

**ITEM 19****Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Meeting of Members of the Council
Date of Meeting	25 August 2021
Responsible Director	Director of Regeneration, Development and Planning
Responsible Head of Service	Head of Regeneration
Date of Report	20 August 2021
File Reference	REG66/160135/RDP77
Legislation	
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Portaferry Ropewalk Improvement Scheme
Attachments	

Members will be aware that the Regeneration Unit has recommended to the Council to undertake a £475,000 improvement scheme which will extend the existing car park at the Ropewalk, Portaferry while at the same time refurbishing an existing amenity block and provide a footpath and improved lighting amongst other benefits.

At the July 2021 meeting of Members of the Council an alternative proposal was presented, as Option 2, which sought to present a revised scheme which would in effect result in the loss of 3 trees compared to the 14 trees being proposed in the current option, Option 1. This amended proposal was formulated in light of the concerns raised by third parties. At this meeting of the Members of the Council, it was agreed that the Regeneration Unit would undertake further design work and cost Option 2 in order for Council to fully assess the viability of it. The Regeneration Unit continues to work diligently to progress this, but the process is still ongoing and requires another few weeks to complete. It is anticipated that the findings of that process will be presented to Council at its meeting on the 29<sup>th</sup> September 2021, for a final decision as to which proposal that they wish to proceed with.

Given the delay, the Chief Executive wrote to the Department of Agriculture, Environment and Rural Affairs ("DAERA"), who are administering the grant funding,

requesting an extension of time to avail of the grant funding. DAERA have confirmed that due to the importance of the project the Department was content to give a two month extension until the end of May 2022, which affords the Regeneration Unit the extra time required to present both the original proposal and the alternative proposal to the Members for consideration.

As Members will be aware the Regeneration Unit has sought an EIA screening determination from the Planning Department of the original proposal. The outcome of that process is awaited and it is being conducted by the Planning Department independently by way of its delegated powers. Further, the alternative proposal, Option 2, will also have to go through the same screening process as it is a different development proposal for the purposes of permitted development and the requirement to carry out an EIA screening determination.

The Chief Planner (DfI) has on 19<sup>th</sup> August 2021, brought to the Council's attention that under Regulation 10 of the Planning General Regulations (NI) 2015, that if any works are to be carried out to any trees on land owned by the Council and within the conservation area, that an application for consent to undertake such works must be sought from the Department.

Regulation 10 states that *"Where an interested council is seeking a consent of a council under Parts 3, 4 (except chapters 1 and 2 of that Part) or 5 (except sections 157 to 163) of the 2011 Act other than planning permission to develop land or a consent to display an advertisement pursuant to regulations made under section 130 and that council is itself the council by whom such consent would be given, it shall make an application for such consent to the Department."*

The Planning Department had been working under section 127 (Part 3) of the Planning Act which relates to 'Preservation of trees in conservation areas', and which specifies that it is a defence to prove that a person who wished to carry out works to such trees had served notice of that intention to do the act in question (with sufficient particulars to identify the tree) on the Council in whose district the tree is situated. The Planning Department considered that it followed due process in this regard given that one Service Unit of the Council had served notice on the Planning Department and it was assessed by the Tree Officer accordingly and signed off by group, and the consents issued in good faith. Unfortunately, the Department did not, until now, bring this Regulation to our attention despite previous correspondence with them regarding the proposed scheme.

The Regeneration Unit will proceed to seek the requisite consent from the Department. In order to ensure full visibility, it should be noted that Option 1 requires the removal of 14 trees, the 13 trees as outlined in last month's Council report plus T045 – a B1 Sycamore 16m height, mature life span, multi-stemmed tree with minor decay pockets in the crown, main stem and fork.

As previously explained, it is envisaged that the Regeneration Unit will be bringing this matter back to Members for consideration at the Council meeting to be held on 29<sup>th</sup> September 2021 at which it is envisaged that the economic viability of the alternative proposal and the outcome of the EIA screening process will be presented for consideration. If the EIA screening determination is positive a planning application will

Unclassified

be required. If the EIA screening decision is negative, then the Regeneration Unit will seek to rely upon the permitted development right.

### **RECOMMENDATION**

It is recommended that Council notes this update report.