELA O'DONNELL
Deputy Chief Commissioner



Planning Committee

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 5 - Appeal Decision in respect of planning application LA05/2018/0080/F

Background and Key Issues:

Background

1. An application for erection of free range poultry house with feed bins, washing collection tank, standby generator building, litter storage shed and associated site works (to contain 16,000 free range egg laying hens) was refused planning permission on 24 August 2020.
2. The application was considered to be contrary to policy in that the development in terms of its character and scale was not considered to be appropriate to its location. It was also considered that the development failed to visually integrate into the local landscape and that additional planting would be required to aid its integration.
3. Furthermore, it was considered that the applicant had failed to demonstrate that there were no suitable existing buildings on the holding that could be used nor was the proposed building sited beside existing farm buildings and no demonstrable health and safety reasons had been cited by way of justification for an alternative site.
4. The proposed development was also considered by reason of its location and prominence to damage the rural character of this part of the open countryside.
5. An appeal was lodged with the Planning Appeals Commission on 24 November 2020. The procedure followed in this case was informal hearing on 04 November 2021.

6. The main issues in the appeal was whether the proposed development would be:
 - Acceptable in principle
 - Appear visually prominent
 - Harm rural character; and
 - Have an unacceptable impact on natural heritage
7. The appeal decision also addressed a preliminary point raised by officers in relation to new information which had not been before the Council at the time of its decision.
8. A decision dated 4 March 2022 indicated that the appeal was dismissed and all the refusal reasons had been sustained.

Key Issues

1. The Commissioner's report addresses the question of whether new information was received late at paragraphs 1 – 9. In reviewing the detail, the Commissioner considered design amendments, revised visibility splays, removal of vegetation, new landscaping and drainage details to be new information.
2. It was also noted that the appellant failed to explain why these amendments were submitted at such a late stage. The new site plan was not admissible and the appeal was based on the suite of drawings submitted with the planning application.
3. At paragraph 6, the commissioner noted that the red line boundary of the application was tight to the footprint of the main shed, generator building, litter storage shed and concrete hardstanding and that it sat within a larger host field.
4. There was no reference to outside roaming hens on the P1 form and that the associated supporting documentation did not make reference to roaming. She did accept that the concept of roaming hens was introduced by way of other documents and as such, it was agreed that this was not new information.
5. For the reasons outlined at paragraphs 19 – 27, the Commissioner confirmed that she agreed with the Council that no evidence was submitted to substantiate figures produced nor had they been corroborated by any expert evidence or reference to any published criteria or guidance. No business plans were presented to include plans to diversification into poultry.
6. At paragraph 26, conacre agreements were recognised as being typical of farming in Northern Ireland and the Commissioner agreed with the views expressed by the Council that no evidence had been presented that parcels of land taken in conacre would not be available going forward nor was any evidence provided that additional lands at 42 Belfast Road could not be taken in conacre to supplement the holding if required.

7. Biosecurity issues are considered at paragraphs 29 – 32 of the Report and whilst risks are noted, the Commissioner comments that no details of what an adequate distance from the existing farm yard, other buildings or animals should be. The view is also expressed that there is no requirement for a site to be completely divorced from the existing farm complex.
8. Furthermore, the Commissioner expressed a view that while a farm building not located at the existing group would be clearly beneficial to the appellant, it would not be 'essential for the efficient functioning of the business' – the policy test for alternative sites away from the existing farm buildings.
9. In terms of integration and rural character, the commissioner expresses the view at paragraph 42 that the full impact of the of the 92 metre elevation would be appreciated within the larger host field over the roadside boundary given the exposed nature of the appeal site and that the boundaries of the larger host field are too distant to provide sufficient enclosure and integration for the proposal.
10. At paragraph 48 of the report, the Commissioner deals with Natural Heritage issues. Again the Commissioner notes that whilst the concept of roaming was introduced within some of the supporting information, the extent of the areas required for roaming was not specifically defined or explained in the planning application nor were any of the associated implications from outside roaming addressed.
11. At paragraph 56, the Commissioner notes that the AQIA submitted in April 2019 does not take into account the fact that the chickens will be roaming on the adjacent 7 acres of farm land and as such, the issue of wash off from bird droppings on the land was not considered by consultees.
12. Advice from DAERA in relation to ammonia emissions is carefully considered by the Commissioner and based on a review of clarification provided by the Department and comments made by all parties, the Commissioner agreed that actual effects on the woodland was unknown – but that the loading of 127% above what is permitted under current protocol could be extreme and as such, it was not possible to conclude that the proposal complied with Policy NH 5 of PPS 2.
13. At paragraph 68, the Commissioner states quite clearly that it is not for the Council or consultees to make assumptions on the application and that the onus is on the applicant to ensure that a full and robust planning application with correct information is provided. The absence of critical amounts of information including information associated with paddock areas, stock proof fencing and proposed buffer zones enabled the Commissioner to conclude that it was not possible to quantify the impact of the totality of the proposal on the environment.
14. This was a complex appeal which gave rise to a number of significant issues in relation to applications for new development on farms. There is learning in relation to the environmental impacts of animals roaming beyond the narrow confines of the application site and there is a clear burden on the applicant to provide adequate information specific to this type of development at an early stage of the planning process.

15. Officers in the Unit are alerted to the need to request information at an early stage of the application process.

Recommendation:

It is recommended that the Committee notes the decision of the Commission in respect of the planning appeal - LA05/2018/0080/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? No

If no, please provide explanation/rationale

N/A

If yes, what was the outcome?:

Option 1 Screen out without mitigation	Yes/No	Option 2 Screen out with mitigation	Yes/No	Option 3 Screen in for a full EQIA	Yes/No
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Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

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

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 - LA05/2018/0080/F

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:



Appeal Decision

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Appeal Reference:	2020/A0104
Appeal by:	Mrs Gillian & Mr David Steele
Appeal against:	The Refusal of full planning permission
Proposals:	Erection of free range poultry house with 2 no. feed bins, washing collection tank, standby generator building, litter storage shed and associated site works (to contain 16,000 free range egg laying hens)
Location:	Lands approximately 175 m south west of 6 Tullyrusk Road, Knockcairn, Dundrod, Crumlin.
Planning Authority:	Lisburn & Castlereagh City Council
Application References:	LA05/2018/0080/F
Procedure:	Informal Hearing on 4 November 2021
Decision by:	Commissioner Mandy Jones, dated 4 March 2022

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted a revised site layout with his rebuttal statement on 5 March 2021. The amendments to the new site layout include:
 - Reduction of the visibility splays from 4.5 x 90 m to 2.4 x 68m;
 - Reduction of the finished floor level of the poultry shed from 120.25m to 119.25m;
 - Additional landscaping including new hedgerow and semi mature trees along the full south western boundary of the site.
3. Section 59 (1) of the Planning Act (NI) 2011 states that a party to the proceedings is not to raise any matter which was not before the Council at the time of the decision appealed against was made unless that party can demonstrate (a) that the matter could not have been raised before that time or (b) that its not being raised before that time was a consequence of exceptional circumstances.
4. The appellant stated that he employed a new agent at appeal who could not have raised these matters at planning application stage and the first opportunity for him to raise these matters was at rebuttal. It was not considered to be new information as the amendments address issues raised in the Council's Statement of Case and all parties have had time to consider.

5. The rebuttal process offers an opportunity to respond to arguments presented in Statements of Case presented by the other parties but does not allow for the submission of new information. I consider the design amendments to be new information regarding the design parameters of the proposal. The lowering of the floor levels will have implications for the extent of excavation and infilling of ground levels across the site and an unquantified impact on the swale and drainage systems. At planning application stage, I note there were 45 representations in opposition to this proposal and not all submitted statements of case and would have relied on their original representations. As they have not engaged in this appeal process, they would not have access to these revised proposals submitted at this late stage with the rebuttal and I consider that prejudice would arise. Other consultees did not have had an opportunity to comment on the revised visibility splays, removal of vegetation, new landscaping and drainage. A new agent in the appeal process does not persuade me otherwise. The appellant has failed to explain why these amendments were submitted at such a late stage and could not have been submitted earlier. I conclude that the new site plan is not admissible and cannot be considered as part of the appeal process. Accordingly, my considerations will be based on the suite of drawings submitted with the planning application.
6. The application red line boundary is tight to the footprint of the main shed, generator building, litter storage shed and concrete hardstanding and sits within a larger host field within the appellants ownership and delineated in blue. The planning application drawings and P1 planning application forms included no reference to outside roaming hens. Neither does the submitted Air Quality Impact Assessment dated 16 April 2019, Archaeological Impact Assessment dated 18 April 2018, Farm Management Plan and Transport Assessment dated October 2018, Drainage Assessment dated January 2018 and Biodiversity Checklist. The Council states that within the appellant's statement of case at paragraph 5.6 – 5.11, the appellant makes reference to the day to day operations associated with the the established farming business and seeks to offer new evidence to justify segregating one activity from another to demonstrate how the exception test in policy can be met.
7. The appellant states ' A 16,000 bird poultry unit is considered to be a profitable enterprise, and a minimum of 7 hectares to provide suitable free range paddocks as well as the area for the poultry unit and associated yard area for this size of poultry unit. The land ownership parcel at Tullyrusk Road with an area of 7.5 hectares is sufficient to accommodate the poultry unit.' The Council contend that roaming hens is new information only raised at appeal and inadmissible.
8. However, in the background papers, I note that as part of the planning application a number of supporting statements and letters made references to roaming. Support statement 1 (dated October 2018) at 4.3 states ' The building is needed to house 16,000 free range egg laying hens along with 20 acres of roaming land immediately around the poultry house.' A letter from Cornett Design (received 30 September 2019), stated at point 3 ' None of the existing buildings outlined in the attached maps where suitable for the adaption to a poultry unit, poultry require specialised housing and in this case to house 16,000 birds along with 20 acres of roaming land '. Supporting statement 2 (dated September 2018) at 4.9 states ' The site has also been chosen as the nearest possible location due to the bio security required to keep the free range birds away from the existing cattle

building. The other reasons are also the free range birds require 20 acres of roaming land ...'

9. Although, the extent of the area required for roaming was not defined or explained on the planning application drawings or accompanying technical reports, I consider that the concept of roaming hens was introduced. Accordingly, I consider that this is not new information, and it is therefore admissible.

Reasoning

10. The main issues in this appeal are whether or not the proposed development would:
 - be acceptable in principle on the appeal site;
 - appear visually prominent;
 - harm rural character and
 - have an unacceptable impact on natural heritage.
11. Section 45 (1) of the Planning Act (NI) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The adoption of the Belfast Metropolitan Area Plan (BMAP) has been declared unlawful by the Court of Appeal in May 2017. Given this, the Lisburn Area Plan 2001 (LAP) is the statutory development plan for what was previously the Lisburn City Council area. The draft Belfast Metropolitan Plan (d BMAP) is also a material consideration.
12. The appeal site lies outside the Settlement Development Limits of Lisburn within the Lisburn Area Plan 2001 and the draft Belfast Metropolitan Area Plan 2015. As there are no distinguishable differences in the local plan context, weight is attached to draft BMAP and its draft policies. The Countryside section directs assessments to be carried out in accordance with regional planning policies.
13. Regional policy of relevance to the appeal proposal is contained in the Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS). In the absence of an adopted Plan Strategy, retained Planning Policy Statement 21 'Sustainable Development in the Countryside' and Planning Policy Statement 2, 'Natural Heritage' are relevant. There is no conflict or change in policy direction between the provisions of the SPPS and the above-mentioned retained policies insofar as they relate to this appeal. Accordingly, PPS 21 and PPS 2 provide the appropriate policy context for assessing this appeal.
14. The appeal site is located approximately 175m south west of no 6 Tullyrusk Road. It is approximately 0.99 hectares and is part of a larger agricultural field which accesses onto the Tullyrusk Road. The site rises slightly from the roadside to the north west. The boundaries to the appeal site are undefined with the exception of the roadside boundary, which has some small trees and hedging to the front of the site. The appeal site is located approximately 230m south west of Knockcairn Bridge which is a listed structure. Glenavy River is approximately 150m north east at its closest point to the appeal site. In close proximity are a number of archaeological sites including scheduled raths and a destroyed medieval church. It is sited in the location of a relict field system which is typical of early medieval fields systems in this

area. The surrounding land is rural in character and primarily in agricultural use. There are a number of dispersed single dwellings and farmsteads in the wider area.

Siting of the Proposal

15. Policy CTY 12 of PPS 21 Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding when a number of criteria are met.
16. Paragraph 5.56 of the justification and amplification states that for the purposes of this policy, the determining criteria for an active and established business will be that set out under Policy CTY10. The Council accepted that the appeal site is within an active and established agricultural holding as the farm business ID has been in existence for more than 6 years and confirmation has been provided that the holding has claimed Single Farm Payments, in each of the last 6 years.
17. In terms of criteria (a) the Council accept that the proposed building is considered to be necessary for the efficient running of the holding which is active and established. However, the Council pointed out that this is without any reference to the suitability of the location of the lands owned by the applicant. Council and objector's concerns relate to criteria (b), (c) and (e) which will be dealt with later in this report.
18. Policy also directs that in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all the following:
 - There are no suitable existing buildings on the holding or enterprise that can be used;
 - The design and materials to be used are sympathetic to the locality and adjacent buildings; and
 - The proposal is sited beside existing farm buildings.
19. The appellant's farm holding is over 115 hectares spread over 15 parcels. Of the 115 hectares, 28.8 hectares are owned by the appellant. The main farm yard is located at 42 Belfast Road, Glenavy and is the only group of buildings on the farm holding including the milking parlour and cattle housing. The appeal site is located on the Tullyrusk Road within a larger host field and is approximately 2.2 km from the main farm buildings. Based on the supporting information provided, there appears to be two options available for development on lands owned by the appellant. One is a single field approximately 4.45 hectares (within which is the appeal site) with no buildings on or near and the other is a site in or adjacent to the existing group of farm buildings at 42 Belfast Road, Glenavy. The proposal in this case, is not sited beside the existing farm buildings and so CTY 12's exceptional test is engaged. This states;
20. Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where :
 - It is essential for the efficient functioning of the business; or
 - There are demonstrable health and safety reasons.
21. I was told within the appellant's statement of case that the appellant runs a dairy farm, milking in excess of 150 cows, which would be considered to be an appropriate dairy herd size to ensure profitability. Approximately 200 young stock comprising replacement heifers and weanlings are kept annually which brings the herd to approximately 350 in total. This information differs from supporting information provided in the planning application stage which indicates that the farm currently consists of a dairy herd, suckler herd and beef herd of 300 – it is noted that the dairy

- herd is approximately 50% of the total herd. Although I accept that stock levels may fluctuate over time no evidence was presented of the stock levels at any stage or the change in the amount of stock kept. The farm does not include any poultry activities at present.
22. The main farm yard located at 42 Belfast Road is the only group of buildings on the farm holding and includes the milking parlour and cattle housing. At this location there are 4 land parcels (3 of which are leased / conacre) which totals 43.5 hectares. The cows are grazed on this grassland for 6 months and housed in the cattle sheds in the remaining winter months of the year. 21.3 hectares of land is owned by the appellant at this location and the remainder is taken in conacre annually, which I was told is not guaranteed to be available as it is renewed every year.
 23. In addition, 5.55 hectares of conacre land is located on the other side of Ballyminymore Road and grazing of these lands requires the 150 cows to be herded across the public road four times daily for milking in the summer months. Accordingly, the use of these lands for grazing are avoided as much as possible except when wet weather conditions require stock to be spread over more lands to prevent poaching of land.
 24. I was told by the appellant that under average stocking density, which is subject to good land and normal weather conditions, the 150 dairy cows require approximately 1.5 hectares of grazing everyday to maintain milk production levels. Based on an average 28 day rotational grazing regime and favourable weather conditions, the 150 cows require a minimum summer grazing area of 42 hectares. As such, the 43.5 hectares available at this location is just about sufficient to graze the 150 dairy cow herd over the summer months. Although the Council were of the opinion that this is new information at this appeal stage relating to the amount of grazing land required in order to maintain milk production level, I note that no evidence was submitted to substantiate these figures. Objectors also dispute the claim that that this amount of grazing land is required and that the number of dairy cows in the herd (150) would ensure profitability. The appellant claims that all the lands surrounding the farm yard at 43 Belfast Road, including the lands taken in conacre are essential to graze the dairy herd and any loss of land would cause difficulties in managing the dairy herd. I was told that farmers are encouraged to diversify their production and as such the appellant has a 30 year business plan which includes diversification into poultry farming as a compliment to the dairy herd. However, I was not presented by any business plans.
 25. The appellant argues that given that all the land surrounding the farm at 42 Belfast Road (including lands taken in conacre) are essential to graze the dairy herd and to prevent the associated risk of cross infection of livestock the appellant identified the only other parcel of land within their ownership at Tullyrusk Road. A 16,000 bird poultry unit is considered by the appellant to be a profitable enterprise and a minimum of 7 hectares is required to provide suitable free range paddocks as well as the poultry unit and associated yard area. The appellant considers that the ownership parcel of land at Tullyrusk Road of 7.5 hectares is ideal. This land on the Tullyrusk Road cannot be grazed. There are only 3 other parcels of land removed from the farm yard of sufficient size to accommodate the poultry unit and paddocks but these are taken in conacre and cannot be developed. The appellant argued that the only possible location for the proposed poultry unit is on the appeal site.

26. I note that con acre agreements are taken on a rolling basis which is very typical of farming in Northern Ireland. I would agree with the Council that no evidence has been presented that the parcels of land taken in conacre will not be available going forward. Neither was any evidence presented that additional lands at 42 Belfast Road could not be taken in conacre to supplement the holding if required.
27. I was also told by the appellant that the remaining parcels of land totalling 71.5 hectares, cannot be used to graze the dairy herd as this would require the cows to be herded along public roads 4 times a day, including along the main Glenavy Road to Belfast for up to 4 km which is not possible due to road safety and animal welfare issues. This seems reasonable to me. The remaining lands of which 64 are taken in conacre are used to grow winter fodder for the dairy cows and to rear the young stock.
28. The amount of land required at the existing farm of 42 hectares to graze the dairy herd was disputed by all parties. I agree with the Council that no evidence was submitted to substantiate any of the figures produced. The figures were not corroborated by any expert evidence or references to any published criteria or guidance. Although the appellant claims that the current number of dairy cows in the herd (150) would ensure ' profitability ' I have no evidence to substantiate this claim and, as noted no business plans were presented. It has not been claimed that a smaller herd which would require less grazing land would not be viable. It was pointed out by objectors that the average Irish dairy herd is smaller at only 80 cows. It was also raised by objectors that many dairy farmers now operate a zero grazing policy whereby grass is brought to the herd and little space is required by the cattle. The appellant stated that they already implement this arrangement on lands they take in conacre by making silage on these removed lands and storing in silage pits at the farm yard until required for use in the winter, when there is no grazing available.
- Biosecurity*
29. It was also argued that the introduction of poultry at the 42 Belfast Road lands would create cross contamination with the existing dairy herd and problems with bio security. One of the main concerns is the disease botulism, which spreads from poultry to cattle and can be devastating to a dairy herd. Reference was made to a document entitled ' Biosecurity Code for Northern Ireland '. The appellant argues that a precautionary approach should be taken to limit the potential of cross infection and farmers are encouraged to locate poultry units and paddocks well away from cattle housing on stand-alone sites to enhance biosecurity.
30. On review of this document, it states that due diligence is urged when large groups of intensive poultry is present on a farm, especially when this is part of a wider mixed farming operation. It states that poultry are susceptible to infections that can be transferred to humans. The code advises on cleansing, separation of the unit from other farm activity, hygiene measures and the need to ensure all inputs such as feed, water and bedding areas are safe. However, I note that the document provides no details of what an adequate distance from the existing farm yard, other buildings or animals should be. There is no requirement that a site needs to be completely divorced from the existing farm complex. The appellant was unable to give any indication of appropriate separation distances.
31. It has not been demonstrated that a moderate separation could not be facilitated allowing the proposal to be grouped with the existing farm buildings as required by policy. I have not been persuaded that the full extent of the land at the farm

buildings could not accommodate the proposal and would ensure that the proposal is sited beside existing farm buildings.

32. Having reviewed all the evidence presented by the appellant, I have come to the view that while a farm building not located at the existing group would be clearly beneficial to the appellant, it would not be 'essential for the efficient functioning of the business' which is the policy test for alternative sites away from the existing farm buildings. The appellant has not demonstrated that there are no other sites available at the grouping of buildings on the holding and that there are demonstrable health and safety reasons for the separation as proposed. The exceptional tests within Policy CTY 12 are not met.

Integration and Rural Character

33. Criterion (b) of PPS 12 requires that the proposal in terms of character and scale is appropriate to its location. Criterion (c) requires that it visually integrates into the local landscape and additional landscaping is provided as necessary. Criterion (e) requires that it will not result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.
34. PPS 21, 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. It sets out a number of criteria where a new building will be considered unacceptable. The Council and objectors consider that the proposal is unacceptable as (a) it is a prominent feature in the landscape and (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. Objectors also consider the proposal to be unacceptable as (d) the ancillary works do not integrate with their surroundings and (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.
35. The justification and amplification to Policy CTY 13 states that the main criteria against which the degree of visual impact will be considered include;
- The location of the site within the landscape, the position of the building within the site and its relationship with surroundings buildings. This will help determine whether the development will be a prominent feature in the landscape;
 - The attributes of the site and its landscape surroundings and whether these provide sufficient enclosure for the new building. This includes the existence of otherwise natural boundaries and / or visual backdrop, and whether there is any intervening vegetation or natural features between the site and critical views; and
 - The suitability of the design of the building for the site and its locality, including its form, scale and massing.
36. Policy CTY 14 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It sets out a number of criteria in which a new building will be considered unacceptable. Council and objectors consider that (a) it is unduly prominent in the landscape and (e) the impact of ancillary works (with the exception of necessary visibility spays) would damage rural character. Objectors also consider (c) it does not respect the traditional pattern of settlement exhibited in the area.

37. The proposed agricultural shed has a linear footprint of 92.7 m x 15.5 m (area approx. 1500 sq m) and a ridge height of 5.15 m. There is also a litter storage shed to the western side which is 14.5m x 9m and a standby generator building of 3.3m x 4.3m. The main shed and litter storage shed are finished in green metal sheet cladding with a smooth plastered block work base. There are also 2 no. 8.75 m high steel feed bins. Around the perimeter of the building is a concrete path and a concrete 25m diameter turning space to the southern elevation. Site works include filled ground to either side of the proposal. The appeal site is undefined (save for roadside vegetation) and sits within a much larger roadside host field. Drawings show 4.5 x 90m visibility splays which require the removal of 44 m of roadside vegetation and 2 no. trees.
38. Consultation response dated 6 February 2018 from DFI Roads, states that visibility splays of 2.4 x 68 m are required – it was noted that 4.5 x 90 m were demonstrated. A later response dated 27 February 2018 states that DFI offers no objections to the proposal and provides conditions in the event of an approval, including, ' the vehicular access shall be provided in accordance with drawing No.2, bearing date stamp 16 January 2018. ' I note that this drawing shows 4.5 x 90 m splays. Although the appellant argues that DFI Roads suggested lesser splays (which would involve less removal of roadside vegetation) these were not carried forward to drawings submitted to the Council for assessment – and not submitted to DFI Roads for consultation. This is a full submission, and the onus is on the appellant to provide correct drawings and clear information. The lesser splays may have had other consequences; however, DFI Roads did not have an opportunity to comment. They were not demonstrated in a drawing until the appellant's submission at rebuttal stage which, in conjunction with several other significant amendments, I have already determined is not admissible.
39. The proposed building sits centrally within the larger host roadside field and the southern gable elevation is set back approx. 60m from the road. The hardstanding is set back approx. 35m from the road. The only boundary at present is the roadside boundary which is to be removed for the creation of visibility splays. Whilst the appeal site itself is relatively flat, the host field gently slopes down to the southwest. The appeal site is on the higher part of the host field. Council and objectors considered critical views are from Tullyrusk Road when viewed on approach from the south west. Objectors also raise critical views from 30 Garlandstown Road, however these are not determining as they are not public views.
40. The finished floor level of the proposal is 120.25 and at its highest point the hill appears to be just over 1m higher. As the ridge height is 5.15m, this would be around 4m higher than the highest level of the slope and the proposed feed bins would be around 7.5m higher than the slope. Cut and fill is required across the site. The only landscaping proposed is a new hedgerow to replace that removed to create splays. The appellant has stated that they are willing to accept a condition requiring additional landscaping to be carried out along the boundaries of the site. However, any new planting will take a considerable length of time to mature and in the interim would not mitigate the impact of the proposal.
41. The appellant relies on the boundaries of the larger host field to aid integration and has stated that they would accept a condition to to retain vegetation along the north eastern and south eastern boundaries. Objectors state that some of these are in their ownership and such a condition would be unlawful.

42. Given the lack of any natural boundaries to the appeal site, it is exposed particularly on approach from the south west and across the host field frontage. The full impact of the 92 m elevation would be appreciated within the larger host field over the roadside boundary. Taking the adjacent litter storage shed into consideration the overall built impact would be over 110 m. There is no intervening vegetation. The appeal site does not provide a suitable degree of enclosure for the proposal and given this 92m side elevation - which requires ground levels to be raised at either end as demonstrated on section AA – the proposal would also break the skyline. The proposal would appear as a prominent feature in the landscape and would fail to integrate. Notwithstanding the dispute in ownership of the boundaries and the ability to retain these, I consider that the boundaries of the larger host field are too distant to provide sufficient enclosure and integration for the proposal and the appeal site itself has no long established natural boundaries.
43. Ancillary works include the creation of a new access point with a 10m radius and 1.8m high pillars at either side of the road. The access road itself is 6m wide – which is wider than the Tullyrusk Road and cuts across the centre of the host field. It does not run unobtrusively alongside existing hedgerows nor is it accompanied with any landscaping measures to aid integration. There is also a large concrete turning circle close to the Tullyrusk Road and 2 no, 8.75m high meal feed bins. Given the removal of roadside vegetation for the provision of visibility splays, I would concur with the objectors that these ancillary works would appear exposed and would exacerbate the visual impact of the proposed building. The access road, access point and pillars would have an urban feel and, in my opinion, do not respond to this rural context. The proposed ancillary works do not integrate with their surroundings.
44. The traditional pattern of development in this rural area is single dwellings and farm groupings. Larger scale farm buildings tend to be grouped with other buildings and set back from the main roads along rural laneways. The proposal measuring 92.7 m x 15.5 m (area approx. 1500 sq m) and sited close to the road is not in keeping with the character of this rural area.
45. I conclude that the proposal does not integrate into the local landscape and will harm the character of the open countryside due to its prominence. It therefore fails to meet the requirements of Policy CTY 12, criteria (b) and (c), Policy CTY 13 criteria (a), (b), (d) and (f) and Policy CTY 14, criterion (a) (c) and (e). Accordingly, the objector's concerns and the Council's refusal reasons 2 and 3 and part of refusal reason 1 have been sustained.
46. As I have also concluded that the appellant has not demonstrated that there are no other sites available at the grouping of buildings on the holding, that there are no demonstrable health and safety reasons for an alternative site away from the existing farm buildings and it is not essential for the efficient functioning of the business, the proposal does not comply with PPS 12.
47. As the appeal development does not meet Policy CTY 12 of PPS 21, it also fails to meet Policy CTY 1 of PPS 21. There are no overriding reasons why the development is essential. Accordingly, the remainder of refusal reason 1 and the objector's concerns have been sustained.

Natural Heritage

48. Although the concept of roaming was introduced, within some of the supporting information which accompanied the planning application, the extent of the areas

- required for roaming the free range birds was not specifically defined or explained in the planning application nor were any of the associated implications from outside roaming addressed. According to consultees if this had been known it would have led to requests for further information. I note that not all the ammonia generated by this intensive farming activity is within the application / appeal site and this was not addressed fully in the application process. The methods of removing waste are only addressed for the building. The red line is drawn to the minimum extent around the footprint of the building and there is no indication on any drawings of the roaming areas required or any details of stock proof fencing. This is all relevant information.
49. The Air Quality Impact Assessment dated 16 April 2019 (AQIA) report assesses odour and ammonia emissions from the poultry farm. The introduction states ' It is understood that the poultry litter from the proposed poultry shed will be removed twice weekly by manure belt and moved to a proposed storage shed. Litter from the poultry shed will be moved to the Republic of Ireland, and there is no land spreading of litter in Northern Ireland associated with this application ... It is understood that contracts have been submitted confirming that the land owner in the Republic of Ireland is a bona – fide farmer '
 50. Although, not included as a reason for refusal from the Council, objectors raised that the assessment of the proposal's impact on natural heritage is inadequate. Objectors also raised that Shared Environmental Services (SES) carried out their Habitats Regulations Assessment (HRA) assessment on the basis of the AQIA which did not take account of poultry litter in the surrounding areas.
 51. PPS 2 Natural Heritage, Policy NH3 – 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 areas including ancient and long established woodland.
 52. A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habits, 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.
 53. Objectors referred to a 'Countryfile' article which notes that free range poultry farming contributes to river pollution as rainwater washes phosphate – rich poultry manure into water courses, releasing nitrates and other harmful chemicals. Chickens compact the grass on which they peck and forage, quickly hardening the surface to the constitution of cement and their faeces, which contain high levels of phosphates are then washed away by rain.
 54. The manure has a very high phosphate level and is dangerous for rivers. It states ' the manure triggers eutrophication, where the water becomes enriched with nutrients, triggering algal blooms that can quickly remove oxygen from the river. This can affect mammals such as otters and shrews, eels trout and lichen...'
 55. It notes that ammonia is a challenge for free range poultry farming and distinguishes poultry manure from slurry in that slurry is liquid and is absorbed, whilst poultry manure is a hard product and results in over – proliferation of nitrates and phosphates that feed into the water.

56. Objectors and Council both state that the AQIA dated April 2019, on which SES and DEARA have relied on in advising the Council states that the poultry manure from the proposed unit will be moved to the Republic of Ireland and that there will be no land spreading in Northern Ireland. I note that the AQIA does not take into account that fact that the chickens will be roaming on the adjacent 7 acres of farmland and depositing manure. As such, the issue of wash off from bird droppings on the land was not considered by consultees.
57. Objectors raise the issue that there is no mitigation for manure from the fields washing down into the adjacent Glenavy River. It and the surrounding lands are designated as a Site of Local Nature Conservation Interest (SLNCI LN 01/07 - Ballymoneymore) in draft BMAP – a designation not objected to and so should be afforded significant weight. This is described as a woodland SLNCI and describes it as *' a riparian regenerating beech woodland, with moderately species-rich wet grassland, and scrub areas. The linking of these habitats along the river corridor enhances the interest of this site'*. Objectors added that given the poultry unit would be under the 40,000 bird threshold where a permit is required under the Pollution Prevention and Control (Industrial Emissions) Regulations (NI) 2013, it is critical that this matter is properly assessed at planning stage.
58. Objectors state that the fact that this issue has not been addressed in the application documents by SES, DAERA or other competent body means that it cannot be concluded that the proposal would not have a significant effect on European Sites, the SLNCI and protected habitats and species as required by PPS 2.
59. Within the Councils statement of case, I was told that that since the previous consultation response from DEARA dated 19.12.2019, they have become aware of the need to request for ranging emissions from this free range poultry application. It is estimated that approximately 20% of poultry droppings in free range systems are voided outside the house (Ref: DEFRA report ' Inventory of Ammonia Emissions from UK Agriculture, 2015 by Misselbrook et al'). As such, the ammonia emission factor factor used in the AQIA, should be adjusted to take this ranging element into account. They are now requesting the 0.08 emission factor used in the AQIA to be undertaken again with an emission factor of 0.108 kgNH3/animal/year.
60. At the hearing it was agreed that DEARA would provide further information to assist the parties with the assessment of the impacts of ammonia emissions on ecologically sensitive sites.
61. Post hearing evidence from DEARA was submitted with an amended emissions factor (0.08 emission factor utilised in the AQIA dated 16.4.2019 was amended to 0.108) to assist the parties with the assessment of the impact of ammonia emissions from the proposal on ecologically sensitive sites. The parties then had an opportunity to comment. The following information was provided:
 - The Department's current operational protocol for the assessment of air pollution;
 - Protected habitats with the potential to be impacted, their selection features, sensitivity to Nitrogen and appropriate Critical Loads (CLo) and Levels (CLe);
 - Current Nitrogen deposition at the protected sites;
 - Current Ammonia concentration at the protected sites and

- Process Contribution (PC) from the development to each protected habitat. (PC is calculated using SCAIL Agriculture and emission factor of 0.104kg/NH3/bird/year)

(a) The protected habitats within 7.5m zone of influence of the site at :

- Lough Neagh and Lough Beg SPA/Ramsar/ASSI;
- Leathemstown ASSI;
- Slievenacloy ASSI;
- Aghanadarragh ASSI and
- Belshaws Quarry ASSI.

(b) Non Designated Priority Habitats at;

- Ballymoneymore SLNCI which contains ancient woodland, which is subject to protection under PPS 2 Policy HN5 – Habitats, Species or Features of Natural Heritage Importance.

62. The final position from DEARA was that whilst the impact of the proposed development exceeds 1% (the significant threshold in the extant operational protocol) at a number of sites (other than the SLNCI), they would not object based on the potential impacts on the SPA /ASSI given the conservative nature of SCAIL and because the development complies with current policy.
63. However, the process contribution on the SLNCI is high and protection of these sites lies in policy. Due to the additional loading of N/NH3 on ecological features of the SLNCI there is the potential for an ecological effect.
64. In relation to SLNCIs, the protocol states ' if the project gives rise to a process contribution of less than 10% of the Cle/CLO for the site, it is screened out' and ' where the habitat is already experiencing nitrogen levels in excess of the Cle/CLO, the assessment methodology permits an additional loading of 50 % (critical loads/critical levels).
65. DEARAs position was that the SCAIL outputs show that the process arising from the proposal will contribute to 177% of the critical level. The Council were advised that this is above the 10% and 50% critical levels used as the significant threshold for SLNCIs in the protocol. Objectors also argue that as the proposal would result in additional loading on the SLNCI of 177 % above the sites critical level – this is 127% more than what is currently permitted under DEARAs protocol.
66. SCAIL typically gives outputs 3 -5 times higher than detailed modelling. If detailed modelling had been provided it was likely that the process contribution would fall to between 35.4% and 59% of the Cle. DEARA state that they would not normally object to a proposal (under the protocol) with a process contribution of less than 50%. However, in the absence of any detailed modelling, the Council are of the opinion that there is insufficient information provided to enable an assessment to be made as to whether the proposal would adversely affect the integrity of the SLNCI. Objectors argue that the ancient woodland is a rare habitat and the effect of the proposal on it has not been assessed beyond DEARAs basic numerical analysis. I would agree that the actual effects on the woodland is unknown – but it is clear that a loading of 127% above what is permitted under the current protocol suggests that effects could be extreme. I concur with the objectors that it cannot be concluded that the proposal complies with Policy NH5 of PPS 2.

67. In relation to the impact of roaming, Environmental Health also raised the following points:
- The submitted Air Quality Impact Assessment (AQIA) only assessed the impact on amenity to adjacent receptors based on the 16,000 poultry birds being retained within the poultry house;
 - The noise impact was not assessed as part of the application as there was sufficient separation distance between the poultry house and the adjacent receptors;
 - The Farm Management Plan (FMP) submitted with the application deals with how odour, noise, insects, feeding, litter and manure management, and vermin will be controlled to ensure there is no loss in amenity at the adjacent receptors. However, the FMP only details how these factors will be controlled within the poultry house.
68. Although the appellant argues that the term ' free – range ' is in the application description and the Council should have known such a roaming area was required, the onus is on the applicant to provide a full and robust planning application with the correct information. This is a full application and I would have expected the correct and detailed information to be provided especially given ammonia and odour generated with such a proposal. The Air Quality Impact Assessment, Farm Management Plan and Drainage Assessment only deals with activities within the building and are incorrect and incomplete. Environmental Health raise matters relating to potential impacts on the amenity of adjacent residential receptors and the need for additional screening reports in relation to potential odour and noise considerations. It is not for the Council or consultees to make assumptions on an application. The impact of the use of the pasture land associated with the proposed development has not been assessed and Environmental Health were unable to say that the adjacent receptors will not experience any loss in amenity particularly with respect to odour and noise.
69. In addition, details of drainage and location of the swale were not indicated. Neither was any details of the paddocks, stock proofing fencing and proposed buffers zones. I do not agree with the appellant that these can all be required by condition. These should have all been submitted with the application.
70. Due to the absence of critical and significant amounts of information in the appellant's submissions, I conclude that it is not possible to quantify the impact of the totality of the proposal on the environment. The onus is on the appellant to provide a full and robust submission. It has not been demonstrated that the proposal would not have an unacceptable adverse impact on, or damage to the integrity of the SLNCI and the environment.

Other Approvals

71. The appellant argues that the poultry unit is a standard design which has been approved on numerous occasions on stand alone sites in the rural area under the same policy provisions. A recent approval is cited LA05/2017/0202/F, and a list of 26 other examples in different local planning authorities. No detail has been provided by the appellant in relation to any of these approvals and from the appellants submission I am unable to assess if they establish a relevant precedent for the proposal. In fact, objectors state that approval LA05/2017/0202/F relates to a dwelling in Hillsborough. However, the Council

carried out an assessment of each of the approvals cited. This demonstrated that the approvals in general exhibited a combination of the following factors – the poultry unit was sited down a laneway and away from the public road; it was policy compliant in terms of integration and rural character; it was grouped with the main farm buildings; planning histories and some were extensions to existing sheds. Having reviewed all of the assessments, I have come to the view that none of these approvals are directly comparable to the appeal proposal.

72. Supporting submissions were received from The Ulster Farmers Union (UFU) and an MLA. The UFU submission referred to an approval for a poultry unit in Aghalee. Objectors reviewed the Council's planning report which noted that this proposal was appropriate to the site, was not highly visible from the public road and would integrate, in contrast to the proposal – this was undisputed. In any case, each proposal has to be considered on its own merits and the quoted approvals would not justify the appeal decision.
73. As I have previously noted, DEARA guidance does not advise against mixed poultry and cattle farming. There is nothing to prevent a poultry unit appropriately sited at the appellant's land at Belfast Road from complying with DAERA biosecurity advice. UFU states that it was agreed by the Council that it would be unsuitable to locate poultry sheds at a farm yard with an existing intensive livestock facility – this was disputed by the Council, who stated that they only acknowledged that a degree of separation for biosecurity reasons would be required.
74. The appellant claimed that the main farm group was unsuitable as it was close to the flight path of Whopper Swans, however no evidence was presented. I note that objectors also raise the issue that the appellant's Biodiversity checklist is incorrect in that it states that no hedgerow or mature trees will be removed. In terms of biodiversity, the loss of hedgerow can be compensated by way of additional planting and I consider that this is not fatal to the proposal; neither is the absence of a bat survey. Whilst I acknowledge the economic contribution that such a development would make to the agri - foods sector, this does not override its non-compliance with policy.
75. I conclude that all of the reasons for refusal and objector's concerns have been sustained to the extent specified and are determining. Accordingly, the appeal must fail.

This decision relates to the following drawings submitted with the application:

Pac Ref	Drawing	Council ref	Date received by Council
Pac 1	Location Plan @ 1:2500	01A	11 April 2018
Pac 2	Site Plan @ 1:500	02A	15 October 2018
Pac 3	Proposed Details @ various	03	16 January 2018
Pac 4	Road Haulage Route	05	16 January 2018

COMMISSIONER MANDY JONES

List of Appearances at Remote Hearing

Planning Authority:	Rachael Taylor (Lisburn & Castlereagh City Council) Rosaleen Heany (Lisburn & Castlereagh City Council) Richard Henry (Environmental Health) Malachy Kerney (Shared Environmental Services) Carol Lavery (Historic Environment Division) Keith Finnegan (Department of Agriculture, Environment & Rural Affairs)
Appellant:	David Steele (Appellant) Toirleach Gourley (Planning Consultant)
Objectors:	Dermot Monaghan (MBA Planning) Sarah McGarrity Mark McGarrity
Supporters:	Hannah Foster (Ulster Farmers Union)

List of Documents

Planning Authority:	'A' Statement of Case 'A1' Rebuttal
Appellant:	'B' Statement of Case 'B1' Rebuttal
Objectors:	'C' Statement of Case from MBA Planning Consultants for Mark and Sarah McGarrity, 6 Tullyrusk Road. 'C1' Rebuttal 'D' Statement of Case from C Jordan, 3 Tullyrusk Road, Dundrod. 'E' Statement of Case from K & E Brown, 30 Garlandstown Road, Glenavy 'E1' Rebuttal
Supporters:	'F' Statement of Case from Edwin Poots MLA 'G' Statement of Case from H Foster, Ulster Farmers Union
Post Hearing Evidence:	'H' 'Information to Inform the Assessment of Ammonia Emissions' from DEARA 'I' Response from T Gourley for the appellant 'J' Response from D Monaghan (MBA) for the McGarrity's 'K' Response from Lisburn & Castlereagh City Council



Planning Committee

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 6 - Appeal Decision in respect of planning application LA05/2020/0054/F

Background and Key Issues:

Background

1. An application for retention and conversion of existing building to stable block on lands adjacent to and east of 48 Knockbracken Drive Belfast was refused planning permission on 28 April 2020 as it had not been demonstrated why the development was essential in the rural location nor had it been demonstrated that the provision of non-mains sewerage would not create or add to a pollution problem.
2. An appeal was lodged with the Planning Appeals Commission on 24 August 2020. The procedure followed in this case was informal hearing on 18 October 2021. A decision dated 01 March 2022 indicated that the appeal was dismissed on the grounds that this was not an acceptable use in this part of the open countryside.

Key Issues

1. The main issues in the appeal were:
 - whether the proposed development was acceptable in principle in the open countryside; and
 - the arrangements for sewerage disposal.

2. The Commissioner at paragraph 11 of her report makes reference to the headnote of Policy OS 3 of PPS 8 and to the fact that it does not distinguish between recreational facilities for personal use and larger commercial provision. Reference is made to paragraph 5.33 of the justification and amplification which refers specifically to equestrian uses pointing out that the keeping and riding of horses for recreational purposes is increasingly popular in many parts of the countryside.
3. The Commissioner states that the Council's assessment of the development against Policy CTY 12 of PPS 21 – Agricultural and Forestry Development was not correct as was the claim that the proposal did not fall to be considered against any of the other types of non-residential development listed in Policy CTY 1.
4. That said, the first time the matter was raised was after the submission of the evidence and the officers did provide the Commissioner with a view in relation to Policy OS 3 at the hearing and this is reflected in the statement made at paragraph 24 of the decision report which notes that the Council's objection based on criteria (iii) of Policy OS 3 which requires that there is no adverse impact on visual amenity or the character of the local landscape. . Objections raised at the hearing in relation to criteria (iv) of Policy OS 3 which requires there to be no unacceptable impact on the amenities of people living nearby was also addressed. Both objections were sustained and this was consistent with the evidence set out by the Council in the statement of case albeit using a different policy context.
5. Notwithstanding the view expressed by the Commissioner that the proposal fell to be assessed against Policy OS 3, reference is made to paragraph 5.33 of the justification and amplification section which states that wherever possible, consideration should be given to the reuse of existing traditional or redundant farm buildings in association with such proposals.
6. With regard to the second refusal reason, paragraph 28 of the decision report notes that no details as to how sewerage would be disposed of were shown on the P1 Form and that there was no response to requests from the Council for this information to be provided. The Commissioner expressed the view that the provision of appropriate sewerage disposal could be required by the imposition of a condition and as such the second reason for refusal was not sustained.
7. The advice of the Commission in relation to the application of policy OS 3 for all applications for equestrian use is noted and will be given further consideration in subsequent application were it is clear the proposal is for recreational use only.
8. A partial award of cost was made against the Council as it was considered that the proposed development was required to be assessed against Policy OS 3 of PPS 8 and that the appellant in employing an agent to submit the appeal, prepare the Statement of Case and appear at the Hearing had incurred unnecessary expense in so far as the Council failed to assess the proposed development against Policy O3 of PPS 8.
9. The partial award of costs decision concludes that the unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense but is limited to the time taken to draft one part of a statement of case The Council's principal reason for refusal

was sustained and the cost decision is on a very narrow point. To date no actual costs have been submitted.

Recommendation:

It is recommended that the Committee notes the report and decision of the Commission in respect of the planning appeal - LA05/2020/0054/F.

Finance and Resource Implications:

A partial award of costs orders the Council to pay the appellant the costs of the appeal proceedings, limited to those costs incurred in employing an agent to assess the decision to refuse planning permission, lodge a planning appeal, prepare a Statement of Case and represent the Appellant at an Informal Hearing in so far as it relates to the assessment of the proposal against Policy OS 3 of PPS 8.

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

N/A

If yes, what was the outcome?:

Option 1 Screen out without mitigation	Yes/No	Option 2 Screen out with mitigation	Yes/No	Option 3 Screen in for a full EQIA	Yes/No
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Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

Has a Rural Needs Impact Assessment (RNIA) template been completed?

No

If no, please give explanation/rationale for why it was not considered necessary:

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)** – Appeal Decision Report - LA05/2020/0054/F**Appendix 6 (b)** – Award of Cost Decision against Appellant - LA05/2020/0054/F**Appendix 6 (c)** – Award of Cost Decision against Council - LA05/2020/0054/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

159

Appeal Reference:	2020/A0034
Appeal by:	Mr C King
Appeal against:	The refusal of full planning permission
Proposed Development:	Retention and conversion of existing building to stable block
Location:	Adjacent and to the east of 48 Knockbracken Drive, Belfast
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2020/0054/F
Procedure:	Informal Hearing on 18 October 2021
Decision by:	Commissioner McShane, dated 1 March 2022.

Decision

1. The appeal is dismissed.

Claim for Costs

2. A claim for costs was made by Mr C King against Lisburn and Castlereagh City Council. A claim for costs was made by Lisburn and Castlereagh City Council against Mr C King. These claims are the subject of separate decisions.

Reasons

3. The main issues in this appeal are:
 - whether the proposed development is acceptable in principle; and
 - the arrangements for sewerage disposal.
4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP), unless material considerations indicate otherwise. As the Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal in May 2017, the Carryduff Local Area Plan 1988-1993 operates as the LDP for the area. The draft Belfast Metropolitan Area Plan (dBMAP) remains a material consideration. The appeal site is located outside any designated settlement development limit identified in the plans. There are no plan policies relevant to this specific proposal.
5. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications and appeals. Paragraph 6.73 of the SPPS sets out the strategic policy for residential and non-residential development in the countryside that should be taken into account in the determination of planning applications. Paragraph 6.74 refers to other types of

development in the countryside, apart from those listed, that should be considered in line with the other policies set out within the SPPS.

6. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) is applicable to all planning applications for development located in the countryside. The SPPS identifies PPS 21 as a retained policy document.
7. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Planning permission will be granted for non-residential development in the countryside in specific circumstances. This includes agricultural and forestry development in accordance with Policy CTY 12 and outdoor sport and recreational uses in accordance with Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation (PPS 8).
8. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and meet other planning and environmental considerations.
9. The Council states that no evidence was submitted to support the need for the stables in association with an active farm / equestrian business and that there are no overriding reasons why the development is essential at this location. However, the Appellant makes no claim that the proposal relates to development on an active and established agricultural holding. Rather, the Appellant argues that as the proposed development is for a stable block, it falls to be considered under outdoor sport and recreational uses in accordance with PPS 8.
10. Policy OS 3 of PPS 8 states that the development of proposals for outdoor recreational use will be permitted in the countryside where eight specified criteria are met. The listed criteria include references to design and impact on visual and residential amenity and are akin to the relevant planning considerations set out in Paragraph 6.213 of the SPPS.
11. The headnote of Policy OS 3 does not distinguish between recreational facilities for personal use and larger commercial provision. Various types of outdoor recreational uses are referred to in the Justification and Amplification section. Paragraph 5.33 refers specifically to equestrian uses pointing out that the keeping and riding of horses for recreational purposes is increasingly popular in many parts of the countryside. It points out that outdoor participatory recreational uses *such as* (my emphasis) riding schools will normally be considered acceptable in principle, providing the scale of ancillary buildings is appropriate to the location and can be integrated into their landscape surroundings. While riding schools are specifically mentioned, the use of the term "such as" does not preclude private equestrian use. It is claimed that the stable block is for personal use by the Appellant's daughter, therefore the proposed development falls to be considered against Policy OS 3 of PPS 8. As such, the Council's assessment of the development against Policy CTY 12 is misplaced as is its claim that the proposal does not fall to be considered against any of the other types of non-residential development listed under Policy CTY 1.

12. The appeal site lies outside the settlement development limit in the open countryside. No.48, a large, detached dwelling and garage, which is not within the control of the Appellant, stands immediately adjacent to the south-west. A small building stands immediately adjacent to the north-east of the appeal site; there is no boundary between it and the appeal building. That building along with a field to the east are shown as being within the ownership of the Appellant.
13. The walls of the two-storey appeal building are finished in a mix of redbrick and render. Wooden pillars support an overhanging roof to the front elevation, creating a covered porch area. Windows and doors are uPVC double glazed; there are two sets of French doors. There are 4 no velux windows and a window on each gable elevation serving the first-floor accommodation.
14. As built, internal accommodation comprises an open plan kitchen/living area, two treatment rooms and a bathroom at ground floor level. First floor accommodation comprises an open plan kitchen/living area, two ensuite bedrooms and a store.
15. Gabion walls with fencing atop separate the appeal site from the field to the east while a stone wall separates it from the curtilage of No.48. An approximately 3m high red brick and stone wall, with integral vehicular and pedestrian solid wooden gates, marks the roadside boundary, a shared single track private laneway.
16. There is a lengthy planning history in respect of the appeal building, appeal site and adjoining land, which relates to various proposals for residential, business, storage and tourism development. There are also live enforcement notices. The appeal building itself is subject to a live enforcement notice, which was varied and upheld under Appeal Ref 2018/E0069. As per the Notice, Building B, which is the current appeal building, was required to be demolished within 60 days of the appeal decision, dated 15 October 2019.
17. The appeal proposal seeks to retain the existing unauthorised building for use as a stable block. It would have a slate roof and aluminium gutters and downpipes. Existing uPVC double glazed window and door openings would be variously widened or built up and new hardwood panel stable doors provided. One velux window would remain. As proposed, the building would comprise two stables, food store, tack room and washroom at ground floor level and a loft store at first floor level.
18. The Appellant argues that consideration and weight should be given to planning permission Y/2012/0024/F for "an extension of residential curtilage, retention of existing authorised garage and conversion to games room and the erection of stable block". The Appellant claims that it granted approval for stables of a broadly similar size, design and orientation on the same site in the same policy context. It is also claimed that that permission was implemented in part.
19. Of particular relevance in this respect is that under Ground (f) of Appeal Ref 2018/E0069, the Appellant argued that the complete removal of Building B, (the current appeal building) constituted over enforcement and that he should be permitted to alter it so that it would be in conformity with the stable block approved under Y/2012/0024/F. However, the appeal under Ground (f) failed.

20. The Commissioner's conclusion in this respect, set out in Paragraph 19 of his decision, are relevant to my consideration. This reads as follows:
- "In 2012, apparently without checking whether or not the appellant owned No.48, DOE Planning approved the retention of the garage [Building A] and its conversion to a games room and store, the erection of a stables block, and the extension of the curtilage of No.48 to encompass the appeal site [Y/2012/0024/F]. This latter element of the permission has not occurred. The appellant considered that the retention of the garage [Building A] as a discrete element represented the implementation of the planning consent. I disagree with this analysis. With regard to building B, an operational element of the consent, the construction was subject to a condition that development should commence within 5 years of the date of the consent, which was granted on 3rd July 2012. The building that was erected bore little resemblance to the approved stables. It has a larger footprint, a completely different internal layout, a different external appearance, and was used for business and residential purposes. The consent for the stables was not timeously implemented and there is thus no fall-back position, whereby the appellant could alter the building to resemble that approved".
21. No evidence has been submitted that would persuade me to disagree with the findings of the Commissioner with respect Building B (the current appeal building). The 2012 permission was not implemented, and it has lapsed. There is no valid fall-back alternative for the Appellant.
22. Notwithstanding this, the proposal falls to be assessed against Policy OS 3 of PPS 8. Paragraph 5.33 of the Justification and Amplification section states that wherever possible, consideration should be given to the reuse of existing traditional or redundant farm buildings in association with such proposals. There is no claim that the appeal building falls within this category.
23. The parties dispute Criteria (iii) and (iv). Criterion (iii) requires that 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. Criterion (iv) requires that there is no unacceptable impact on the amenities of people living nearby.
24. Notwithstanding that the rear elevation of the appeal building is set into the hillside, its location adjacent to the laneway means that it would have an adverse impact on visual amenity. This would be exacerbated by the removal of the unacceptable 3m high stone and redbrick wall, with integral solid wooden vehicular and pedestrian entrance gates, which is required by a live Enforcement Notice. The stand-alone appeal building would not read as a cluster but rather as a build-up of development and it would have an adverse impact on the character of the local landscape. The Council's objection based upon Criterion (iii) of Policy OS 3 is sustained.
25. The proposed stable block would be located 8m from the boundary wall with an adjacent unrelated property (No.48). The separation distance between the rear elevation of No.48 and the front elevation of the stable block, which would stand at a higher level, would be approximately 20m. The Appellant indicated that a condition requiring the area immediately adjacent to the east of the appeal site to

be used as a paddock could be imposed. That area is subject to a live enforcement notice requiring the cessation of the use of the land for storage of building materials, the removal of all prefabricated storage structures and containers, the removal of hardcore surfaces and restoration of the land by laying topsoil and sowing grass seed and the closure of the access and removal of two metal gates. However, even in the event that this area could be used as a paddock, the stabling of animals within such close proximity to an unrelated property, would have an unacceptable negative impact on the residential amenity of the existing residents. The objections based upon Criterion iv of Policy OS 3 are sustained

26. The proposed development fails to comply with Policy OS 3. No evidence was submitted to persuade me that there are overriding reasons why the development is essential at this location. Accordingly, the Council has sustained its first reason for refusal based upon Policy CTY 1 of PPS 21 and this is determining.
27. Policy CTY 16 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. Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made. Paragraph 5.99 of the Justification and Amplification section points out that the Council has powers to request applicants to supply such additional information on the proposed development as is considered necessary to allow proper determination.
28. No details were shown on the P1 form as to how sewerage would be disposed of and there was no response to the Council's request for such information. Notwithstanding that the proposed development is for stables, the proposed ground floor plan shows a "washroom" in the same location as the current bathroom. The Appellant points out that the previous unauthorised use of the building utilised a septic tank on the site. The provision of appropriate sewerage disposal could be required by the imposition of a condition. Accordingly, the Council has failed to sustain its second reason for refusal based upon Policy CTY 16 of PPS 21.
29. The appeal proposal fails to comply with Policy CTY 1 of PPS 21 and Policy OS 3 of PPS 8. Accordingly, the appeal must fail.

This decision is based on the following drawings:-

- LPA Drwg No.01: Site Location Map (Scale 1:1250)
- LPA Drwg No.02: Proposed Plan and Elevations (Scale 1:100 @A3, 1:50 @A1)
- LPA Drwg No.03: Existing Plans and Elevations (Scale 1:100 @A3, 1:50 @A1) - Unauthorised

COMMISSIONER MCSHANE

List of Appearances

Planning Authority:- Ms Ferguson
Mr Burns
Mr P Savage (Enforcement)
(Lisburn and Castlereagh City Council)

Appellant:- Mr T Wilson (Tom Wilson Planning)

List of Documents

Planning Authority:- "LPA 1" Statement of Case and Appendices

Appellant:- "APP 1" Statement of Case



Costs Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
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165

Appeal Reference:	2020/A0034
Appeal against:	The refusal of full planning permission for the retention and conversion of existing building to stable block
Location:	Adjacent to and east of 48 Knockbracken Drive, Belfast
Claim by:	Lisburn & Castlereagh City Council
Claim against:	Mr C King for a full award of costs
Decision by:	Commissioner McShane, dated 1 March 2022.

Decision

1. An award of costs is denied.

Reasons

2. Paragraph 12 of the Commission's Costs Awards Guidance (the Guidance) states that the Commission will normally award costs only where all four stated conditions, set out below, are met:
 - The claim relates to a relevant type of appeal; and
 - The claim is timely; and
 - The party against whom the award is sought has acted unreasonably; and
 - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.
3. The claim relates to an appeal submitted under Section 205 of the Planning Act (Northern Ireland) 2011. The claim relates to a relevant type of appeal. The first condition is met.
4. Paragraph 20 of the Guidance states that a claim for costs will not be considered unless it is timely and points out that the deadlines set out will be strictly applied, unless a claimant can show compelling reasons for missing a deadline. With respect to a Hearing, the Guidance states that any costs claim should be made as soon as reasonably practicable after the behaviour that triggered the claim. It specifically refers to where it is being argued that another party was responsible for causing an unnecessary appeal. In such an instance, the costs claim should accompany the claiming party's statement of case. While the Claimant argues that the Respondent caused an unnecessary appeal to be held, its costs claim was not submitted with its statement of case. The second condition is not met.
5. The Commission's Costs Award Guidance sets out some examples of behaviours that may be found to be unreasonable (Paragraph 14). In deciding whether a party has acted unreasonably, the Commission will in accordance with case law apply the ordinary, everyday meaning of the word "unreasonable" rather than the

narrower concept of perverse or irrational. Unreasonable behaviour can be substantive (relating to the essence of a party's case) or procedural (relating to how a party pursued its case).

6. Disagreement is an expected feature of the appeal process and is not inherently unreasonable. There is a long and complex planning history on the appeal site. The appeal building itself has been assessed against numerous policies. Appeal Ref 2018/E0069 concluded that the Appellant did not a fall-back alternative based upon the planning permission granted under Y/2012/0024/F. The Appellant's rehearsal of the same arguments to again claim that there is a fall-back alternative constitutes unreasonable behaviour.
7. Notwithstanding this, the Respondent's decision to lodge an appeal and challenge the decision is reasonable, given the Claimant's failure to assess the proposed development against Policy OS 3 of Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation (PPS8). The third condition is not met.
8. The Claimant is required to assess development proposals against the correct policy context during the decision-making process. Its failure to do this caused the appeal to be held. The Claimant has not incurred unnecessary or wasted expense in this respect. The fourth condition is not met.
9. An award of costs is denied.

COMMISSIONER MCSHANE

LIST OF DOCUMENTS:

Lisburn and Castlereagh City Council:-

Rebuttal Statement



Costs Decision

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169

Appeal Reference:	2020/A0034
Appeal against:	The refusal of full planning permission for the retention and conversion of existing building to stable block
Location:	Adjacent to and east of 48 Knockbracken Drive, Belfast
Claim by:	Mr C King
Claim against:	Lisburn & Castlereagh City Council for a full award of costs
Decision by:	Commissioner McShane, dated 1 March 2022.

Decision

1. A partial award of costs is made in the terms set out below.

Reasons

2. Paragraph 12 of the Commission's Costs Awards Guidance states that the Commission will normally award costs only where all four stated conditions, set out below, are met:
 - The claim relates to a relevant type of appeal; and
 - The claim is timely; and
 - The party against whom the award is sought has acted unreasonably; and
 - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.
3. The Claimant submitted his costs award claim in respect of an appeal submitted under Section 205 of the Planning Act (Northern Ireland) 2011. The claim is confined to the Respondent's behaviour in the decision-making process and was submitted with the Claimant's statement of case. Accordingly, the first two conditions are met.
4. It is claimed that the *Respondent behaved unreasonably by failure to properly consider the appropriate planning policies and failure to give any consideration or weight to the planning history.* It is claimed that *this caused the Claimant to incur unnecessary or wasted expense in employing an agent to assess the decision to refuse planning permission, lodge a planning appeal, prepare a Statement of Case and represent the Appellant at an Informal Hearing.*
5. The Commission's Costs Award Guidance sets out some examples of behaviours that may be found to be unreasonable (Paragraph 14). In deciding whether a party has acted unreasonably, the Commission will in accordance with case law apply the ordinary, everyday meaning of the word "unreasonable" rather than the narrower concept of perverse or irrational. Unreasonable behaviour can be

substantive (relating to the essence of a party's case) or procedural (relating to how a party pursued its case).

6. Disagreement is an expected feature of the appeal process and is not inherently unreasonable. The matter to be determined in this instance is whether there has been a failure on the part of the Respondent to provide credible evidence to substantiate the reasons for refusal.
7. The Council's decision letter states, under the first reason for refusal, that the proposal is contrary to the SPPS and Policy CTY 1 of PPS 21. The Council's Statement of Case refers to the failure of the proposal to meet Policy CTY 12 of PPS 21, which states that planning permission will be granted for development on an active and established agricultural holding. However, no such claim was made by the Appellant.
8. The proposed development is for a stable block. The policy context against which to assess such a proposal is Policy OS 3 of Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation (PPS 8). The Council's failure to assess the appeal proposal against this policy constitutes unreasonable behaviour. In this respect, the third stated condition required for an award of costs to be made has been met.
9. The Appellant also claims that there has been no consideration of, or weight attached to a planning permission under Y/2012/0024/F, which granted approval for "an extension of residential curtilage, retention of existing authorised garage and conversion to games room and the erection of stable block" on a site that includes the appeal site and additional land immediately to the north.
10. The Case Officer's report and the Council's Statement of case specifically refer to an enforcement appeal (2018/E0069), which included detailed consideration of the appeal building (referred to under that reference as Building B). The Council took the 2012 approval and the Commissioner's decision in relation to Appeal 2018/E0069 into account and accorded it weight in its decision-making process. In this context, there is no unreasonable behaviour.
11. It was established under 2018/E0069 that there was no fall-back alternative for the Appellant. However, notwithstanding this, the proposed development is required to be assessed against Policy OS 3 of PPS 8. The Claimant in employing an agent to submit the appeal, prepare the Statement of Case and appear at the Hearing has incurred unnecessary expense in so far as the Council failed to assess the proposed development against Policy OS 3 of PPS 8. In this respect, the fourth stated condition required for an award of costs to be made has been met.
12. Accordingly, a partial award of costs is made in the terms set out below.

Order

It is hereby ordered that Lisburn and Castlereagh City Council shall pay to Mr C King the costs of the appeal proceedings, limited to those costs incurred in employing an agent to assess the decision to refuse planning permission, lodge a planning appeal,

prepare a Statement of Case and represent the Appellant at an Informal Hearing in so far as it relates to the assessment of the proposal against Policy OS 3 of PPS 8.

On receipt of this Order Mr C King may submit details of those costs to Lisburn and Castlereagh City Council with a view to reaching agreement on the amount. If the parties are unable to agree, Mr C King may refer the matter to the Taxing Master of the High Court for a detailed assessment.

COMMISSIONER MCSHANE

LIST OF DOCUMENTS:

Claimant: Statement of Case
(Tom Wilson Planning on behalf of Mr C King)

Respondent: Rebuttal
(Lisburn and Castlereagh City Council)



Planning Committee

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 7 – End of Emergency Period – The Planning (Development Management)(Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020

Background and Key Issues:

Background

1. The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020 temporarily removed the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process associated with planning applications for major development.
2. This applied where a proposal of application notice, which triggers the pre-application community consultation process is given to a council/the Department before, or during the defined emergency period and was first introduced on 01 May 2020 and was due to end on 30 September 2021. This period was then extended to 31 March 2022.

Key Issues

1. Correspondence received from the Chief Planner & Director of Regional Planning dated 15 March 2022 advises that the emergency end date of 31 March 2022 is fast approaching and that there will be no further extension to the temporary modifications.

2. As such, the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process will be required again from this date.
3. The correspondence explains that it has always been the Departments stated position that it would not extend the emergency period any longer than absolutely necessary and that taking account of the changes to the public health advice whereby all remaining Covid-19 restrictions are now removed, the Department considers it the right time for pre-application community consultation public events to again be facilitated.
4. The Department has indicated that it is keen for the innovative solutions that emerged during the pandemic to continue to ensure community engagement is carried out in a meaningful way.
5. It is not indicated in the letter however that the Department will update its advice note in respect of this. It is proposed to raise this with the Chief Planner at the next meeting of the strategic planning group.

Recommendation:

It is recommended that Members note the correspondence from the Chief Planner & Director of Regional Planning in respect of the End of Emergency Period.

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

N/A

If yes, what was the outcome?:

Option 1

Screen out without mitigation

Yes/No

Option 2

Screen out with mitigation

Yes/No

Option 3

Screen in for a full EQIA

Yes/No

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:

N/A

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 – Letter from the Chief Planner & Director of Regional Planning dated 15 March 2022

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

Regional Planning Directorate



To: Council Chief Executives

Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB
Tel: 0300 200 7830

Email: angus.kerr@infrastructure-ni.gov.uk
julie.maroadi@infrastructure-ni.gov.uk

Your reference:
Our reference:

15 March 2022

Dear Colleagues

END OF THE EMERGENCY PERIOD - THE PLANNING (DEVELOPMENT MANAGEMENT) (TEMPORARY MODIFICATIONS) (CORONAVIRUS) REGULATIONS (NORTHERN IRELAND) 2020

As you will be aware, the Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020 temporarily removed the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process associated with planning applications for major development. This applied where a proposal of application notice, which triggers the pre-application community consultation process, is given to a council / the Department before, or during, the defined emergency period. This was introduced from 01 May 2020 to 30 September 2020, but has been subsequently extended three times, initially to 31 March 2021, then to 30 September 2021 and finally to 31 March 2022.

As the emergency period end date of 31 March 2022 is fast approaching the Department is now advising that there will be no further extension. This means that where a proposal of application notice, which triggers the pre-application community consultation process, is given to a council / the Department after 31 March 2022, the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process associated with planning applications for major development will again be required.

It has always been the Department's stated position that it would not extend the emergency period any longer than absolutely necessary. Taking account of the changes to the public health advice and Minister Swann's announcement of the removal of all

remaining Covid-19 restrictions, the Department considers it the right time for pre-application community consultation public events to be facilitated.

I know that innovative solutions to ensure community engagement have emerged during the pandemic and the Department is keen that these should continue. Flowing from the recently published Review of the Implementation of the Planning Act (NI) 2011 and recommendations which will emerge from the work of the Planning Engagement Partnership the Department is considering how we can take this forward as quickly as possible.

In the meantime applicants can voluntarily hold an on-line/electronic pre-application public engagement event and planning authorities can require that such an event is held.

I hope this is helpful.

Yours sincerely



ANGUS KERR
Chief Planner &
Director of Regional Planning



Planning Committee

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 8 - Notification by telecommunication operator(s) of intention to utilise permitted development rights

Background and Key Issues:

Background

1. The Council is notified by two different telecommunication operators of their intention to utilise permitted development rights at a total of 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 (Northern Ireland) 2015.

Key Issues

1. The notification advises the Council of the location of the apparatus where they intend to utilise permitted development rights. Detail is also provided in relation to the nature and scale of the works proposed. A list of the recent notification(s) is provided.
2. No comment is provided on the requirement for planning permission for the equipment listed. This letter is also referred to the enforcement section of the Council. They will write separately to the operator should it be considered that the requirements of the Regulations cannot be met.

Recommendation:

It is recommended that Members note the detail of the notifications specific to the seven sites and that hard copies are available to view at the Council Offices at Lagan Valley Island.

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

N/A

If yes, what was the outcome?:

Option 1 Screen out without mitigation	Yes/No	Option 2 Screen out with mitigation	Yes/No	Option 3 Screen in for a full EQIA	Yes/No
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Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

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

N/A

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 – Notifications from an Operator in respect of intention to utilise permitted development rights

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights April 2022 Planning Committee

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	Applicant/Agents	Operator	Location	Summary of details	Date received
1	Fibrus	Fibrus	Crumlin Road, at the junction with the Portmore Road, Lower Ballinderry, BT28 2BF	Proposed tele-communication cabinet	01/03/2022
2	Taylor Patterson	Taylor Patterson	Carnreagh Road Hillsborough	Proposed mobile phone installation upgrade	08/03/2022



Planning Committee

4 April 2022

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 9 - EPLANI Webinars - Recent Planning and Environmental Judicial Review Decisions (Online Event)

Background and Key Issues:

Background

1. The Council is notified by NILGA about an EPLANI Webinar which offers all persons with an interest in the operation of the planning system an update on recent Planning and Environmental Judicial Review Decisions. The Honourable Mr Justice Scofield is the key speaker and the webinar will take place on Thursday 28 April 2022 at 3.30 pm.

Key Issues

1. The Honourable Mr Justice Scofield has acted previously as QC in a number of high profile judicial reviews including Buick in the Court of Appeal and as Senior Council to the Renewable Heat Inquiry.
2. Since his appointment to the bench in 2020, he has sat primarily in the judicial review Court dealing with the majority of planning and environmental judicial review challenges including a number which this Council has an interest in.
3. Members should note that this is a free online event however booking is essential. Should Members wish to register and interest in this webinar please visit:

https://us02web.zoom.us/webinar/register/WN_cdoD3I0hSNuqt6Rb28-xzQ

Recommendation:

It is recommended that Members note the date for the EPLANI Event - Recent Planning and Environmental Judicial Review Decisions and the opportunity this event represents for continued learning

Finance and Resource Implications:

The online event is free and as such, 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

N/A

If yes, what was the outcome?:

Option 1		Option 2		Option 3	
Screen out without mitigation	Yes/No	Screen out with mitigation	Yes/No	Screen in for a full EQIA	Yes/No

Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

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

N/A

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:

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

If Yes, please insert date: