

ARDS AND NORTH DOWN BOROUGH COUNCIL

28 October 2025

Dear Sir/Madam

You are hereby invited to attend a hybrid meeting (in person and via Zoom) of the Planning Committee of Ards and North Down Borough Council which will be held in the Council Chamber, 2 Church Street, Newtownards, on **Tuesday 04 November 2025** commencing at **7.00pm**.

Yours faithfully

Michael Steele
Acting Chief Executive
Ards and North Down Borough Council

A G E N D A

- 1. Apologies
- 2. Declarations of Interest
- 3. Matters arising from the Planning Committee minutes of 7 October 2025 (Copy attached)
- 4. Planning Applications (Reports attached)

4.1	LA06/2023/2012/F	Dwelling (Change of House Type to approval W/2011/0015/RM) Land between 3 and 4 Sheridan Drive, Helen’s Bay Deferred from previous meeting with ‘Minded to Refuse’ motion
4.2	LA06/2018/1328/F	Residential development of 27no. units (11no. detached and 16no. apartments) includes upgrade of existing access at Whinney Hill, landscaping and associated site works Lands at No. 5 Woodlands, North of Whinney Hill, SE and NE of No. 3-6 The Cottages, Whinney Hill, and SE of Nos 1 and 3 Woodlands Avenue, Holywood
4.3	LA06/2024/0116/F	20no. dwellings – 16no. semi-detached and 4no. detached – adj. to and accessed via Rockfield Park

		Lands immediately to the east of 31 Rockfield Park and to the rear of Nos. 9-31 Rockfield Park, Portaferry
4.4	LA06/2024/0242/F	Proposed extension and alteration of car park including demolition of no. 23 Church Hill Park The Spar, 2 Saintfield Road, Ballygowan
4.5	LA06/2025/0454/F	Temporary Double Classroom Modular Building, permanent security fencing and associated site works (retrospective) Victoria Primary School, 2 Victoria Road, Ballyhalbert
4.6	LA06/2025/0538/F	Single storey extension to front and rear of clubhouse and a first floor extension to include a new viewing gallery and balcony Bryansburn Rangers Football Club, Ballywooley Playing Fields, Crawfordsburn Road, Bangor

Reports for Approval

5. Draft Response to DFI Consultation on Planning Fees (report attached)

Reports for Noting

6. Update on Planning Appeals (report attached)

Correspondence

7. DfI to Chief Executives letter of 21 October 2025 on Revisions to the Regional Policy Framework for the Two-Tier Planning System (copy attached)

MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)

Councillor Cathcart	Councillor McCollum
Alderman Graham	Alderman McDowell
Councillor Harbinson	Alderman McIlveen
Councillor Hennessy	Councillor McKee
Councillor Kendall	Councillor Morgan
Councillor Kerr	Councillor Smart
Councillor McAlpine	Alderman Smith
Councillor McClean (Chair)	Councillor Wray (Vice Chair)

ITEM 8.2**3****ARDS AND NORTH DOWN BOROUGH COUNCIL**

A hybrid meeting (in person and via Zoom) of the Planning Committee was held in the Council Chamber, Church Street, Newtownards on Tuesday 7th October 2025 at 7.00 pm.

PRESENT:

In the Chair: Councillor McClean

Aldermen: Graham
McAlpine
McDowell
McIlveen
Smith

Councillors:	Cathcart (Zoom)	Kerr (7:02 pm)
	McCollum	McKee (Zoom)
	Harbinson	Smart
	Hennessy	Wray
	Morgan	

Officers: Director of Place and Prosperity (B Dorrian), Head of Planning (A McCullough), Principal Planners (G Kerr and C Barker), and Democratic Services Officer (S McCrea)

1. APOLOGIES

No apologies had been received.

2. DECLARATIONS OF INTEREST

Councillor Cathcart advised that, though not a Declaration of Interest, as he had not been present for previous consideration of Items 4.1 and 4.2, he would excuse himself from discussions on both points. He also drew attention to the date regarding Item 4.3 highlighting that the correct date referred to the item having been on the July Committee agenda, but had not been heard.

Councillor Smart declared an interest in Item 4.1

Councillor Hennessy declared an interest in Item 4.2.

3. MATTERS ARISING FROM THE PLANNING COMMITTEE MINUTES OF 2ND SEPTEMBER 2025

PREVIOUSLY CIRCULATED:- Copy of the above.

AGREED, that the minutes be noted.

[Councillor Smart left the meeting due to a declaration of interest in Item 4.1]

4. PLANNING APPLICATIONS

4.1 LA06/2022/0708/O – Lands to the South and adjoining No. 90 Crawfordsburn Road, Newtownards, BT23 4UH, and to the West of No's 71, 83, 85, 87, 89, 91 and 97 Crawfordsburn Road, (Appendices I – IV)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Newtownards

Committee Interest: Application with 6 or more representations contrary to officer's recommendation

Proposal: Erection of 5 no. detached dwellings with associated landscaping, internal road layout and access provision.

Site Location: Lands to the South and adjoining No. 90 Crawfordsburn Road, Newtownards, BT23 4UH and to the West of No's 71, 85, 85, 87, 89, 91 and 97 Crawfordsburn Road

Recommendation: Members minded to refuse planning permission (August 2025)

The Principal Planning Officer (C Barker) introduced item 4.1, an application for the construction of five detached homes, including landscaping, internal roads, and access. The proposal was previously presented to the Committee on 5 August 2025, where Members indicated they were minded to refuse it. This led to the drafting of refusal reasons, which were reviewed by the Council's legal advisors. The advisors confirmed the reasons were legally sound and robust, though they noted that the applicant could still appeal the decision to the Planning Appeals Commission (PAC). If an appeal was made, the PAC would assess all relevant matters to determine whether the refusal could be upheld.

Alderman McIlveen questioned the process given there was a speaker in terms of the item having been deferred with a 'minded to' motion. The Chair clarified the situation advising that the objector was being allocated three minutes to address in line with the Protocol for deferred matters.

With no questions put forth to the Planning Officer, the Chair invited Ms Claire Miller who was speaking against the application.

Claire Miller spoke in opposition to the planning application, emphasising that the proposed development site had been carved out of a larger parcel of land known as Tullynagardy Wood. She highlighted that the land included ancient and long established woodland including an area of wet woodland, a priority habitat, and although it was not zoned for a specific use, it qualified as open space due to its ecological and visual significance.

She argued that the site's separation from the wider woodland context did not make it a standalone parcel, and its development would have led to the loss of valuable open space. Ms Miller referenced planning policy (PPS8 - OS1), which protected

open spaces even those without public access, noting that the woodland contributed to the local landscape and residential character.

She criticised the initial officer's report recommending approval, stating it contradicted policy and overlooked the ecological importance of the site. She raised concerns about the hydrological impact of construction, particularly how hard surfaces could disrupt natural drainage and damage the wet woodland habitat. Ms Miller concluded by referencing a previous planning decision at Craigavon Lakes that had been quashed by the Courts due to reliance on incomplete information, warning that similar oversights could have applied in this case.

As there were no questions from Members, Ms Miller returned to the public gallery at 7:09pm.

Proposed by Alderman McIlveen, seconded by Alderman McDowell, that the recommendation not be adopted, and that planning permission be refused for the reasons outlined.

Alderman McIlveen outlined his reasons for opposing the planning application, stating it conflicted with paragraph 6.201 of the Strategic Planning Policy Statement (SPPS) for Northern Ireland and Policy OS1 of Planning Policy Statement 8 (PPS8), as it would result in the loss of open space without meeting any of the policy exceptions. He also argued that the proposal contradicted paragraph 6.192 of the SPPS and Policy NH5 of PPS2 (Natural Heritage), as it threatened long-established woodland without demonstrating exceptional circumstances that would justify the loss of valuable habitat.

He emphasised that the Planning Committee operated within a plan-led system and that decisions were based on planning policy and material considerations, not political affiliations. He noted that the Committee had previously reviewed a comprehensive planning officer report, heard from both applicants and objectors, and examined extensive documentation on the Planning Portal. The majority of Members had disagreed with the officer's recommendation to approve the application and had instead decided that they were minded to refuse planning permission.

Alderman McIlveen thanked fellow Committee Members for their input in shaping the refusal grounds, which legal advisors later confirmed were robust and policy-based. He stressed that the site, although not formally designated, qualified as open space under Policy OS1 and fulfilled several functions outlined in Annex A3 of PPS8. He also referenced concerns raised by the Northern Ireland Environment Agency (NIEA) and concluded that the proposed development would likely damage the woodland. Therefore, he believed planning permission should be refused.

As seconder, Alderman McDowell expressed his continued support for the Committee's proposal to refuse planning permission. He recalled that during the initial meeting, the Committee had thoroughly considered both sides of the argument, listened to depositions, and reached a unanimous decision to refuse the application. He stated that nothing presented since had changed his view. He

endorsed the motion to refuse, noting that Alderman McIlveen had clearly outlined strong planning reasons for rejecting the application.

RESOLVED, on the proposal of Alderman McIlveen, seconded by Alderman McDowell, that the recommendation be adopted.

[Councillor Smart was returned to the chamber at 7.17pm whilst Councillor Hennessy left due to a declaration of interest in Item 4.2]

4.2 LA06/2025/0137/F – 2 Brianville Drive, Bangor, BT19 6EG
(Appendices V & VI)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Bangor East & Donaghadee

Committee Interest: A local development application called-in to Planning Committee by Alderman Graham

Proposal: 2 Brianville Drive, Bangor, BT19 6EG

Site Location: 2 Brianville Drive, Bangor

Recommendation: Refuse retrospective planning permission

The Planning Officer (C Barker) advised that Item 4.2 concerned a single-storey wooden structure intended as a home gym/workshop at the front of 2 Brianville Drive, Bangor. The application had previously been deferred by the Committee on 5 August to seek legal advice regarding the possibility of applying a temporary time condition.

Officers had recommended refusal, citing that the proposal conflicted with paragraph 4.12 of the Strategic Planning Policy Statement (SPPS) for Northern Ireland and Policy EXT1 Criterion A of the addendum to PPS7. The development was deemed visually intrusive and overly dominant due to its scale and position forward of the established building line, negatively impacting the character of the area.

Legal advice confirmed that while a temporary time condition could be applied, the proposal first needed to be acceptable in principle. The Planning Officer concluded that the development was not acceptable in principle and recommended refusal of retrospective planning permission, based on the previously stated reasons in the case officer report.

The Chair invited questions from Members for the Planning Officer.

Proposed by Alderman Graham, seconded by Alderman McIlveen, that the recommendation to refuse be rejected and, that temporary planning permission be granted for five years, conditioned for dismantlement should current resident(s) vacate premises.

Alderman Graham recalled that at the August meeting, he had proposed granting planning permission for the temporary gym structure at 2 Brianville Drive. He suggested conditions be attached, including maintaining the hedge that screened the

building from view. Although the Planning Officer had noted concerns about the hedge's sustainability, Alderman Graham believed those could be resolved.

He emphasised the importance of showing maximum sympathy due to the exceptional physical needs of the resident(s), and proposed that the building's rustic, wooden appearance be preserved as a condition. While he had initially proposed full planning permission, he later supported granting temporary permission, following a suggestion from Alderman McIlveen.

Alderman Graham acknowledged concerns about setting a precedent but argued that any future cases would need to meet similar criteria—namely, having a screening hedge and comparable physical needs. He concluded by urging the Committee to be as accommodating as possible and reiterated his proposal for temporary approval.

Alderman McIlveen, as seconder, expressed mixed feelings about the legal advice received, stating he was pleased it confirmed a time limit could be applied as a condition, but had reservations overall. He noted two key points from the previous meeting: first, that the structure in question was not a permanent bricks-and-mortar building but rather a large wooden shed; and second, that a genuine need had been identified, particularly in relation to disability.

He acknowledged discussions about relocating the structure elsewhere on the site but felt that was not a feasible option. Alderman McIlveen reflected on the challenges of retrospective applications and suggested that, had the proposal come before the Committee initially, the outcome might have differed.

He emphasised that planning policy allowed for flexibility when disability was a factor and believed a temporary grant of permission was a creative and compassionate solution. He also highlighted the financial and emotional burden that dismantling the structure would place on a family that was already managing in difficult circumstances. He concluded by supporting the proposal and requested clarification on the proposed duration of the temporary permission.

After receiving advice from the Head of Planning, Alderman Graham agreed that a five-year temporary planning permission time limit be applied, a suggestion that Alderman McIlveen as seconder agreed with.

Alderman Smith referred to the legal advice provided, noting that if the applicant was to seek permanent planning permission in the future, the current granting of temporary permission would be considered a material factor. He questioned whether that interpretation was correct and asked the Chair and officers if there was any way to mitigate that potential influence in future applications.

The Planning Officer explained that, as with any application, the planning history would be a material consideration. While there was nothing preventing the applicant from seeking permanent permission in the future, any such application would need to be assessed afresh - though the existing planning history would be considered in that assessment.

Councillor Wray expressed sympathy for the family involved and for others living with disabilities who could benefit from such adaptations. However, he respectfully disagreed with granting planning permission, stating that the proposal was not compliant with planning policy. He supported the Planning Officer's view that the development was unacceptable in principle and noted that legal advice confirmed that stance, regardless of any conditions applied. Councillor Wray argued that approving the application would set a precedent contrary to PPS7 and described the structure as visually intrusive and dominant. He ultimately agreed with the officer's recommendation that the application should not be approved.

Councillor Smart queried the frequency of temporary planning permissions being granted for temporary structures such as that under consideration. He asked whether similar permissions had been issued in the past and if they had led to any ongoing implications, such as appeals, requesting background information to help inform the Committee's decision.

The Planning Officer explained that temporary conditions had been commonly applied to buildings and structures, including those located in front of the building line. Those conditions were typically used when a development was acceptable in principle. The officer noted that such conditions were enforceable once the specified time period expired and confirmed that enforcement action would have been taken if necessary.

Alderman McAlpine was able to understand the need of a home gym for those with disabilities but was unable to grasp the workshop aspect of the temporary structure. The Planning Officer acknowledged that there were significant and sensitive needs within the household. She noted that those needs applied to both elements of the proposal and could not be easily separated or considered in isolation.

The proposal was put to the meeting and declared CARRIED with 7 voting FOR, 5 AGAINST, 1 ABSTENTION and 3 ABSENT.

FOR (7)
Aldermen
Graham
McIlveen

AGAINST (5)
Aldermen
McAlpine
McDowell
Smith

ABSTAINED (1)
Aldermen

ABSENT (3)
Aldermen

Councillors
Kerr
McClellan
McCollum
Morgan
Smart

Councillor
Harbinson
Wray

Councillors
McKee

Councillor
Cathcart
Hennessy
Kendall

RESOLVED, on the proposal of Alderman Graham, seconded by Alderman McIlveen, that the recommendation be rejected, and that planning permission be granted for five years only with a further condition limiting use to applicant.

4.3 LA06/2023/1556/O – 50m NE of 51 Kempe Stones Road, Newtownards

(Appendices VII – XI)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Newtownards

Committee Interest: A local development application called-in to Planning Committee by Councillor Smart

Proposal: Dwelling on a farm

Site Location: 50m NE of 51 Kempe Stones Road, Newtownards

Recommendation: Refuse planning permission

The Principal Planning Officer (G Kerr) advised that the application was for a dwelling on a farm located 50 metres northeast of 51 Kempe Stones Road, Newtownards. The application had been called in for debate by Councillor Smart, who cited concerns about inconsistent decision-making compared to other approved applications. The officer recommended refusal.

The site was located in the countryside, outside the development limit, within a Local Landscape Policy Area and near the Strangford and Lecale Area of Outstanding Natural Beauty. It was adjacent to a dual carriageway and proposed to use an existing access onto Kempe Stones Road, a designated protected route. The site formed part of an agricultural field near existing farm buildings and a dwelling, with some defined boundaries marked by trees and hedging.

The refusal was based on Planning Policy Statement 3 (PPS3 – Access, Movement and Parking) Policy AMP 3. The proposal would intensify use of an existing access point, which already served three dwellings, NI Water infrastructure, and farm buildings. DfI Roads had been consulted and confirmed that the additional traffic would exceed the 5% intensification threshold, thereby prejudicing traffic flow and safety. DfI Roads concluded that planning permission should only be granted in exceptional circumstances or for regionally significant proposals, which the application did not meet.

The Principal Planning Officer confirmed that the proposal did not meet the criteria for exceptional circumstances or regional significance and therefore failed to comply with Policy AMP3. The application had been called in by Councillor Smart, who cited perceived inconsistencies in decision-making compared to other approvals using the same access point onto the A20.

The officer emphasised that each planning application had to be assessed on its own merits, based on material considerations such as planning policy, consultee responses, and public input. The application had previously appeared on the July Planning Committee schedule but was withdrawn to allow for additional information from the applicant's agent, resulting in several addendums.

Three prior planning approvals were referenced by the agent to support claims of inconsistency.

- The first approval predated the transfer of planning powers to local councils in 2015 and lacked detailed assessment under Policy AMP3.

- The second involved a house-type change to an already approved dwelling, where access had previously been deemed acceptable.
- The third related to a replacement dwelling, which fell under the exceptions listed in Policy AMP3 and did not constitute intensification.

The officer concluded that those cases were not directly comparable to the current proposal for a new dwelling. The legality of the 2006 clarification to Policy AMP3 was also raised, with the agent arguing it was invalid due to lack of consultation. However, the officer noted that the clarification had been in use for 19 years and had informed numerous planning decisions.

She addressed concerns raised by the applicant's agent regarding the validity and interpretation of Policy AMP3 within PPS3. While acknowledging that the 2006 clarification to the policy was issued without public consultation, the officer noted that it had not been legally challenged within the required timeframe and therefore remained a valid and prevailing policy.

The agent had questioned the Council's legal advice and compared the clarification to a 2021 Planning Advice Note that was later withdrawn. The officer emphasised that the two situations were not comparable, as the withdrawn advice note had been withdrawn prior to being challenged.

Regarding road safety, the agent had submitted PSNI statistics showing no injury-related collisions over the past ten years on the relevant section of the A20. However, the officer clarified that those figures did not include damage-only incidents and did not override the planning policy concerns. Further submissions from the agent argued that planning officials and DfI Roads had misapplied policy context, referencing Annex 1 of PPS21. The officer responded that PPS21's provisions were not applicable in this case, as Kempe Stones Road was a higher classification of protected route, and PPS3 remained the relevant policy.

In conclusion, the Principal Planning Officer stated that the Council had acted consistently in its decision-making regarding protected routes. Although statutory consultees provided advice that planning officers were not obliged to accept, DfI Roads had confirmed that the proposal would result in unacceptable intensification of access onto a busy dual carriageway.

The recommendation to refuse planning permission was reaffirmed based on planning policy.

RECOMMENDED that planning permission be refused.

Alderman McIlveen sought clarification regarding the 5% intensification threshold cited in the refusal recommendation. He questioned whether any measurements or traffic counts had been taken to determine typical usage of the access point and how the 5% figure was calculated. He acknowledged that traffic modelling could estimate movements based on residential use but noted the presence of an active farm and an NI Water facility, both of which likely generated unrestricted and variable vehicle

movements. He asked whether any actual monitoring had been conducted to support the intensification assessment provided by Dfl Roads.

The officer confirmed that Dfl Roads had reviewed the application and was satisfied, based on calculations, that the proposal would result in more than a 5% intensification of access onto a protected route. The officer explained that the threshold was typically calculated by comparing the addition of one dwelling to an existing number, such as adding one to twenty. Given the site's location on a busy dual carriageway, the intensification was deemed significant, regardless of submitted road safety data. The officer acknowledged that the site included an active farm and an NI Water facility, both of which generated unrestricted traffic. However, the officer emphasised that planning applications were subject to policy assessment, and in cases where access was already heavily used, strict adherence to policy was even more critical. The recommendation remained to refuse planning permission.

Alderman McIlveen queried if the road marked on slide 13 which was deemed as a dual carriageway could be considered as a single-direction road given the size of the central reservation, as such a classification would make the point of safe egress. The officer advised that the Committee had to rely on the published classification of the road, which was clearly marked as a dual carriageway on the map. She noted that if Dfl Roads had identified any potential for an exception, it would have been explicitly stated. As no such exception was indicated, the classification had to be accepted as presented.

Alderman McDowell was aware of several fatalities on the dual carriageway and was curious as to whether that had been considered in any decision making. The officer explained that the planning policy clearly recommended refusal where intensification of access occurred which formed the basis of the current recommendation. There was no obligation to investigate road safety data with the police and the road in question was widely known to be busy and potentially hazardous. While the agent had submitted accident statistics, those only reflected incidents reported to the police and did not account for unreported collisions. The officer emphasised that, given the nature of the dual carriageway, the road was inherently high-traffic and required careful policy application.

Mr Andy Stephens, speaking against the recommendation to refuse, was invited to the Chamber and advised that he had three minutes to present. Mr Stephens spoke in support of the application on behalf of Mr William Gilmore, a well-established vegetable farmer operating in the area for over 60 years across three generations. He noted that there were no objections from third parties or statutory consultees, aside from Dfl Roads. Two previous dwellings had been approved under the same policy context, which, by the same logic, would have resulted in intensification. He referenced PSNI accident statistics showing no recorded injury-related incidents on the relevant stretch of road over the past 15 years and emphasised that the access point served three dwellings already; NI Water infrastructure, and farm buildings, with no restriction on vehicle volume. A basic traffic survey conducted by the applicant on 25 September 2025 recorded 68 two-way trips, excluding agricultural activity, and was submitted as evidence, however, Dfl Roads had failed to provide any statistics.

Mr Stephens argued that, given the road's high-speed nature, any accident would likely result in injury, yet none had been reported in the last decade. He stressed the applicant's long-standing use of the access with large agricultural vehicles and asserted there was no evidence of traffic disruption or safety concerns.

He concluded by urging consistency in decision-making, questioned the legality of the policy clarification issued 19 years ago, and maintained that the policy remained unlawfully adopted. He reiterated that no evidence supported claims of road safety risks, intensification, or traffic inconvenience, and welcomed any questions from Members.

The Chair invited questions from Members for the speaker. Alderman McIlveen asked if there was any way to consider the volume of agricultural vehicle movement. Mr Stephens noted that on the day of the applicant's traffic survey, no agricultural activity was recorded, though significant work was taking place at the NI Water site. He emphasised that there were no restrictions on the volume of vehicles using the access point, questioning how the 5% intensification threshold could be applied when vehicle movements - particularly slow-moving agricultural ones - varied and had occurred without incident for over 60 years.

Responding to Alderman McDowell's concerns about accidents, Mr Stephens stated that any incidents cited were unrelated to the access in question and likely caused by driver error or excessive speed. He also supported Alderman McIlveen's observation that the road may not function as a dual carriageway due to its one-way traffic flow and clear visibility.

Mr Stephens challenged the distinction made between the current application and a previously approved replacement dwelling, arguing that both should be assessed under the same policy criteria - Criteria A for replacement dwellings and Criteria B for farm dwellings - within Annex 1 of PPS21 and the contested AMP3 policy. He concluded that the intensification argument had been inconsistently applied and reiterated concerns about the consistency of planning decisions along that stretch of road.

Alderman Smith referred to the officer's earlier response regarding access to protected routes policy. He noted that the officer's speaking notes included a copy of the policy, specifically highlighting Point B, which related to farm dwellings. He recalled Mr Stephen's belief that the provision justified granting planning permission for the proposed development and invited further explanation on why the interpretation should apply in this case. Mr Stephens argued that Annex 1 of PPS21, adopted in June 2010, superseded the 2006 clarification to Policy AMP3, which he described as unlawfully adopted due to the absence of public consultation - a point he claimed was acknowledged by the Council's legal advisors. He maintained that that illegality remained relevant regardless of whether the policy had been formally challenged.

He asserted that Annex 1 permitted farm dwellings off protected routes and should be applied consistently, as it had been in previous approvals for replacement of farm dwellings. Mr Stephens questioned why the current application was being treated

differently, noting that the policy and statutory roads agency had remained unchanged across all relevant cases.

He criticised the lack of quantifiable evidence from DfL Roads to support claims of intensification, stating that no figures had been presented to justify refusal. He emphasised that the access had been used for over 60 years by large agricultural vehicles without causing road safety issues or traffic disruption.

Mr Stephens concluded that the Council must justify its refusal based on clear evidence, not policy alone, and warned that if the recommendation was accepted, the matter would proceed to appeal without sufficient data to support the decision.

Councillor Smart asked whether, based on the applicant's circumstances and site usage, the proposed dwelling might result in limited additional access. He referenced a previous case involving a multigenerational farm where on-site caregiving reduced external traffic and queried if similar conditions applied. Mr Stephens emphasised that no formal traffic modelling or trip generation data - such as TRICS analysis or automated vehicle counts - had been provided by DfL Roads. He suggested that agricultural traffic at the access point may have decreased due to business diversification and planning approvals at a nearby yard, potentially offsetting any impact from a new dwelling.

He had proposed a practical alternative: redirecting traffic from the existing dwelling at No. 51 via a gated laneway to the upper yard, effectively swapping access routes to reduce pressure on the current entrance. He stated that could be secured through a planning condition and referenced precedent for such an approach.

Mr Stephens reiterated that there was no quantifiable evidence of intensification, road safety concerns, or traffic disruption, despite decades of agricultural use. He urged Members to base their decision on evidence rather than rigid adherence to Policy AMP3, especially given unresolved concerns about its legal validity.

Councillor Hennessy asked if Mr Stephens accepted the point of view that the Planning Department should take on board advice given by statutory bodies such as DfL Roads. Mr Stephens emphasised that statutory consultee input should be treated as advice, not accepted uncritically. He referenced a Court of Appeal case involving Southern Regional College, which affirmed that Planning Committees must weigh all evidence rather than automatically agreeing with consultees - especially when strong, contrary evidence was presented. He stressed that lawful decision-making required independent judgement. In terms of evidence supplied by the applicant, Mr Stephens stated that the applicant had submitted all available evidence, including PSNI accident statistics and a basic traffic survey. He added that DfL Roads had not provided any supporting data or figures, and nothing was present on the planning file. In the absence of contrary evidence, he urged Members to consider the applicant's reasoned submissions as the basis for decision-making.

As there were no other questions from Members, Mr Stephens returned to the digital public gallery at 8.11pm. The Chair invited the Principal Planning Officer to speak, who responded to Mr Stephen's comments by clarifying that planning policy did not require statutory consultees to provide detailed evidence. The planning team had not

simply accepted DfI Road's advice without scrutiny; they had revisited the consultee multiple times following new submissions, and each time DfI Roads reaffirmed its recommendation for refusal. Planning decisions had to be based on current policy, not precedent, and the road in question remained a protected route regardless of its one-way configuration. Reference was made to the Strategic Planning Policy Statement (SPPS), which reinforced that direct access or intensification on protected routes was only permitted in exceptional or regionally significant cases - criteria not met by this proposal.

Regarding a previously approved storage yard by the same applicant, the officer explained that it involved a different access point via Milecross Road, which avoided intensification concerns. That distinction did not apply to the current application, which proposed access directly onto the protected route.

Alderman Smith sought clarification on Policy AMP3, specifically Point B, questioning whether a farm dwelling that met all criteria - except access from a minor road - could still be permitted access onto a protected route. He also asked whether Mr Stephen's proposed planning condition, which would redirect traffic from one dwelling to another access, would be considered acceptable in planning terms. The officer clarified that while PPS21 referenced farm dwellings accessing protected routes under Policy AMP3, the preamble of PPS21 stated that Annex 1 took precedence over AMP3 for certain road categories. In this case, the protected route was of a higher classification, making PPS21 inapplicable. The officer also cited the Strategic Planning Policy Statement (SPPS, 2015), which permitted access or intensification only in exceptional or regionally significant circumstances - criteria not met by the current proposal.

The officer noted that the proposed gated road condition had not been raised at any stage during the application process and only emerged during the current meeting. She explained that land ownership would need to be verified to determine if such a condition - potentially a Grampian condition - could be applied. The officer advised Members to focus on the application as it currently stood.

Proposed by Councillor Morgan, seconded by Alderman McAlpine, that the recommendation be adopted, that planning permission be refused.

Councillor Morgan emphasised that road safety was the key concern in this case. She acknowledged DfI Roads as the expert authority and noted its advice that the proposal would intensify use of an existing access onto a protected route, potentially compromising traffic flow and safety and concluded that the expert guidance should be respected and supported refusal of the application.

Alderman McAlpine expressed concern about the safety of the dual carriageway, having experienced numerous accidents and diversions. Whilst the applicant had operated for 60 years, the road was not originally a dual carriageway. Citing DfI guidance and previous accident reports, Alderman McAlpine urged caution and stated it would be inappropriate to worsen an already hazardous situation.

Alderman McIlveen opposed the proposal to refuse, expressing frustration with the lack of evidence from DfI Roads to support its claim of over 5% intensification. He

criticised the absence of data and the inability to question consultees directly, referencing a previous Committee appearance by DfI Roads that he described as disorganised. Alderman McIlveen stressed that planning refusals should be based on clear evidence, noting that the only quantifiable data provided came from the applicant, even if limited. He concluded that the current information was insufficient to justify refusal.

Alderman Graham questioned the reliability of the matrix used to assess traffic intensification, describing it as a blunt and inaccurate tool in rural and agricultural contexts. He highlighted how everyday farm activity and family vehicle use could fluctuate significantly, making precise calculations difficult. He argued that there was no clear evidence of intensification in this case and suggested that road safety concerns could be better addressed through speed limit enforcement.

However, he also acknowledged that DfI Roads had stated the proposal would intensify access and compromise traffic flow and safety. Despite the lack of presented evidence, he felt compelled to respect DfI's position and supported refusal of the application, stressing the importance of caution in road safety decisions.

The proposal to Refuse was put to the meeting and declared CARRIED with 8 voting FOR, 4 AGAINST, 3 ABSTENTIONS and 1 ABSENT.

FOR (8) Aldermen McAlpine McDowell	AGAINST (4) Aldermen Graham McIlveen	ABSTAINED (3) Aldermen Smith	ABSENT (1) Aldermen
Councillors Cathcart Harbinson Hennessy McCollum McKee Morgan	Councillors Kerr Smart	Councillors McClellan Wray	Councillor Kendall

RESOLVED, on the proposal of Councillor Morgan, seconded by Alderman McAlpine, that the recommendation be adopted.

4.4 LA06/2024/0623/F - 1-5 (odds) Skipperstone Park, 11-33 (odds) Skipperstone Avenue, 1-6 Skipperstone Gardens and 100-122 (evens) Bloomfield Road South, Bangor

Item 4.4 was withdrawn from the agenda for 7th October 2025.

4.5 LA06/2024/0952/F – 115 Station Road, Craigavad, Holywood
(Appendices XII – XV)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Hollywood & Clandeboye

Committee Interest: Application with six or more representations contrary to officer's recommendation

Proposal: Demolition of existing dwelling and erection of 2 No. 3 bed and 4 No. 2 bed apartments

Site Location: 115 Station Road, Craigavad

Recommendation: Refuse planning permission

The Planning Officer (C Barker) presented Item 4.5, a full planning application for the demolition of an existing dwelling at 115 Station Road and the construction of six apartments (two 3-bed and four 2-bed units). The application was brought before the Committee due to receiving six or more objections contrary to the case officer's recommendation.

The site lay within the settlement limit of Hollywood and was part of a proposed Area of Townscape Character (ATC). It featured coastal frontage and was accessed via a private lane serving neighbouring properties.

A previous appeal (2021/A0227) granted permission for four apartments on the same footprint, establishing the principle of development. The current proposal maintained that footprint but increased the number of units to six and raised the building height by 0.75 metres. Design changes included revised window arrangements, larger openings and minor alterations to balconies and elevations.

The officer noted that the proposed density (64 dwellings per hectare) exceeded the previous approval (40 dwellings per hectare) but remained acceptable given the unchanged footprint and minimal visual impact. The design aligned with relevant planning policies and was considered appropriate in scale, massing, and appearance.

Regarding residential amenity, the officer confirmed that neighbouring properties at 115B and 117 Station Road were sufficiently distanced (over 30m and 50m respectively), and the proposal was not expected to cause unacceptable impacts such as overlooking or overshadowing.

The officer confirmed that the proposed development would not have resulted in overlooking, loss of privacy, or unacceptable light reduction for neighbouring properties, including No 113. The design incorporated high-level windows and appropriately positioned balconies, with sufficient separation distances and compliance with light impact tests.

Amenity space had been slightly reduced due to added parking, but each apartment was to be served by a private balcony, and the site's proximity to the coastal path and beach provided high-quality recreational access. The overall amenity provision was deemed appropriate for the site context.

Parking provision had increased to 11 spaces, including visitor parking, with access to rear spaces via a 2.8m garage opening - considered sufficient despite guidance suggesting 3.2m. A swept path analysis confirmed manoeuvrability. Concerns about road access and visibility were addressed, noting that Station Road was a low-

speed environment and the development exited onto a private lane serving only a few dwellings. DfI Roads had raised no objections, and the Planning Appeals Commission previously found no significant traffic or safety issues with a similar proposal. Objections regarding intensification, parking, flooding, waste storage, and road damage had been reviewed in detail. Flood risk was mitigated through a condition requiring an evacuation plan. Waste storage met regulatory standards, with minor exceedances deemed acceptable.

In conclusion, the officer stated that the proposal maintained the approved footprint and materials, respected local character, and posed no adverse impact on neighbouring properties. Planning permission was recommended, subject to conditions.

The Chair acknowledged that the decision had been made in the context of a previous appeal. He noted that while the earlier application involved four apartments, the current proposal included six - adding two units but reducing rear space for parking. He observed that the Council did not appear to be acting under duress due to the appeal, and instead seemed to be taking a distinctly different view.

He questioned how much of the Planning Appeals Commission's reasoning had influenced that shift, particularly given the increased intensity of the development. The Commission's decision formed part of the site's planning history and was relevant to the current consideration. Additionally, he raised a technical query regarding the relevance of Policy QD1, given that the Area Plan (re proposed ATC) was still in draft form, and asked what provisions were available to protect the character of the area. The Planning Officer advised that such considerations had been evaluated in the case report, but QD1 in relation to ATCs was irrelevant as BMAP was still in its draft form. That said, officers were assessing the proposal taking the entirety of the proposed ATC into account.

Councillor Cathcart sought clarification on the weight given to the appeal decision. He noted that while the average housing density in the area was five dwellings per hectare, the appeal had permitted 40 dwellings per hectare for the site. The current proposal, however, represented a significant increase at 64 dwellings per hectare. He questioned why the higher density was not considered harmful in planning terms.

The officer advised that the footprint of the building was the same, save the slight increase of 0.75m which had been evaluated in the report and addendum. Councillor Cathcart suggested that the footprint and density of the proposal was notably different. He pointed out that subdividing the building into multiple apartments would significantly increase both the density and the number of occupants and asked the officer to comment on that aspect. The officer stated that the appeal decision was material and carried significant weight, explaining that the current assessment focused on the change from the previously approved four apartments to six - an increase of two units. While that represented a rise in density from 40 to 64 dwellings per hectare, the Commissioner had previously considered the broader site context and character when approving the initial increase. Based on that precedent, the officer confirmed that the addition of two further units had been assessed and was considered acceptable.

Councillor McCollum echoed concerns raised by Councillor Cathcart regarding the proposed density of the development. She noted that she walked the stretch of road daily and believed the site in question to be the smallest plot along that area by a considerable margin. She referenced the existing dwelling's density of 11 dwellings per hectare and acknowledged the average figure of 5, as highlighted by Councillor Cathcart. She pointed out that neighbouring plots were significantly larger, making the proposed increase to 64 dwellings per hectare a dramatic and potentially harmful change. She questioned how such a substantial shift in character could be justified.

The Officer explained that the assessment focused on the addition of two units to an already approved development of four. Rather than viewing the change as a jump from 11 to 64 dwellings per hectare, the context included the extant approval. During the appeal, the Commissioner had considered the dwellings at 111, 113, and 115 as being more tightly grouped and situated on notably smaller plots compared to others nearby. That context had been reflected in the appeal decision. The officer confirmed that the proposed increase to six units was within a building that retained the same footprint and visual appearance as previously approved.

Councillor McCollum acknowledged the officer's point about the unchanged footprint of the building but reiterated her concern that the site was likely the smallest plot along that stretch of road. She noted that even based on the Planning Appeals Commission's decision allowing 40 dwellings per hectare, the proposed increase to 64 represented a rise of more than 50%. She questioned whether that set a dangerous precedent in an area defined by individual houses on large plots with substantial garden space. While the officer confirmed that the additional units were contained within the same building envelope and would not alter its external appearance, Councillor McCollum maintained that the significant increase in density remained a key concern.

Councillor McCollum expressed concern about the proposed intensification of the site, noting that the addition of two units would result in a development unlike anything else in the surrounding area. She argued that the character of the area - defined by individual homes on large plots - would be significantly disrupted. She acknowledged the Planning Appeals Commission's decision but emphasised that it was only one of several material considerations and not definitive.

She challenged the description of the site as "end of lane," pointing out that there were existing and approved dwellings beyond it, and that the lane formed part of a well-used public right-of-way along the coastal path. She highlighted the high pedestrian footfall in the area and raised safety concerns about the proposed rear parking access, which would require vehicles to reverse along a narrow route potentially onto the public path. She stressed that reversing vehicles posed a greater risk to pedestrians and questioned whether the space was practically sufficient for safe manoeuvring.

The officer responded by clarifying that the lane was private and not part of the adopted road network, explaining that while the access was tight, it was short and not heavily trafficked, allowing for slow vehicle movement and visibility. She acknowledged that reversing might be necessary but suggested that the risk was mitigated by the nature of the road and the limited number of dwellings served,

noting that most pedestrians used a separate path running in front of the wall, and that the access point primarily served three dwellings beyond the site.

Alderman McAlpine questioned whether the proposed apartment development adequately addressed the requirements of townscape character policy. She noted that while the officer's report stated the existing building did not positively contribute to the Area of Townscape Character (ATC), it did not fully consider whether the new development would enhance the overall character or respect the built form of the area, as required by planning policy. She expressed concern that the presence of apartments in this location might not align with the surrounding housing styles and asked whether the proposal genuinely contributed to the ATC.

The officer responded by noting that the Planning Appeals Commission had already granted approval for the demolition of the existing dwelling and the construction of a four-unit apartment building on the site. She explained that the current proposal retained the same footprint, with only minor design changes and a modest height increase of 0.75 metres. She clarified that the site lay within a draft ATC, and that Policy QD1 referred only to designated ATCs as opposed to draft ATCs.

The meeting entered into a recess at 9.01pm resuming at 9.14pm.

Alderman Graham asked whether the fact that the site was accessed via a private road affected how DFI Roads assessed the application. He queried whether its concern extended to traffic movements on the private road itself or was limited to the point where traffic accessed the public road. The officer responded that DFI Roads had confirmed the private road was outside its jurisdiction, and its interest related only to the access point onto the public road, which was some distance from the site.

The Chair invited Emma McBurney to the Chamber who was to speak against the application.

Ms McBurney, speaking on behalf of Station Road frontage residents, raised strong objections to the proposed development. She acknowledged that the site had planning permission but emphasised that the approved scheme was significantly smaller - four flats with seven front parking spaces and a rear communal garden. She noted that the Council had originally refused that application, which was only later approved on appeal.

Ms McBurney argued that the current proposal was substantially different, increasing the number of units by 50% and replacing smaller two-bed flats with larger family-sized units. It also proposed 11 parking spaces - up from seven - and reduced open space by approximately 74%, replacing the rear garden with a car park. She warned that this would cause noise, dust, and emissions affecting neighbouring properties, particularly number 113, and that the committee report had overlooked those impacts.

She criticised the parking layout as unworkable and out of character with the area, where no other properties had rear parking accessed via tunnels. She cited DFI Road's consultation response, which acknowledged the substandard nature of the proposal but declined to assess internal access due to its location on a private road.

Ms McBurney stressed that Station Road was a designated public right-of-way and part of the Ulster Way, meaning public safety standards should apply.

She argued that the application failed to meet planning policies, particularly PPS3 and AMP7, which required safe access, appropriate servicing, and provision for disabled users. She also highlighted that the application form failed to declare the site's proximity to a public right-of-way. Finally, she pointed out that the proposed amenity space - 98 square metres - was well below the recommended standard for suburban areas, making the scheme unacceptable in terms of both design and impact.

In response to Alderman Graham's question about the condition and maintenance of the private road, Ms McBurney explained that the road was currently in good condition due to contributions made by local residents. Ms McBurney clarified that Station Road was adopted only up to the railway underbridge, beyond which it became a private road leading down to the sea. However, the section along the sea formed part of a public right-of-way. She emphasised that this stretch was heavily used by pedestrians and cyclists and raised concerns about road safety, noting that DFI Roads had acknowledged the access was substandard. She warned that allowing further intensification of the site could increase the risk of a serious accident.

Councillor Hennessy queried whether the coastal path was separate from the road which Ms McBurney clarified that up to property number 113, the coastal path ran alongside the road. She explained that the application site adjoined this path, and that vehicles entering or exiting through the tunnel would have limited visibility, potentially requiring them to reverse. She pointed out that the public right-of-way, part of the Ulster Way, dropped down along the beach beside the site, creating a point where pedestrian access was separated from vehicle movement.

Councillor Wray, unfamiliar with the area but having reviewed maps, asked about road safety concerns, particularly the potential increase in vehicles reversing onto the public right-of-way due to the proposed 11 parking spaces and possible visitor overflow. Ms McBurney clarified that the proposal included 11 spaces - seven at the front and four at the rear accessed via a tunnel. She noted that unlike other nearby properties, which allowed vehicles to turn within their grounds, this site would require reversing onto the public right-of-way, raising safety concerns.

The Chair reminded Ms McBurney that maps could not be displayed during the meeting.

Councillor McCollum questioned the impact of the Planning Appeals Commission's extant approval, highlighting the dramatic increase in density from one dwelling to six apartments on a small site. She noted the average density in Craigavad was around five dwellings per hectare, whereas the proposal would result in 64, which she felt would set a troubling precedent and alter the character of the area. Ms McBurney agreed, stating that the proposal would indeed set a precedent, especially as there were no other apartments on this stretch of Station Road. She emphasised that road safety should be given significant weight, particularly as the route was a public right-of-way promoted by the Council.

Councillor McCollum then raised concerns about the 74% reduction in open space and asked about relevant policy guidance. Ms McBurney referred to the “Creating Places” document, which recommended 10–30 square metres of private amenity space per apartment, depending on context. She noted that the Planning Appeals Commission (PAC) had classified the site as suburban, meaning the upper standard of 30 square metres should apply. The original garden space of 158 square metres suited four smaller units, but the new proposal introduced larger family units with significantly reduced amenity space - just 98 square metres including balconies. She argued that this was inadequate, especially as children would have to access the garden through a car park.

Finally, Councillor McCollum asked whether the tunnel access would force vehicles to reverse onto the public right-of-way. Ms McBurney confirmed this, stating that the plans were misleading - while the tunnel was described as 3 metres wide, measurements showed it to be closer to 2.8 metres, which would be too narrow for many SUVs. She reiterated that DFI Roads had deemed the access substandard and that the proposal did not comply with PPS3, a key part of the development plan.

Councillor Morgan asked for clarification on the unit sizes in the new proposal, specifically whether it included two three-bedroom apartments and four two-bedroom apartments. Ms McBurney confirmed that the original proposal had consisted entirely of two-bedroom, non-family-sized units. The revised scheme introduced two larger, family-sized three-bedroom apartments, which were located on the top floor.

With no other questions for the speaker, Ms McBurney returned to the public gallery at 9.31pm whilst James Morley (applicant) came forth to speak in support of the application.

Mr James Morley, the applicant, spoke in support of the proposal, describing it as a modest improvement to an already approved development. He explained that his family had lived at the property for over 100 years and that the surrounding area had changed significantly over time. Despite numerous planning applications over the past seven years, he felt his proposals had consistently faced objections from the same households, unlike other nearby developments which had proceeded with little resistance.

Mr Morley emphasised that the planning system should be based on evidence and consistency, not personal objections. He noted that the current application had undergone pre-application discussions with senior planners, who found it acceptable, and that no concerns had been raised during the formal assessment. He outlined three key changes: a small increase in building height to mitigate future coastal flood risk, a new rear parking area that met legal requirements and had no objections from DFI Roads, and a reconfiguration of the internal layout to allow six apartments.

He argued that the visual impact of the development remained unchanged from the previously approved scheme and that the principle of high density had already been established. Mr Morley concluded by urging the Committee to approve the application, citing the thorough planning assessment and the importance of avoiding unnecessary delays and appeals.

Alderman Graham enquired about the number of houses situated along that particular stretch of private road. In response, Mr Morley estimated that there were approximately 15 to 17 houses on that stretch. The Alderman raised concerns regarding the portion of the area not classified as private road, noting that it was frequently traversed by pedestrians including children and dog walkers. He asked whether that pedestrian activity might pose a problem in terms of increased traffic.

Mr Morley clarified that the front of his property was a private driveway and not part of the public right-of-way. He acknowledged that the coastal path was used by walkers but advised that when he surveyed the area that afternoon, it was lightly trafficked. He contested that it was not heavily trafficked at all.

Alderman Smith raised concerns about car parking, noting it was a key issue for objectors. He referred to the report's recommendation using Creating Places guidance and asked about access to the rear of the property through the tunnel area, questioning its safety and accessibility. Mr Morley responded that the access was no different from a normal garage, stating he parked to the rear of his existing property without issue. He explained that the area was open, not a closed tunnel, with a roller shutter door and a usable width of approximately three metres. He also highlighted that it was not a long tunnel.

Alderman McAlpine acknowledged the personal difficulty Mr Morley and his family had experienced and asked why he had returned with a new application so soon after a previous approval by the PAC. Mr Morley explained that he had returned to make three changes: a slight height adjustment to remove the property from a flood risk zone, a layout improvement based on PAC feedback, and a redesign that allowed for six, better-flowing apartments instead of four, within a 9,000 square foot building, and looked better.

Alderman McDowell asked whether the development was intended to remain a family home. Mr Morley clarified that it was and had been a family home, but he had not yet decided whether he would continue living in one of the units.

Councillor Morgan asked for clarity regarding car ownership, suggesting that if the property was a family home, it would likely require two or three cars. Mr Morley confirmed that, to which Councillor Morgan noted that seven parking spaces had already been approved which implied accommodation for seven cars, and pointed out that the proposal was now increasing that number to eleven, which she described as significant intensification. Mr Morley responded that the number of spaces did not necessarily need to be eleven and could be reduced to four. He stated that the property only required ten spaces and was capable of accommodating the additional parking. He added that space was not an issue and that manoeuvring within the site was workable.

As there were no further questions from Members, Mr Morley returned to the public gallery. The Chair advised that the Committee had an opportunity to further question the officer in respect of the application or debate the issue.

Councillor Hennessy sought clarification regarding a point referenced by Mr Morley, specifically the third item on page two of the documentation. He believed it related to the Appeals Commissioner's report and asked whether the overarching test for assessing over-intensification of the building was a visual one - namely, how the development would appear when viewed. The officer confirmed that, in relation to the PAC decision, the overarching test was indeed so.

Alderman Smith reflected on several points raised during the discussion, noting that many had been addressed. He stated that the previously approved permission for four apartments had set a precedent for this type of development, and the current proposal was simply a shift from four to six units. He observed that there was no increase in the building's footprint or scale, and that the proposal appeared consistent with other large dwellings in the area. While acknowledging concerns about intensification and parking, he felt those had been reasonably dealt with, and met guidance in Creating Places. However, he raised one outstanding issue regarding the reduction in amenity space compared to the earlier proposal.

The officer confirmed that the communal amenity space had been reduced due to the introduction of rear parking. She explained that each apartment would still have private balconies, still considered as private amenity, ranging from approximately 7.8 to 13 square metres. She added that planning guidance allowed for the level of open space to be determined based on the development's context and design. Given the site's proximity to the coastal path and beach, in line with Creating Places, she considered that residents would have access to high-quality recreational space, which offset the reduced on-site provision.

Councillor Morgan noted that the proposal involved increasing the number of apartments from four two-bedroom units to six, by adding two three-bedroom units, while maintaining the overall building structure. She asked for confirmation that the internal space within the apartments met policy requirements and recommendations.

The officer confirmed that the six apartments were distributed across three floors and were of reasonable size. She stated that all bedrooms could accommodate a double bed, with some including en-suite facilities, and concluded that the accommodation provided would be considered reasonable.

Alderman McAlpine raised concerns about fire safety, specifically regarding access to the rear of the building through a shuttered tunnel. She questioned whether that had been considered and whether Fire and Rescue services had provided any input on the suitability of such access for an apartment block.

The officer responded that fire safety matters would fall under the remit of Building Control. She noted that the roller shutter door would be located at the front which was partially open to the side, allowing vehicle access to the rear. She acknowledged Alderman McAlpine's concern about apartment blocks but pointed out that many terraced houses and townhouses also lacked direct vehicle access to the rear. While the officer understood the concern about the number of occupants, she reiterated that Building Control would be responsible for assessing such issues.

Alderman McDowell referred to PPS7, noting that flat development should be in keeping with the surrounding area. He asked the officer whether, in her professional opinion, the proposed development met that criterion. The officer acknowledged that weight was being given to the previous Planning Appeals Commission decision and the exempt approval for four apartments, Alderman McDowell questioned the extent to which that precedent influenced the current assessment, expressing concern that the Planning team's hands appeared to be tied by the earlier decision and asked whether, if deciding independently, the Officer would have made the same recommendation. He emphasised the importance of understanding how constrained the current decision-making process was and suggested that relying too heavily on past decisions could undermine the integrity of the planning system.

The Head of Planning responded to Alderman McDowell's concerns by reminding Members that the precedent value of the PAC's decisions had been addressed previously. She referenced established case law, including the ABO Wind NI Ltd judgment, which clarified that if a PAC decision was not formally challenged, it must be applied and given appropriate weight. Although the Planning team had originally recommended refusal of the apartment development, the PAC upheld Mr Morley's appeal. As a result, the fallback position - approval for four apartments - carried significant weight, as it could be implemented at any time.

While acknowledging that the development might not reflect the character of the area, she noted that the PAC had determined that four apartments within the building would not have a detrimental impact on the character of the areas. The current proposal involved only a minor increase in ridge height and the addition of two further units. She accepted that concerns remained around intensification, particularly regarding roads, parking, and amenity space, and recognised that there could be differing views on those matters. She reiterated that weight had to be given to the PAC decision as the Council had chosen not to challenge it.

Councillor McCollum sought clarification regarding the extant PAC decision, noting that it predated her time on the Planning Committee. She acknowledged that the original officer recommendation had been to refuse the apartment development, likely on the grounds of PPS7, due to concerns about it being out of keeping with the residential character of the area but expressed concern about the current proposal's intensification, which added two more units - some of which were three-bedroom family homes - and suggested this could lead to increased car ownership (especially if a teenager was driving) and parking pressure in an area not suited for such density.

Councillor McCollum emphasised that the site was located on the edge of a relatively undeveloped stretch of coastline, characterised by large houses and plots, and felt the proposal was incongruous with its surroundings. While recognising the PAC decision carried weight, she asked for confirmation that it was not the sole determinant in the Committee's decision-making.

The Head of Planning confirmed that the PAC decision was a material consideration and had been given weight, but it was ultimately up to Members to determine how much weight to attribute to it in the overall planning balance. She clarified that

Members could, in line with the Planning Protocol, also give weight to other relevant matters, provided this was clearly set out in their reasoning.

Alderman Graham sought clarification regarding the coastal path and public access to the development site, asking whether the public had a right to walk along the private road leading to the development. The officer explained that the tarmac portion of the road constituted a public right-of-way, but once reaching the two gates and gravel driveway, the access became private. She further clarified, using visual aids showing the map and ortho, that the public right-of-way stopped short of number 115. However, from the beginning of the private road heading towards Hollywood and continuing to the development site, the public did retain a right of way.

Councillor Smart raised a concern about the single and cumulative impact of development on the townscape heritage of the area. He acknowledged that the current application did not indicate a significant change, but noted that the site was one of three neighbouring properties with similar character and site size. He questioned whether, as more developments occurred, the character of the area might shift from single dwellings to a row of apartment blocks, and whether that cumulative change should be considered. The officer advised that the Committee was assessing the application before it, which followed a previous decision granting permission for four apartments. That earlier approval was based on a replacement dwelling occupying the same footprint. She confirmed that the current proposal maintained that footprint and that previous applications had determined no visual impact. Councillor Smart accepted the explanation, but reiterated that while the precedent set by the PAC's decision was clear, there remained broader concerns about how such developments could influence future applications and alter the character of the area over time.

Proposed by Alderman Smith, seconded by Councillor Morgan, that the recommendation be adopted, that planning permission be granted.

Alderman Smith stated that while he had previously outlined key concerns, he did not see any policy-based reasons to oppose the proposal. He acknowledged two main issues - parking and external space - but noted that both met the relevant planning requirements. Although he recognised the concerns raised by neighbouring residents, he found it difficult to justify refusal.

Councillor Morgan agreed with Alderman Smith's position, acknowledging public concerns about parking and traffic but concluding that they were not sufficient grounds for refusal. She highlighted the need for diversity in housing types, noting that while the area was dominated by large houses, Planning should accommodate different forms of living, including apartments. She pointed out that not all families owned two cars and that residents valued their allocated parking. Regarding external space, she accepted it was slightly below ideal but felt the nearby seafront and outdoor environment helped compensate.

Councillor McCollum stated she was resolutely opposed to approving the application on several grounds, arguing that it represented an unjustified intensification of development in a constrained area. She highlighted that the proposal invited a minimum of 11 cars that there were spaces for, but based on the number of

bedrooms, significantly more cars could be expected. She expressed concern about the narrow single-track road serving 16/17 dwellings, where vehicles would struggle to pass and might need to reverse long distances. She noted that the road was private but carried a public right of way, with hundreds of pedestrians using the coastal path daily. Councillor McCollum believed the application materially differed from the anomalous extant PAC permission, increasing density by 50% rendering it completely out of character with the area. She urged Members to visit the site and warned that approval would set a dangerous precedent for other plots changing dwellings into apartments. She also raised concerns about road safety considering it offended AMP 7, particularly for pedestrians, and argued that the reduction in open space was inappropriate for a coastal setting, where balconies were not a suitable substitute, as balconies are only suitable in urban areas, and the proposal offended Creating Places. She concluded that there was no justification for increasing the approved four apartments to six and urged Members not to support the proposal to approve.

Alderman Graham shared Councillor McCollum's concerns and stated that while the decision to approve was based in his mind solely on the PAC's earlier ruling, he believed that decision had been flawed. He referred to the planning report, which described the area as characterised by large houses on mature plots, and argued that the proposed massing would negatively impact neighbouring properties. He was particularly concerned about the private road, noting that although it was privately owned, the public - including children, prams, dog walkers, and wheelchair users - had access. He pointed out that DfI Roads had raised no objection but lacked jurisdiction over the private road, and doubted whether the PSNI would intervene in cases of obstruction. Alderman Graham emphasised that intensifying traffic on a publicly accessible private road posed safety risks and was contrary to planning policy. He attributed the problem to the PAC decision rather than the planning officers.

The proposer was asked if he wished to sum up however he declined.

At this point there was an issue with the audio in respect of the voting, but was quickly restored.

The proposal was put to the meeting and FELL with 5 voting FOR, 10 AGAINST, 0 ABSTENTIONS and 0 ABSENT.

**FOR (5)
Aldermen**
McIlveen
Smith

**AGAINST (10)
Aldermen**
Graham
McAlpine
McDowell

**ABSTAINED (0)
Aldermen**

**ABSENT (1)
Aldermen**

Councillors
Hennessy
Morgan
Wray

Councillors
Cathcart
Harbinson
Kerr
McClean
McCollum

Councillor

Councillor
Kendall

McKee
Smart

Proposed by Councillor McCollum, seconded by Alderman Graham, that the recommendation be rejected, that planning permission be refused

Councillor McCollum formally proposed that planning permission be refused on the basis that the application materially differed from the existing Planning Appeals Commission decision. She argued that it breached PPS7 by increasing the site's density by 50%, leading to overdevelopment of the site and making it incompatible with the residential character of the area. She also cited a breach of PPS3, Policy AMP7, due to parking and access issues that she believed posed a risk to road safety. Additionally, she noted that the proposal reduced private open space to less than 60 square metres - only one-third of private open space recommended under the Creating Places guidance.

Before looking for a seconder, the Chair noted that as the history of the application before Members had been subject to a PAC decision, it may be sound to consider a proposal for Members to be, 'minded to refuse,' which would allow time for officers to consider refusal reasons.

Alderman Graham indicated he was happy to second the proposal to refuse.

Councillor McCollum continued that she was mindful that it had been subject to scrutiny by the PAC and to debate this evening and there were nuances in those issues and she would prefer to have time to prepare refusal reasons and for officers to also consider legal advice.

Alderman McIlveen clarified that officers would not be setting out the grounds for refusal, but would review the grounds and check that the reasons were robust accordingly.

The Head of Planning clarified the procedural steps following a Committee's indication if it were minded to refuse the application. She explained that although Councillor McCollum had proposed refusal, the reasons had not yet been formally and robustly set out. Under Paragraph 56 of the planning protocol, any member proposing to overturn an officer's recommendation must clearly outline the reasoning and material planning considerations relied upon for reaching such a proposal, including any departure from policy or the weight given to specific factors.

She stated that once those reasons were received, the planning department would prepare a report with draft reasons for refusal or approval, which would be presented at the next Planning Committee meeting. That would allow members to review, amend, or agree on the proposed reasons. As a result, the application would be deferred to the next meeting to allow time for that process, and legal advice might be sought to ensure the robustness of the refusal grounds. A vote would then be held on the finalised Motion.

After receiving further guidance from officers, Councillor McCollum confirmed she was content with refusing the application but with respect to the refusal reasons she

welcomed the opportunity to sit down and draft the reasons for refusal with some time rather than submitting orally then.

The Head of Planning clarified again the purpose of the ‘minded to’ option in the Protocol, in that it was possible that if the Members were to vote for a straight refusal this evening based entirely on what Councillor McCollum had articulated, there could be some Members who were not clear on the precise reasons. Officers would review the refusal reasons submitted by Members to ensure that they were properly crafted into robust refusal reasons.

As such Councillor McCollum agreed to withdraw her initial proposal to refuse and made a further proposal.

Proposed by Councillor McCollum, seconded by Alderman Graham, that members be ‘minded to refuse’ the application.

The proposal was put to the meeting and declared CARRIED with 10 voting FOR, 5 AGAINST, 0 ABSTENTIONS and 1 ABSENT.

FOR (10)
Aldermen
Graham
McAlpine
McDowell

AGAINST (5)
Aldermen
McIlveen
Smith

ABSTAINED (0)
Aldermen

ABSENT (1)
Aldermen

Councillors
Cathcart
Harbinson
Kerr
McClellan
McCollum
McKee
Smart

Councillors
Hennessy
Morgan
Wray

Councillors

Councillor
Kendall

Alderman Graham asked whether the PAC report had addressed the issue of traffic using a private road that also had public access. The Head of Planning responded that the PAC report had previously been brought to the attention of the Planning Committee but was available for viewing. She offered to provide a copy to any Members who wished to see it alongside the original Case Officer Report for clarity and noted that the Planners would wait for Members to submit the specific issues they wanted included as refusal reasons.

RESOLVED, on the proposal of Councillor McCollum, seconded by Alderman Graham, that the recommendation be adopted.

5. DFI LEGISLATION ON VALIDATION CHECKLISTS

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity which explained that:

1. The purpose of the report was to advise Members of the updated validation checklist (attached at Item 5a) prepared in response to the Department for Infrastructure (DFI) Statutory Rule entitled “The Planning (General Development Procedure)(Amendment) Order (NI) 2024 which came into operation on 01 April 2025.
2. Members were previously advised of the amendment to the Planning (General Development Procedure) Order (NI) 2015 (“the GDPO”) at Planning Committee meeting on 05 November 2024. The purpose of the aforementioned amendment was to enable councils to publish a Validation Checklist. The purpose of a Validation Checklist is to extend the minimum level of information for an application to be legally valid (as currently set out in the GDPO) in order to improve the quality of applications submitted for processing.

Detail

3. This Council introduced a validation checklist in January 2020 (see attached Item 5b). This, however, had limitations because it is advisory and did not hold statutory weight. The inability for councils to mandate the minimum level of information supplied with applications has a seriously detrimental impact in terms of adding significantly to processing times, placing additional burden on staff and consultees, and time wasted assessing proposals without the key information.
4. This recognition of the legislative ‘low bar’ to make a legally valid planning application was also addressed by The Northern Ireland Audit Office (NIAO) Report into the planning system in Northern Ireland, dated February 2022, which reported a view that the criteria set out in the Planning legislation was too narrowly prescribed and did not require submission of key supporting documentation (e.g. flood risk assessments, transport assessments, bat surveys) at the point of submission. This means that potentially ‘incomplete’ (not appropriately front-loaded) applications must currently be accepted by the planning authority (having met the minimum statutory requirements) and from which the time period for statutory processing begins.
5. The Public Accounts Committee Report, published March 2022, highlighted significant concern regards the quality of applications entering the planning system, and that the current system did not encourage submission of good quality applications. Thus, it recommended that the Department for Infrastructure implemented changes to improve the quality of applications entering the system and believed the introduction of validation checklists was one way to achieve this.
6. The legislation came into effect from 1st April 2025. Since then, officers had reviewed the existing checklist, liaised with statutory consultees and had reached a position to issue an updated version, subject to Member agreement, to ensure that required information was submitted in order to effectively front load and process planning applications.
7. The updated checklist still required the submission of information as set out in Article 3 of the GDPO (attached at Item 5c) within an application for planning permission as follows:

- A written description of the development;
 - The postal address of the land which the development related to (or description of the land if no postal address);
 - Name and address of applicant and agent (if applicable);
 - A plan sufficient to identify the land to which it relates and showing the situation in relation to the locality and neighbouring land;
 - Such other plans and drawings as necessary to describe the development;
 - A plan identifying where any neighbouring land is owned by the applicant;
 - An ownership certificate;
 - A pre application community report (for proposals in major category of development);
 - A design and access statement (if required);
 - 3 additional copies of plans; and
 - The relevant fee.
8. As the legislation now enabled a Council to specify additional information requirements for applications for full planning permission, outline planning permission and approval of reserved matters, according to the “nature, scale and location” of the proposed development the checklist had been updated accordingly while also being “reasonable” and proportionate and be “material” to the consideration of the application. The updated checklist list provided 4 working days for the submission of any outstanding material to enable an application to be made valid. The statutory average processing time would be measured from the date when the Council deems the application ‘valid’ – i.e. to be accompanied by all relevant information.
9. Procedurally, the Validation Checklist must be reviewed and re-published by the Council at no more than 3-year intervals. Where an application was submitted which was not in compliance with the Validation Checklist, councils would normally request the additional information from the applicant on an informal basis. However, councils may ultimately issue a formal “notice” of non-compliance with the Validation Checklist. The applicant would then have the ability to lodge an appeal to the Planning Appeals Commission (PAC) within 14 days from the date of the notice. The PAC would then preside over the appeal and determine whether the additional information in question was necessary. Where the appeal would be allowed, the applicant may resubmit the application to the Council absent the originally requested information.
10. As previously advised, it was not considered necessary for the Planning Service to consult publicly on the content of its Validation Checklist since it was an updated version upon that introduced and in operation since January 2020 albeit on a non-statutory basis.

RECOMMENDED that Council notes the content of this report and agrees the updated validation list attached.

The Head of Planning explained to Members that the Guide to the Planning Application Process - also entitled *The Good Practice Guide* - was introduced in

2020. The purpose of the Guide was to encourage applicants to submit all information realistically required for processing by the Council and consultees at the outset, through the publication of appendices outlining:

- Details of the Basic Requirements; and
- Details of when other Supporting Information might be required.

However, the associated 'Validation Checklist' had no supporting legislation to enable Planning Service to refuse to accept applications where expected information was not submitted. That contributed to longer processing times, with information often drip-fed throughout the process, and no facility to 'stop the clock' on processing times while additional or requested information was prepared, submitted, and re-consulted upon.

Following repeated representations to the Department for Infrastructure since transfer in 2015, and further reference in the NIAO and Public Accounts Committee Reports of 2022, the Department published a statutory rule - under the Regional Planning Improvement Programme - enabling Councils to set out their own Validation Checklists 'by Direction'. This came into force in April 2025.

Officers reviewed the existing checklists in consultation with consultees, and the revised version was presented to Members. Once adopted, it would be enforced within Planning Service, supporting front-loading and aiming to reduce processing times.

Where the Council considered that it could not validate an application due to insufficient information, there would be scope for negotiation with the applicant, and if unresolved, the matter could be appealed to the PAC.

The document attached at Item 5a was noted as subject to minor revision to address spelling errors and updates as appropriate. Members had previously approved the Checklists appended to *The Good Practice Guide*, and the requirements contained in the current Checklist were generally identical.

Proposed by Alderman Graham, seconded by Councillor Morgan, that the recommendation be adopted.

Councillor Cathcart asked for clarification on whether there was any difference between the current proposal and the validation checklist previously used. The Head of Planning confirmed that the checklist remained essentially the same, but had been reviewed with statutory consultees to ensure all necessary elements were included. She explained that the checklist was originally based on Belfast's comprehensive version and had also been discussed extensively within the Heads of Planning group. The current effort was focused on refining and clearly presenting the checklist for public use.

AGREED TO RECOMMEND, on the proposal of Alderman Graham, seconded by Councillor Morgan, that the recommendation be adopted.

The Chair requested that Members would note Items 6 – 8 collectively.

Councillor Wray proposed, Councillor Kerr seconded and Members agreed.

6. UPDATE ON PLANNING APPEALS

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity which explained that the following appeal was dismissed and the Enforcement Notice upheld on 9 September 2025.

PAC Ref	2025/E0009
Council Ref	LA06/2023/0470/CA
Appellant	Jonathan Martin
Subject of Appeal	Alleged unauthorised laying of raised hardstanding laneway
Location	Land immediately south of 102 Comber Road, Killinchy

This appeal was brought under grounds (a) [deemed planning application], (b) and (c) of section 143 of the Planning Act (Northern Ireland) 2011. Ground (d) on immunity was added at the hearing, as the appellant had implied it in their application form but not stipulated it.

Ground (b) asserted that the breach had not occurred. The appellant stated that the laneway had been present on the site for approximately 50 years and considered no new laneway had been created. On considering Google Street View imagery supplied by the Council, the Commissioner was satisfied that the grass track, level with the contours of the existing field in 2010, was not comparable to a new formalised laneway built up 1.3m above field level and comprising hardcore as shown in a 2023 image. The PAC was satisfied a new laneway had been created and the appellant did not succeed on this ground.

Ground (c) stated that if the matters had occurred they did not constitute a breach of planning control. The appellant considered the laneway to be permitted development (Part 7 of GPDO [NI] 2015) and considered the development reasonably necessary for the purposes of agriculture within the farm unit. The appellant argued that it was not possible to drive up the inclined field in the larger farm and 4x4 vehicles in wet weather and therefore the laneway was necessary. The Commission did not accept this nor the view of the Council that Part 7, Class A(g) applied in this instance as it considered that a laneway did not fall within this section. However, the PAC stated that under Article 3 of the GPDO (NI) 2015 it could not be considered permitted development as the new laneway was *“development which requires or involves the construction, formation, laying out or alteration of a means of access to an existing road which is a special, trunk or classified road or which created an obstruction to the view of persons using any road or near any crest, bend, corner, junction, or intersection so as to be likely to cause danger to such persons.”* The PAC concluded that the appeal failed ground (c).

The PAC was satisfied that from the evidence provided by the Council that the appeal development was not immune from enforcement action and therefore ground (d) failed.

Under the deemed planning application (ground (a)), the PAC considered the development plan and the SPPS. Under policy CTY 12 of PPS 21, the commissioner concluded that paragraph (a) the appeal development was not necessary for the efficient use of the agricultural holding and did not accept that larger agricultural vehicles, even in inclement weather would have difficulty traversing the field to access other land to the rear. The Commissioner did not agree with the Council's view that the laneway was not integrated into the landscape given the alignment of the road, mature roadside hedgerow, rising landform and limited critical views.

Secondly, as the PAC concluded that the appeal development was not necessary for the efficient use of the agricultural holding, it is also contrary to PPS 3. The Comber Road is a protected route under policy AMP 3 and fell under Other Protected Routes [Outside Settlement Limits]. The road is under (d) Other Categories of Development. This stated that approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access could not reasonably be obtained from an adjacent minor road. The alleged unauthorised development could not be accessed from a minor road and as the Commission had concluded that the development was not necessary for the efficient use of agriculture, it did not satisfy this policy.

The PAC concluded that as the unauthorised development fails all appeal grounds the Enforcement Notice is upheld.

2. The following appeal was dismissed and the Enforcement Notice upheld on 20 August 2025:

PAC Ref	2024/E0021
Council Ref	LA06/2022/0092/CA
Appellant	Mr. Marcus Green
Subject of Appeal	Alleged unauthorised: material change of use of land for use as a coffee shop and associated external seating area; extension of an area of hardstanding, beyond the area shown hatched in yellow on the attached map; siting of two no. wooden buildings used in association with the coffee shop; intensification of domestic access approved under X/2005/0292/RM, being used in association with the unauthorised coffee shop use.
Location	Land adjacent to 18 Kircubbin Road, Ballywalter

This enforcement appeal was brought under grounds (a), (b), (d), (f) and (g) of section 143 of the Planning Act (Northern Ireland) 2011. Ground (d) regarding immunity was withdrawn at the appeal hearing. A preliminary matter was raised regarding the description of the Notice in terms of the area of hardstanding. The appellant advised that the whole area of hardstanding was new and was not just an area of extension. As such, as the PAC had the power to correct any misdescription, defect or error, and as the appellant stated that he was not prejudiced by the matter, the PAC has altered the Notice breach description.

Ground (b) related to the Council's view that there had been an intensification of use of a domestic access. However, during the appeal hearing and following a

consultation response from DfI Roads and the appellant's information stating the access was entirely new, the council accepted that the access approved under X/2005/0292/RM had never been implemented. The Ground (b) appeal succeeded to extent that Part 3(4) of the EN was amended by removing the reference to the unauthorised intensification of domestic access approved under X/2005/0292/RM.

Ground (a) relates to the deemed application.

In terms of the SPPS, no argument was presented that the appeal development was for farm diversification, agricultural or forestry development, or for the conversion and reuse of an existing building for non-residential use. The PAC also highlighted paragraph 6.271, which promoted a town centre first approach for retailing and other main town centre uses such as coffee shops. A sequential test had to be provided under this, however this was not submitted. There were exceptional circumstances when some retail facilities were necessary outside the settlement limits including farm shops, craft shops and shops serving tourist or recreational facilities. However, such retail facilities should be required to be located within existing buildings. This development comprised a new build.

The PAC did not accept the appellant's argument that the development was an appropriate economic development under the tourism policies TSM 2 and TSM 7 of PPS 16. Policy TSM 2 relates to Tourist Amenities in the Countryside. Under the Tourism (NI) Order 1992 a tourist amenity was "*an amenity, facility or service provided primarily for tourists but does not include tourist accommodation.*" The PAC did not accept that the coffee shop was a tourist amenity in itself in the countryside as it was not a facility provided primarily for tourists as the policy and definition stipulates.

The PAC was also not persuaded that the appellant's business required its rural location in terms of its functional or site/area specific requirements.

The appellant cited other coffee shops in Northern Ireland however the PAC has stated that these were located on lands at the car park used by visitors to Downhill Demesne and Mussenden Temple which was an existing tourist amenity owned by the National Trust. Therefore they were not comparable.

In terms of PPS 16, TSM 7 the PAC concluded the two temporary wooden buildings and area of hardstanding on the elongated roadside site did not benefit from natural screening, was not a high-quality form of development in the rural location, appearing incongruous in the landscape. The PAC further concluded that given the location of development on the site it gave rise to noise and nuisance potential to a neighbouring residential dwelling in the quiet rural location.

During the appeal hearing the appellant accepted the need for 2.4m x 80m visibility splays at the site however the Commission concluded that it was not demonstrated that a safe form of access could be provided.

The Commissioner concluded that the development did not meet the requirements of policies CTY 8, 13 and 14 of PPS 21.

IN terms of PPS 4, the PAC concluded that it had not been demonstrated that the coffee shop could not be located within a settlement, it was not a high quality development, it impacted neighbouring residential amenity and could not be integrated into the countryside, therefore fails to comply with the policy.

In terms of policy FLD 3 of PPS 15 [Flood Risk], the third parties provided undisputed evidence that the area was susceptible to flooding. The PAC concluded that whilst a Drainage Assessment could be provided by the appellant, the precautionary approach advocated under the policy should be adopted with the concerns raised by the third party sustained.

In terms of ground (f) of the appeal, this was amended to remove the part relating to the requirement to cease the use of the domestic access. As the Council agreed at the hearing that the domestic access had not been implemented, this remedy requirement was no longer applicable. Its removal did not prejudice the appellant.

In terms of ground (g) the PAC agreed with the Council's time periods for removal and therefore the appeal on ground (g) failed.

As the PAC had concluded that the appeal failed on all grounds (with the exception of the domestic access element) it was dismissed, and the Enforcement Notice is upheld.

3. The following appeal was dismissed on 22 August 2025:

PAC Ref	2025/A0016
Council Ref	LA06/2023/2363/O
Appellant	June Butler
Subject of Appeal	2 No. Dwellings & Garages
Location	Between 47 & 47A Ballyvester Road, Donaghadee

The retained planning policies PPS 21, PPS 3 and PPS 2 applied in this decision as well as the guidance provided in Building On Tradition: A Sustainable Design Guide For The Northern Ireland Countryside (BoT) and Development Control Advice Note 15 – Vehicular Access Standards (DCAN 15), which are of relevance.

This appeal was considered under policy CTY 8 of PPS 21 regarding whether the appeal proposal was the development of a small gap site sufficient onto to accommodate a maximum of two dwellings within an otherwise substantial or continuously built-up frontage (SCBUP).

The commission concluded firstly that there were more than three buildings. He did not accept the argument of the objectors that No.47A adjacent and west of the site could not be included given its temporary in nature appearance. The PAC considered that CTY 8 was not prescriptive to this extent. Further west and of note the PAC considered No's 51 & 51A to fall within the same common frontage along Ballyvester Road. The PAC did not consider 51A to have its own separate curtilage and described it as ancillary to No.51. Finally, the PAC

concluded that No.53 and 55 were set back from the road however a garage between the two adjacent to the road had a frontage and was concluded therefore the PAC stated that a SCBUP exists.

However, the PAC did not consider that the appeal site constituted a small gap in the SCBUP as it would be able to accommodate more than two dwellings. Secondly, as this had been concluded it was also found that the appeal development would therefore result in ribbon of development at the site. Finally, it was found that the proposed development would result in a change to the character of the rural area and therefore fail to meet the requirements of policy CTY 14 of PPS 21. The Commissioner however was not persuaded that the third-party objections regarding integration would be sustained given the existing boundary screening and therefore the proposed development would not be prominent.

In terms of PPS 3, the Commissioner concluded that the creation of an additional two houses would not *“singularly or cumulatively prejudice road safety along Ballyvester Road. Additionally, concerns regarding unsafe parking related to school traffic fall outside the scope of this appeal.”*

In terms of PPS 2, it was identified that the proposed development would be within 25m of a badger sett. However, NIEA was consulted and offered no objection. In terms of bats, the potential removal of the roadside hedging would not have a significant impact on foraging and commuting bats. The PAC concluded that neither issue would result in refusal of planning permission in itself for these issues which could be addressed at a reserved matters stage.

The PAC also found that the objectors' concerns regarding sewerage infrastructure could be dealt with at reserved matters stage and would not warrant a refusal in itself.

Finally, in terms of the third parties' objections regarding the neighbouring notification process, the PAC advised that whilst this was ultimately a matter for the Council, they had no persuasive evidence before them that suggested that a party to the appeal had been prejudiced.

The PAC concluded that the appeal proposal did not meet planning policy, and the appeal therefore could not succeed.

4. The following appeal has been withdrawn:

PAC Ref	2025/A0053
Council Ref	LA06/2022/0040/F
Appellant	Claire Lester
Subject of Appeal	Refusal of planning permission for a Pool House
Location	Dunratho House, 42 Glen Road, Hollywood

5. The following new appeals have been received:

PAC Ref	2025/E0046
Council Ref	LA06/2020/0204/CA
Appellant	Mr Ronald Shields

Subject of Appeal	Alleged 1. Unauthorised erection of outbuildings being used for recreational purposes. 2. Unauthorised provision of pathway and hard standing area with fixed picnic tables, barbecue area and playframes; 3. Unauthorised pergola/outbuilding being used as a nature hide with associated jetty area; Unauthorised laying of hardcore in areas; Unauthorised erection of two bridge structures; Unauthorised erection of fixed picnic tables.
Location	Land approx. 200m South-East of 110 Kempe Stones Road, Newtownards

PAC Ref	2025/E0044
Council Ref	LA06/2020/0227/CA
Appellant	Mr Richard Cusick
Subject of Appeal	Alleged 1. Unauthorised Building; 2. Unauthorised sales, storage and distribution use known as Maintech Solutions.
Location	Land at 16a Cardy Road, Greyabbey

Details of appeal decisions, new appeals and scheduled hearings can be viewed at www.pacni.gov.uk.

RECOMMENDED that Council notes the report and attachments.

AGREED TO RECOMMEND, on the proposal of Councillor Wray, seconded by Councillor Kerr, that the recommendation be adopted.

7. RESPONSE TO NEWRY, MOURNE AND DOWN DISTRICT COUNCIL CONSULTATION

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity which explained that there was a Consultation in relation to neighbouring planning authority (Newry Mourne and Down District Council) Local Development Plan (LDP) draft Plan Strategy (dPS).

Background

Members would have been aware that a consultation exercise in relation to Newry Mourne and Down District Council Local Development Plan (LDP) Draft Plan Strategy (dPS) was open for receipt of representations.

Engagement had taken place with the neighbouring planning authority officers in consultative discussions during the formulation of respective plans and planning matters with a cross council interest.

RECOMMENDED that the Council notes this report and attached consultation response.

AGREED TO RECOMMEND, on the proposal of Councillor Wray, seconded by Councillor Kerr, that the recommendation be adopted.

8. RTPI NI POLITICANS IN PLANNING EVENT

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity which advised of a communication in relation to RTPI NI Politicians in Planning Event - Building Better Communities - 27 October.

Background

The RTPI had contacted Councils in relation to the RTPI NI Politicians in Planning Event - Building Better Communities to be held on 27 October in Cookstown

The event was open to elected members and officers involved in planning committees. Roles and relationships of those involved in planning committees would be explored which would assist all stakeholders maximise the potential of the planning system as a force for positive change to deliver on the Council's objectives for the communities elected members serve, while avoiding pitfalls and hazards.

Details of the e-mail attached for noting.

RECOMMENDED that Council notes this report and attachment.

AGREED TO RECOMMEND, on the proposal of Councillor Wray, seconded by Councillor Kerr, that the recommendation be adopted.

TERMINATION OF MEETING

The meeting terminated at 10:33pm.

Unclassified

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ITEM 4.1

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	04 November 2025
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Date of Report	17 October 2025
File Reference	
Legislation	The Planning Act (NI) 2011
Section 75 Compliant	Yes ☐ No ☐ Other ☒ If other, please add comment below: N/A
Subject	Minded to Refuse - Draft Refusals for Consideration
Attachments	a. Draft Refusal Reasons b. Consideration of Legal Advice

Background

LA06/2023/2012/F Dwelling (change of house type to W/2011/0015/RM) Land between 3 and 4 Sheridan Grove, Helen's Bay

At its meeting of 02 September 2025, it having been withdrawn from August's schedule due to submission of late information, Committee had the above planning application presented. This succeeded circulation of the detailed Case Officer's Report and addenda to Members recommending approval of the proposal further to the following points:

- i. The site benefitted from a previous approval which had been commenced timeously and was therefore extant in perpetuity, formed a lawful fallback and formed a significant material consideration in the assessment of this case;

Not Applicable

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- ii. Significantly the Planning Act (NI) 2011 (the primary legislation governing planning) permits applications for planning permission for development already carried out (s55 of the Act);
- iii. Building without planning permission is not a criminal act;
- iv. Enforcement is a discretionary function of the Council and it had not been considered expedient to take formal enforcement action given the retrospective application was permitted under the Planning Act, there was a lawful fallback, the minor nature of changes proposed and which were being considered under the application;
- v. The original proposal was assessed against PPS 7 and its Addendum, that decision not being challenged to the Courts by way of application to judicially review;
- vi. The front balcony had no greater overlooking impact than the extant approval;
- vii. The proposed dwelling was on a lower level than no. 2 so no overbearing impact;
- viii. In respect of no. 3, windows were being conditioned to be obscure glazing to prevent overlooking into rear amenity space;
- ix. In respect of no. 4 again obscure glazing was utilised and no direct views from two rear windows toward any inhabitable rooms or toward rear amenity space, as well as the proposed balcony being located some distance away so as not to cause overlooking.
- x. The increase in the overall size of the dwelling compared to the original approval is not considered to be significant. The height of the front section of the building has increased by only 0.5m and the depth of the dwelling (measured front to rear) has increased by only 0.8m. The height of the rear flat roof section of the building has decreased by 0.2m.
- xi. Whilst the light test was breached, the extant approval also breached the light test, and the affected room had two alternative sources of light from its front elevation;
- xii. The light coloured finish would mitigate in terms of the minor breach of the light test
- xiii. Planning officers have comprehensively reviewed the proposal against prevailing planning policy including the guidance provided in Annex A to the Addendum to PPS 7.

A motion to agree with the officers' recommendation to approve fell, and a subsequent motion of 'Minded to Refuse' was successful with Members to put forward proposed reasons for refusal.

The reasons presented by Members and assessment of same is set out overleaf for Members' information.

Consideration of legal advice in respect of the proposed reasons for refusal is also appended.

Recommendation

It is recommended that Council notes the content of this report and attachments and agrees the reasons for refusal.

Background

LA06/2023/2012/F Dwelling (change of house type to W/2011/0015/RM) Land between 3 and 4 Sheridan Grove, Helen's Bay

At its meeting of 02 September 2025, it having been withdrawn from August's schedule due to submission of late information, Committee had the above planning application presented. This succeeded circulation of the detailed Case Officer's Report and addenda to Members recommending approval of the proposal further to the following points:

- i. The site benefitted from a previous approval which had been commenced timeously and was therefore extant in perpetuity, formed a lawful fallback and formed a significant material consideration in the assessment of this case;
- ii. Significantly the Planning Act (NI) 2011 (the primary legislation governing planning) permits applications for planning permission for development already carried out (s55 of the Act);
- iii. Building without planning permission is not a criminal act;
- iv. Enforcement is a discretionary function of the Council and it had not been considered expedient to take formal enforcement action given the retrospective application was permitted under the Planning Act, there was a lawful fallback, the minor nature of changes proposed and which were being considered under the application;
- v. The original proposal was assessed against PPS 7 and its Addendum, that decision not being challenged to the Courts by way of application to judicially review;
- vi. The front balcony had no greater overlooking impact than the extant approval;
- vii. The proposed dwelling was on a lower level than no. 2 so no overbearing impact;
- viii. In respect of no. 3, windows were being conditioned to be obscure glazing to prevent overlooking into rear amenity space;
- ix. In respect of no. 4 again obscure glazing was utilised and no direct views from two rear windows toward any inhabitable rooms or toward rear amenity space, as well as the proposed balcony being located some distance away so as not to cause overlooking.
- x. The increase in the overall size of the dwelling compared to the original approval is not considered to be significant. The height of the front section of the building has increased by only 0.5m and the depth of the dwelling (measured front to rear) has increased by only 0.8m. The height of the rear flat roof section of the building has decreased by 0.2m.
- xi. Whilst the light test was breached, the extant approval also breached the light test, and the affected room had two alternative sources of light from its front elevation;
- xii. The light coloured finish would mitigate in terms of the minor breach of the light test
- xiii. Planning officers have comprehensively reviewed the proposal against prevailing planning policy including the guidance provided in Annex A to the Addendum to PPS 7.

A motion to agree with the officers' recommendation to approve fell, and a subsequent motion of 'Minded to Refuse' was successful with Members to put forward proposed reasons for refusal.

Those reasons were received from the Mayor on 17 September.

The reasons presented and assessment of same is set out overleaf for Members' information.

Members' Proposed Reasons	Planning Comment
1. The proposed development is contrary to Policy QD1 of Planning Policy Statement 7 in that the deviations in design from the extant permission have resulted in a proposal with significantly greater visual impact in terms of height, scale and massing; consequently, the proposed development now exerts an overbearing effect on its neighbouring properties and is overly dominant within the surrounding context. The extant permission provided for 2004 square feet of internal floorspace, whereas the proposed application has 2200 square feet, an increase of almost 10%. Similarly, the ridge height of the proposed development has increased by 0.5 metres and the depth from 17.6 to 18.4 metres, as a result of additions to both the front and rear of the development. The footprint of the development has increased at the front by bringing forward the setback section of the main dwelling and adding a front porch and portico. Other amendments include the addition and reconfiguration of windows on all elevations, an amended roof design, the removal of a chimney from the front of the dwelling and an amended boundary treatment. Had the dwelling been constructed faithfully to the extant permission, it would have complied with all the pertinent policies relevant to PPS 7 and its Addendum. It is the Committee's opinion that the deviations outlined above mean the current proposed development is no longer compliant.	Whilst Committee has been advised of the extant approval as a baseline, any refusal reasons require to be drafted in respect of the <u>proposal as whole</u>. The specific detail cannot be included within the refusal reason. Reason 1 is considered as better dealing with the dominant visual impact/impact on the context and character of area under criterion (a) of QD1. Overbearing impact on existing dwellings in terms of their amenity would be better dealt with under criterion (h) in reason 2. Suggested wording: The proposed development is contrary to Policy QD1 criterion (a) of PPS 7 in that it does not respect the surrounding context, is inappropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance
2. The proposed development is contrary to Criterion (h) of Policy QD1 in that it conflicts with adjacent land uses and exerts an unacceptable adverse effect on neighbouring properties in terms of overlooking and loss of light, in that the balcony to the proposed development will overlook the main living room and main bedroom of No2 Sheridan	As above, the refusal reason cannot contain all the detail cited. The reason given only seems to refer to No. 2 so considered more appropriate to

Grove. The front elevation of the proposed development is significantly altered from the extant permission and is set forward from the original approved building line. The effect of the proposed portico with front balcony, containing full length glass doors and side windows, is to permit overlooking upon No 2, which property now incurs a loss of the privacy previously enjoyed under the extant permission. While No2 also has a front balcony, it is set considerably back within the footprint of the dwelling and is not considered relevant by the Committee. At 20 metres distance from the front projection of No2, the proposed balcony just barely meets the recommended minimum separation distance laid down in Creating Places Guidelines for opposing rear private elevations. The argument that the front elevation is not private is not considered valid in this case as there was evidence from the owner of No2 that the two rooms most affected by overlooking from the balcony were the main living room and the main bedroom of his property.	just refer to it rather than 'existing properties'. The dominant, overbearing impact referred to in reason 1 is considered to better fit within reason 2 under criterion (h) which deals with impact on amenity, but specifying no. 2 Sheridan Grove as affected. Suggested wording: The proposed development is contrary to Policy QD 1 of PPS 7 - Quality Residential Environments, criterion (h), in that there is an unacceptable adverse effect on No 2 Sheridan Grove in terms of overlooking and loss of light.
3. Furthermore, the proposed development is contrary to Criterion (h) of Policy QD1 in that the front section of proposed development fails the 25 degree light test. In its location opposite the windows of the main living area at No4 Sheridan Grove and at a height of 7.8 metres, the front balcony to the proposed development causes an unacceptable loss of light to the main living area of the neighbouring property at No 4, and the Committee did not consider that the factors listed in Paragraph A37 of the Addendum to PPS7 i.e. alternative windows in the room, afforded sufficient mitigation in this instance.	Addressed in suggested Refusal Reason 2 above.
4. The proposed development is contrary to the provisions of PPS3 Access, Movement and Parking in that there is a reduction from the	Specific policy non-compliance must be set out in relation to where the

extant permission to the area allocated for one of the three parking spaces, decreasing the parking space to below the recommended minimum set out in the Creating Places Guidelines.



demonstrable harm is. No specific policy within PPS 3 is referenced.

As stated in the preamble to PPS 3, the layout of internal accesses and parking provision will continue to be assessed under the provisions of PPS 7 'Quality Residential Environments' and associated supplementary planning guidance.

Suggested wording:

The proposal is contrary to Policy QD 1 of PPS 7 - Quality Residential Environments, criterion (f), in that inadequate and inappropriate provision is made for parking.

Note: Slide 12 of presentation to Planning Committee included the photo (to the left) of the site with two vans parked in front of the dwelling with space for another vehicle. A length of one of the spaces at 5.4m is not considered so unacceptable as to justify refusal on this basis. Furthermore, it should be noted that the space with a length of 5.4m is only 0.1m shorter than the smallest space included under the previous approval with a length of 5.5m. This difference is considered to be negligible.

5. The proposed development is contrary to the provisions of Paragraph 2.3 of the Strategic Planning Policy Statement which requires that “good neighbourliness and fairness are among the yardsticks against which development proposals will be measured.” From the history to this application, the site inspections carried out by Council’s enforcement team and the objections raised throughout the process, it is clear that the applicant continued to construct the dwelling throughout the processing of the change of house type application, despite those objections from neighbours and despite being advised that all works were carried out “at risk”. While the applicant served several versions of amended plans, discrepancies between those plans and the development of the dwelling were identified by Council’s Enforcement Team during the processing of the application. It became apparent that the dwelling was not being built in accordance with the plans submitted, yet construction proceeded.	This is not a valid refusal reason. As stated in the main report, building without planning permission is generally not a criminal offence, and the Planning Act permits submission of applications for development already constructed. The development as built is what is being assessed, not the process undertaken by the applicant, nor the impact on the neighbours of that process.
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RECOMMENDATION

It is recommended that Council

Third Addendum to Planning Report

Application Ref: LA06/2023/2012/F

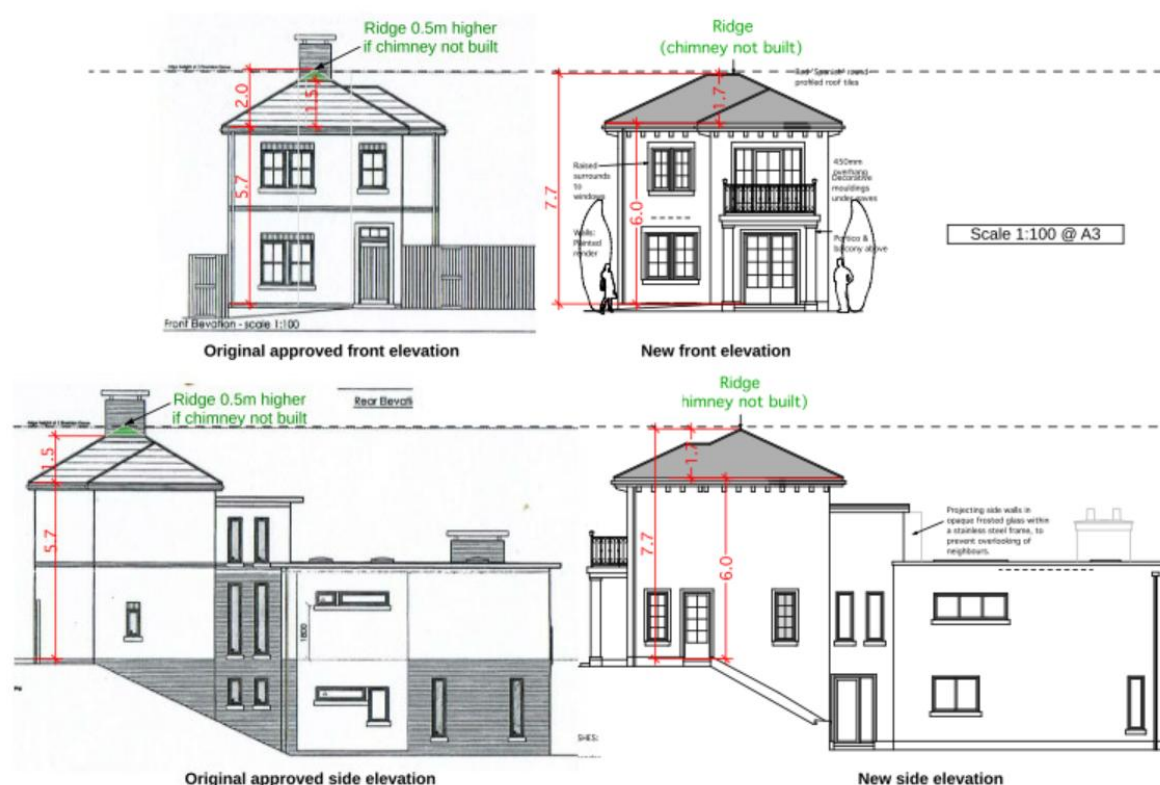
Proposal: Dwelling (Change of house type from approval
W/2011/0015/RM)

Location: Land between 3 and 4 Sheridan Grove, Helen's Bay

This third addendum has been prepared in response to a submission from the agent received on 17th October 2025.

The agent is of the opinion that the difference in height of 0.5m between the original approved dwelling and the current proposed dwelling, as stated in the Case Officer's Report and as advised by the Planning Officer at the Planning Committee meeting of 2nd September 2025, is incorrect.

The agent argues that the height difference is explained entirely by the absence of the large chimney in the new design. He is of the opinion that the height measurement of the original design should have been taken to the top of the chimney rather than the base of it, in which case the new design would be lower in height. He also argues that if the chimney had not been built on the original design, the overall ridge height would have been 0.5m higher to form the peak of the roof (see agents illustrative drawing below).



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The Planning Service does not accept the agent's argument that the ridge height of the original dwelling should be measured to a potential peak as highlighted in green on the submitted drawing. It cannot be assumed that this peak would be constructed in the absence of the chimney, particularly as the new design has a flat ridge rather than a peaked ridge.

For clarification purposes, the Planning Service has taken height measurements of both the original and proposed designs as shown in Figures 2 and 3 below. Measurements were taken from finished floor level to top of eaves and from top of eaves to the top of roof. As demonstrated below, the amended design is 0.3m higher than the original design when measured from finished floor level to top of eaves and 0.2m higher when measured from top of eaves to top of roof.

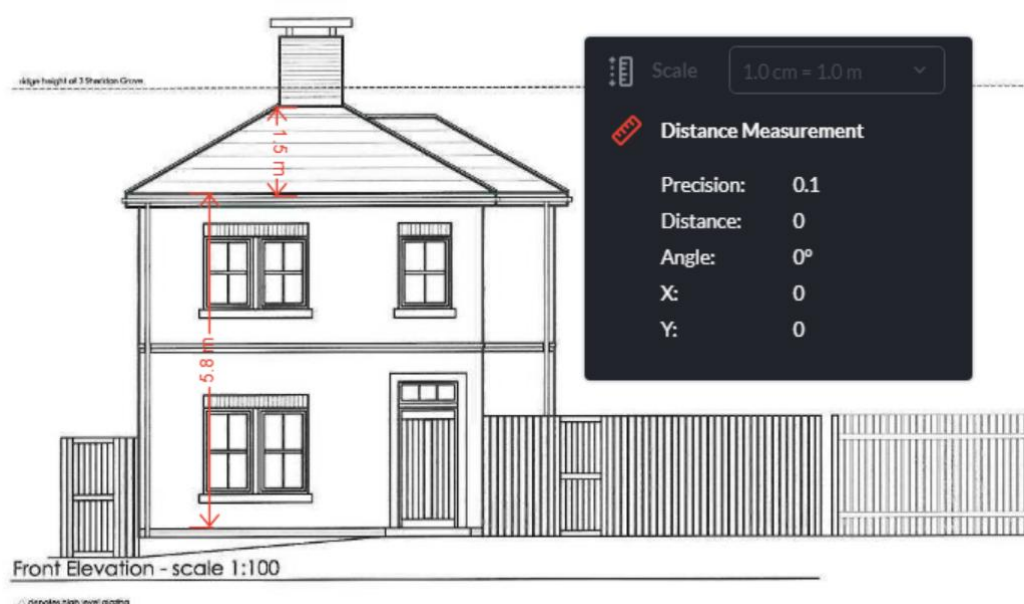


Figure 2 – Original approved design under application W/2011/0015/RM

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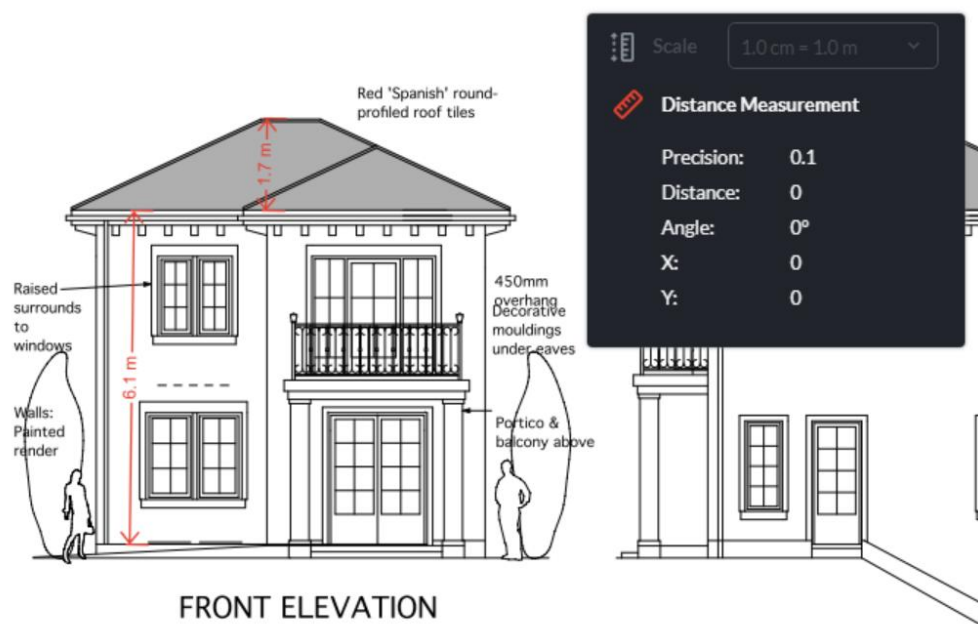


Figure 3 – Amended design under current application LA06/2023/2012/F

This overall height difference measured from finished floor level to the top of the roof was set out in the Case Officer's Report (7.3m for the original design and 7.8m for the amended design). Elevation drawings of the original design were also included within the main body of the planning report therefore Planning Committee members were aware that the original design included a chimney in addition to the stated height measurements.



Figure 4 – Height of chimney on original design

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It is acknowledged that the chimney proposed for the original design was 1.5m in height (see figure 4 above). However, in terms of general planning practice, due to their small scale, chimneys are not taken into account when assessing either a potentially dominant impact or a potential loss of light. The impact of a development in terms of dominance or loss of light is caused by the proximity, height and massing of the main body of the building itself i.e. the closest wall and roof of the building.

On the basis of the above factors, I am therefore satisfied that the comparative heights of the original and amended designs were correctly measured, outlined and assessed by the Planning Service and the details presented to Planning Committee were correct.

A Todd
21/10/2025

Legal Review of Draft Refusal Reasons

Item 4.1c

LA06/2023/2012/F Dwelling (change of house type to W/2011/0015/RM) Land between 3 and 4 Sheridan Grove, Helen's Bay

Planning Service has recommended the Application for approval; however, Members disagreed and are minded instead to refuse.

The Case Officer Report sets out the relevant planning policy framework against which the Application is assessed, which is confirmed as being the same policies against which the Extant Permission was assessed.

Of relevance is PPS 7 as it is the policy on which Members are basing their reasons for refusal. If Members are minded to overturn the recommendation of a case officer they are entitled to do so, however in doing so they must demonstrate evaluative planning judgement. Merely disagreeing with the officer's recommendation will not be enough to stand up to scrutiny should the refusal of the Application be appealed to the PAC.

Policy QD1 of PPS 7 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 development."* There are nine criteria in QD1, all of which must be met in order for planning permission to be approved.

Draft Refusal Reason 1

For the first reason for refusal, Members refer to the fact that the Application deviates from the Extant Permission, resulting in *"a proposal with significantly greater visual impact in terms of height, scale and massing"* which consequently *"exerts an overbearing effect on its neighbouring properties and is overly dominant within the surrounding context."*

In dealing with the deviations, Planning Officers have detailed, following multiple site visits, conclude that the increase in overall size of the proposed dwelling against the Extant Permission is not considered significant.

The Case Officer Report provides extensive photographic evidence for Members' consideration to assuage any concerns regarding the increases and to demonstrate that the minor deviations did not present a significantly greater visual impact in terms of height, scale and massing. Members disagree and in doing so have tied their reason to non-compliance with Policy QD1 of PPS 7, demonstrating evaluative planning judgement.

Draft Refusal Reason 2 & 3

In their second and third reasons for refusal, Members state that the Application does not meet criterion (h) of QD1 of PPS 7 as *"it conflicts with adjacent land uses and exerts an unacceptable adverse effect on neighbouring properties in terms of overlooking and loss of light"* with regard to No2 Sheridan Grove.

The Planning department has concluded that the development would not result in any unacceptable adverse effect in this regard, noting the separation distances between the Site and No2 are in line with the recommended 20m minimum separation set out in Creating Places for opposing rear private elevations.

This fact is acknowledged by Members, albeit with the caveat that the distance “barely meets the recommended minimum separation distance”. Although guidance only, on the basis that it is acknowledged that the separation distances between the Site and No2 Sheridan Grove are in line the recommended minimum separation distance set out in Creating Places, this refusal reason may not stand up to scrutiny on appeal.

The case officer notes in their report that “*it was not considered that the proposed development including the front balcony, would result in any greater impact by way of overlooking than the extant approval. Furthermore, it was noted that the proposed dwelling sat at a lower level than No2 and therefore did not result in any unacceptable overbearing impact.*” (emphasis added)

The case officer also notes that the balcony, which is of concern to Members, is approximately 20m from No2 and 26.5m from its front balcony. Further, the 20m separation distance recommended in Creating Places is for opposing rear private elevations and in this case, given the separation distances and lower FFL, it is not considered to be an unacceptable loss of light.

Members also state that the Application is contrary to criterion (h) of Policy QD1 of PPS 7 on the basis that the proposed development fails the 25-degree light test as the proposed front balcony causes an unacceptable loss of light to the main living area of No4 Sheridan Grove.

Members go on to state that the additional factors to be taken into consideration in assessing the impact on light, which are listed at Paragraph A37 of the Addendum to PPS7: Residential Extensions and Alterations, afford insufficient mitigation in this instance. In the presentation to members at the planning committee meeting on 02 September, it was noted that that while the light test was exceeded in part in this instance, policy advised that light tests were not to be applied as a rigid standard which must be met in every case. In response to a concern raised by Councillor Wray in relation to the light test, the case officer stated that, although it failed, the living area affected had two other large windows and policy dictated that other factors such as that should be taken into account.

Draft Refusal Reason 4

In their fourth reason for refusal, Members refer to the proposed development as being “*contrary to the provisions of PPS3 Access, Movement and Parking in that there is a reduction from the extant permission to the area allocated for one of the three parking spaces, decreasing the parking space to below the recommended minimum set out in the Creating Places Guidelines.*”

Planning Service correctly points out that specific non-compliance must be set out as to not do so would render the reason unacceptable and one that would be wide open

to challenge and criticism at any appeal. In order for the refusal reason to pass muster, it must be shown by Members what specifically they do not agree with and why. Simply referring to “the provisions” of PPS3 is unlikely to pass muster should that reason for refusal be scrutinised at appeal before the PAC.

Planning Service has suggested wording that states the Application is contrary to criterion (f) of Policy QD1 of PPS 7 in that inadequate and inappropriate provision is made for parking.

In the presentation to Committee and in the Committee report it is detailed that there is adequate parking provision on the Site and from the minutes provided it does not appear that any Members raised any queries in this regard. Photographs were provided to Members showing two vans parked in front of the dwelling with space for another vehicle. On the basis that Members did not interrogate this issue in any detail whatsoever, it is difficult to see how it would stand up to scrutiny on appeal.

Members have also included a refusal reason citing the development is contrary to the provisions of paragraph 2.3 of the Strategic Planning Policy Statement which states that *“good neighbourliness and fairness are among the yardsticks against which development proposals will be measured.”* This paragraph, set out in the section of the SPPS titled ‘The Purpose of Planning’, does not amount to a material planning consideration and the development as built, as noted by Planning Service, is what is being assessed, not the process undertaken by the application nor the impact of same on the neighbours. Therefore, this reason cannot be considered as a valid refusal reason and should not be included in any refusal decision.

Conclusion

In setting out their reasons for refusal, Members appear, to an extent, to have grappled with the policy considerations associated with the Application and set out their justifications as to why they disagree with the case officer, albeit only tying their second and third refusal reasons to specific policy non-compliance.

Whilst planning policy is not a straitjacket, if it is going to be departed from then the fact of departure should be expressly acknowledged and good reason given for any such departure.

Item 4.1a (Draft Reasons for Refusal) helpfully provided suggested wording for Members which narrows their reasons for refusal and adds an additional layer that demonstrates a more precise, evaluative planning judgement.

Members have provided a substantial amount of detail for their reasons to refuse and that level of detail; however, the reasons to be agreed among Members will need to be more focused and in line with what the Planning Service suggestions. Ultimately it is down to Members to weigh these matters up in the planning balance and it is suggested they give further consideration to their reasons for refusal before making a determination.

Members' Proposed Reasons	Planning Comment	Legal Comment
1. The proposed development is contrary to Policy QD1 of Planning Policy Statement 7 in that the deviations in design from the extant permission have resulted in a proposal with significantly greater visual impact in terms of height, scale and massing; consequently, the proposed development now exerts an overbearing effect on its neighbouring properties and is overly dominant within the surrounding context. The extant permission provided for 2004 square feet of internal floorspace, whereas the proposed application has 2200 square feet, an increase of almost 10%. Similarly, the ridge height of the proposed development has increased by 0.5 metres and the depth from 17.6 to 18.4 metres, as a result of additions to both the front and rear of the development. The footprint of the development has increased at the front by bringing forward the setback section of the main dwelling and adding a front porch and portico. Other amendments include the addition and reconfiguration of windows on all elevations, an amended roof design, the removal of a chimney from the front of the dwelling and an amended boundary treatment. Had the dwelling been constructed faithfully to the extant permission, it would have complied with all the pertinent policies relevant to PPS 7 and its Addendum. It is the Committee's opinion that the deviations outlined above mean the current proposed development is no longer compliant.	Whilst Committee has been advised of the extant approval as a baseline, any refusal reasons require to be drafted in respect of the <u>proposal as whole</u>. The specific detail cannot be included within the refusal reason. Reason 1 is considered as better dealing with the dominant visual impact/impact on the context and character of area under criterion (a) of QD1. Overbearing impact on existing dwellings in terms of their amenity would be better dealt with under criterion (h) in reason 2. Suggested wording: The proposed development is contrary to Policy QD1 criterion (a) of PPS 7 in that it does not respect the surrounding context, is inappropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance.	Suggested Planning reason may be considered lawful; however, Legal has concerns over robustness, as set out above.
2. The proposed development is contrary to Criterion (h) of Policy QD1 in that it conflicts with adjacent land uses and exerts an unacceptable adverse effect on neighbouring properties in terms of overlooking and loss of light, in that the balcony to the proposed development will overlook the main	As above, the refusal reason cannot contain all the detail cited.	Suggested Planning reason may be considered lawful; however, Legal has concerns over robustness, as set out above.

living room and main bedroom of No2 Sheridan Grove. The front elevation of the proposed development is significantly altered from the extant permission and is set forward from the original approved building line. The effect of the proposed portico with front balcony, containing full length glass doors and side windows, is to permit overlooking upon No 2, which property now incurs a loss of the privacy previously enjoyed under the extant permission. While No2 also has a front balcony, it is set considerably back within the footprint of the dwelling and is not considered relevant by the Committee. At 20 metres distance from the front projection of No2, the proposed balcony just barely meets the recommended minimum separation distance laid down in Creating Places Guidelines for opposing rear private elevations. The argument that the front elevation is not private is not considered valid in this case as there was evidence from the owner of No2 that the two rooms most affected by overlooking from the balcony were the main living room and the main bedroom of his property.	The reason given only seems to refer to No. 2 so considered more appropriate to just refer to it rather than 'existing properties'. The dominant, overbearing impact referred to in reason 1 is considered to better fit within reason 2 under criterion (h) which deals with impact on amenity, but specifying no. 2 Sheridan Grove as affected. Suggested wording: The proposed development is contrary to Policy QD 1 of PPS 7 - Quality Residential Environments, criterion (h), in that there is an unacceptable adverse effect on No 2 Sheridan Grove in terms of overlooking and loss of light.	
3. Furthermore, the proposed development is contrary to Criterion (h) of Policy QD1 in that the front section of proposed development fails the 25-degree light test. In its location opposite the windows of the main living area at No4 Sheridan Grove and at a height of 7.8 metres, the front balcony to the proposed development causes an unacceptable loss of light to the main living area of the neighbouring property at No 4, and the Committee did not consider that the factors listed in Paragraph A37 of the Addendum to PPS7 i.e. alternative windows in the room, afforded sufficient mitigation in this instance.	Addressed in suggested Refusal Reason 2 above.	

4. The proposed development is contrary to the provisions of PPS3 Access, Movement and Parking in that there is a reduction from the extant permission to the area allocated for one of the three parking spaces, decreasing the parking space to below the recommended minimum set out in the Creating Places Guidelines.	Specific policy non-compliance must be set out in relation to where the demonstrable harm is. No specific policy within PPS 3 is referenced. As stated in the preamble to PPS 3, the layout of internal accesses and parking provision will continue to be assessed under the provisions of PPS 7 'Quality Residential Environments' and associated supplementary planning guidance. Suggested wording: The proposal is contrary to Policy QD 1 of PPS 7 - Quality Residential Environments, criterion (f), in that inadequate and inappropriate provision is made for parking. Note: Slide 12 of presentation to Planning Committee included the photo (to the left) of the site with two vans parked in front of the dwelling with space for another vehicle. A length of one of the spaces at 5.4m is not considered so unacceptable as to justify refusal on this basis. Furthermore, it should be noted that the space with a length of 5.4m is only 0.1m shorter than the smallest space included under the previous approval with a length of 5.5m. This difference is considered to be negligible.	Suggested Planning reason may be considered lawful; however, Legal has concerns over robustness, as set out above.
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5. The proposed development is contrary to the provisions of Paragraph 2.3 of the Strategic Planning Policy Statement which requires that “good neighbourliness and fairness are among the yardsticks against which development proposals will be measured.” From the history to this application, the site inspections carried out by Council’s enforcement team and the objections raised throughout the process, it is clear that the applicant continued to construct the dwelling throughout the processing of the change of house type application, despite those objections from neighbours and despite being advised that all works were carried out “at risk”. While the applicant served several versions of amended plans, discrepancies between those plans and the development of the dwelling were identified by Council’s Enforcement Team during the processing of the application. It became apparent that the dwelling was not being built in accordance with the plans submitted, yet construction proceeded.	This is not a valid refusal reason. As stated in the main report, building without planning permission is generally not a criminal offence, and the Planning Act permits submission of applications for development already constructed. The development as built is what is being assessed, not the process undertaken by the applicant, nor the impact on the neighbours of that process.	This is not a valid refusal reason, and Members should not rely on same.
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Development Management Case Officer Report			 Ards and North Down Borough Council	
Reference:	LA06/2018/1328/F	DEA: Holywood & Clandeboye		
Proposal:	Residential development of 27No. units (11 No. detached and 16 No. apartments), includes upgrade of existing access at Whinney Hill, landscaping and associated site works.			
Location:	Lands at No. 5 Woodlands Avenue, North of Whinney Hill SE and NE of No. 3-6 The Cottages Whinney Hill and SE of No. 1 and 3 Woodlands Avenue, Holywood			
Applicant:	Groening Developments Ltd.			
Date valid:	5/12/2018	EIA Screening Required:	No	
Date last advertised:	09/10/2025	Date last neighbour notified:	15/10/2025	
Letters of Support: 2		Letters of Objection: 70 (from 32 separate addresses)		Petitions: 2
Consultations – synopsis of responses:				
Environmental Health		No objection		
Shared Environmental Service		No objection		
DFI Roads		No objection subject to conditions		
DAERA Water Management Unit		No objection subject to conditions		
NIEA Natural Heritage		No objection subject to conditions		
NI Water		Refusal recommended due to network capacity issues		
DfC Historic Environment Division		No objection		
Belfast City Airport		No objection		
DFI Rivers		No objection subject to condition		
Summary of main issues considered:				
- Principle of development in context of Development Plan - Visual impact and impact on character of area - Impact on residential amenity - Access, road safety and parking - Impact on biodiversity and natural heritage - Impact on existing landscape features - Drainage				

Recommendation: Grant Planning Permission
Report Agreed by Authorised Officer
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal Northern Ireland Public Register (planningsystemni.gov.uk)
1. Site and Surrounding Area
The site is located on the outskirts of Holywood on the northern side of Whinney Hill approximately 2 miles from Holywood town centre. The site is currently accessed off both Whinney Hill and the A2 Belfast/Bangor Road. The site is located in an elevated position with the topography rising steeply upwards from north-west to south-east. A substantial dwelling with outbuildings, known as Woodlands House (5 Woodlands Avenue), currently occupies the north-eastern corner of the site. The dwelling is a large detached 3 storey property with stables and outbuildings to the rear. The building is finished in red brick and render with red roof tiles. Surrounding the site, the land to the immediate south-east is in agricultural use while the land to the north-west and to the south on the opposite side of Whinney Hill is residential. The existing residential development on the northern side of Whinney Hill is characterised predominantly by detached dwellings set within large, mature plots while the southern side of the road has detached dwellings on smaller plots. The site is set within a mature landscape setting with surrounding areas of woodland to the north and south. The site also lies within the proposed Folk Park/Creighton Local Landscape Policy Area (LLPA) and partially within the proposed Ulster Folk and Transport Museum and Cultra Glen Site of Local Nature Conservation Importance (SLNCI).

2. Site Location Plan

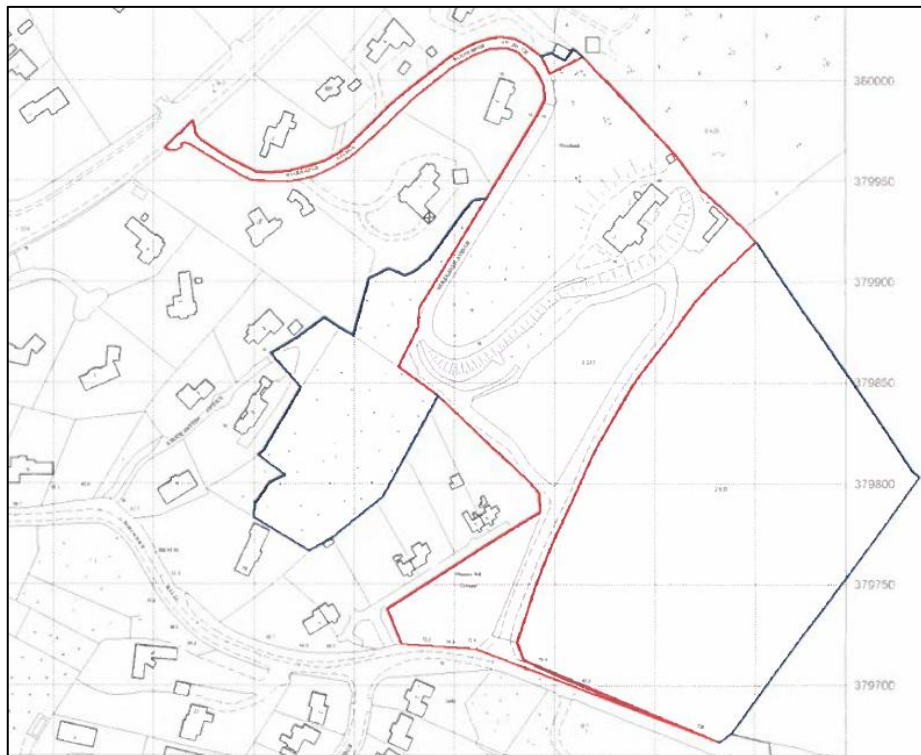


Figure 1 – Site Location Plan



Figure 2 – Aerial view of site

3. Relevant Planning History

Site

LA06/2018/0660/PAN - Residential development comprising a mix of house types, associated access site works and landscaping at a site North of Whinney Hill SE and NE of 3-6 Whinney Hill Cottages and SE of 1 and 3 Woodlands Avenue, Hollywood - **Proposal of Application Notice accepted 10/07/2018**

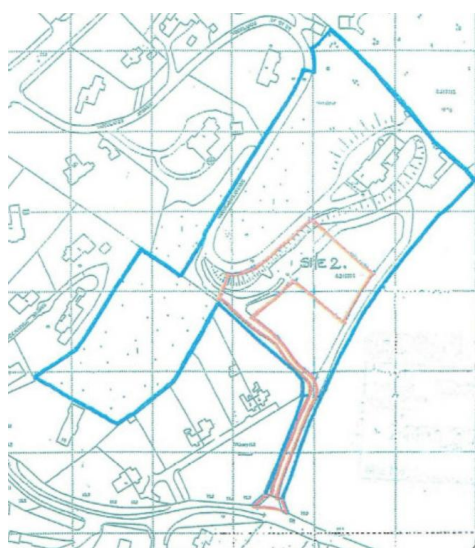
There has been a long history of planning approvals for four single dwellings on the application site which have been renewed numerous times over the years since the 1980's. The most recent approvals are listed below, three of which remain extant.

Extant

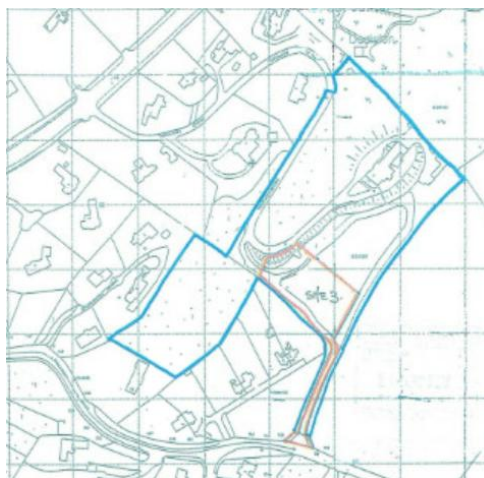
LA06/2018/0545/F - Dwelling at site between 3 & 5 Woodlands Avenue, Hollywood (Site 1). **Approved 04/02/2021**



LA06/2024/0785/F - Detached dwelling (Renewal of existing approval LA06/2017/0638/F) - approximately 90m SE of 5 Woodlands Avenue, Hollywood – **Approved 16/12/2024**

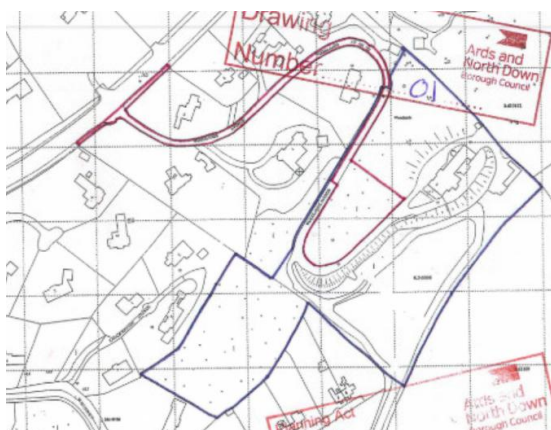


LA06/2024/0786/F - Dwelling (Renewal of approval LA06/2017/0637/F) - Approximately 30m NE of 6 Whinney Hill Cottages, Holywood – **Approved 13/12/2024**



Expired

LA06/2015/0269/F - Dwelling at 5 Woodlands Avenue, Holywood (site 1a). **Approved 04/05/2016 (Expired)**



Surrounding Area

LA06/2016/0551/O - Erection of 4 detached dwellings including vehicular access and any associated works at lands to the South-East of Knocknatten Ave and the North-West of Whinney Cottages, Whinney Hill, Cultra. **Approved 06/09/2018.**

LA06/2023/1909/F - Renewal of planning permission - LA06/2017/1412/F - 1.5 storey dwelling with associated site works (change of house type, amended siting, and increase in garden size to that previously approved under Ref W/2014/0313/F) - Site immediately to the north of No 3 Knocknatten Avenue, Holywood – **Approved 13/09/2023**

LA06/2021/1008/O - 1.5 storey dwelling to gap site (Renewal of planning approval LA06/2018/0785/O) -10m NE of 2 The Cottages, Whinney Hill, Holywood – **Approved 19/08/2022**

LA06/2021/0959/RM - 2 No. 2.5 storey split level detached dwellings including vehicular access to Whinney Hill only - complete with associated site works at land SE of Knocknatten Avenue & NW of The Cottages, Whinney Hill, Holywood. **Under consideration.**

LA06/2019/0451/F - Erection of two 2.5 storey split-level detached dwellings, including vehicular access to Whinney Hill only, and associated works at lands SE of Knocknatten Avenue and NW of The Cottages, Whinney Hill, Holywood. **Approved 13/08/2020.**

LA06/2018/0379/F – Proposed new dwelling and garage, 3 The Cottages, Whinney Hill, Ballycultra, Holywood. **Under consideration**

W/2014/0460/O - New 1.5 storey dwelling to gap site - Site adjacent 2 Whinney Hill Cottages – **Approved 29/07/2015**

LA06/2015/0761/F - Erection of single dwelling with integral garage (change of house type from that previously approved under application reference number W/2014/0313/F), site to the north of No. 3 Knocknatten Avenue, Holywood. **Approved 15/07/2016**

4. Planning Assessment

The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:

- North Down and Ards Area Plan 1984 – 1995 (NDAAP)
- Draft Belfast Metropolitan Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement (PPS) 2: Natural Heritage
- Planning Policy Statement (PPS) 3: Access, Movement and Parking
- Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage
- Planning Policy Statement (PPS) 7: Quality Residential Environments
- Addendum to Planning Policy Statement (PPS) 7: Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 8: Outdoor Sport and Recreation
- Planning Policy Statement 12: Housing in Settlements
- Planning Policy Statement 15: Planning and Flood Risk

- Creating Places
- Development Control Advice Note (DCAN) 8 – Housing in Existing Urban Areas
- Living Places

Background

The application as originally submitted was for a total of 42 No. residential units. This proposal was assessed by the Council and found to be fundamentally unacceptable under Planning Policy Statement 7: Quality Residential Environments and Planning Policy Statement 7 Addendum: Safeguarding the Character of Established Residential Areas by reason of:

- adverse impact on the character of the area
- adverse impact on residential amenity
- insufficient private and communal open space; and
- insufficient parking.

The application also lacked sufficient information to allow the full assessment of drainage issues, road safety issues and natural heritage issues, therefore the Council proceeded to make a recommendation to refuse planning permission on 21 September 2021.

Shortly after the agent was advised of the recommendation to refuse, an amended scheme was submitted on 24 September 2021, reducing the scheme to 37 No. units. The Council advised that this reduced proposal still failed to address the concerns raised.

The agent then proceeded to submit a further proposal for an amendment on 15 October 2021, reducing the scheme to 27 No. units. Since this date, the agent has proceeded to submit the various additional outstanding detailed drawings, surveys, reports and supporting information required to carry out a full assessment of the reduced scheme and as required by the various statutory consultees. **It is this reduced proposal for 27 units which is considered in this report.**



Figure 3 – Original Proposal for 42 Units



Figure 4 – Amended Proposal for 27 Units

Legislative Requirements

Proposal of Application Notice (PAN) and Consideration of Pre-Application Community Consultation (PACC) Process

As the proposal falls within the category of major development as outlined in The Planning (Development Management) Regulations (Northern Ireland) 2015 (“the DM Regs”), this proposal was subject to legislative requirements to carry out pre-application community consultation prior to submission of the planning application. A PAN was submitted to the Council on 12 June 2018. The Council wrote to the applicant on 10 July 2018 confirming that the PAN submission was acceptable. The current planning application was submitted to the Council on 05 December 2018, more than 12 weeks after receipt of the PAN, as required by Section 27 of the Planning Act (Northern Ireland) 2011 (“the Act”).

In accordance with Section 28 of the Act, a Planning Application Community Consultation (PACC) Report was submitted with the application. The report satisfactorily outlines how community consultation was carried out in accordance with the requirements of Section 27 of the Act and Regulation 5 of the DM Regs.

A public event was held as part of the consultation process, in the Balmoral Suite at the Culloden Hotel on Wednesday 22 August 2018 between 12pm-2pm and 5pm-7pm. The event was advertised in the County Down Spectator on 9th August 2018 in accordance with Regulation 5 of the DM Regs. A leaflet containing details of the public event was also distributed to all properties adjoining and directly opposite the boundary of the site. Details of the event were advertised on social media via twitter. Direct invitations were also issued to all elected representatives in North Down.

The event took the form of a staffed exhibition where plans for the proposed development were displayed. Information set out in the exhibition included project team details, the site context, site analysis, site layout, landscaping and house types.

Representatives from the project design team were also present throughout the duration of the event to respond to questions. Feedback forms were provided with ten responses completed during the course of the event and in total over forty people attended the event. Following the public event, a number of residents contacted the project team to request information and provide feedback. As a result, individual meetings were held with the occupants of 4 Woodlands Avenue, 6 Woodlands Avenue, 4 Three Acres and a relative of the occupants of 5 The Cottages Whinney Hill.

The PACC Report submitted with the current application includes a copy of advertisement of the public event held along with copies of the feedback forms received. The main comments received during the consultation process included the following:

- Traffic - Impact of additional traffic on existing road infrastructure, particularly the Whinney Hill/Bangor Road junction
- Access - Opposition to access to development from Woodlands Avenue
- Flooding/Drainage - Woodlands Avenue currently experiences flooding due to surface water runoff from site. Sewerage infrastructure is at capacity
- House Types – Some respondents considered the proposed apartments to be out of keeping with the character of the area while others considered them to be of a quality in keeping with the area and were pleased to see the proposal cater for ‘downsizers’
- Noise – Noise impact during construction
- Street Lighting – Impact of light pollution in countryside and on existing dwellings
- Zoning – Site is outside the development limit in the draft plan and the Council have yet to finalise new plan
- Environment/Ecology - Impact on protected trees and species
- Density – excessive number of houses for site
- Economic Benefit – Welcome investment and boost to local construction sector

Following the public event and in response to the feedback received, a number of amendments to the scheme were made as follows:

1. Access to Woodlands Avenue – The access off Woodlands Avenue has been retained; however, following the strong views expressed by residents, the pedestrian access has been removed.
2. Drainage – The Applicant has investigated the current drainage layout on site to determine if an immediate and short-term solution could be implemented prior to formalising the drainage of the site. The landowner traced and exposed the existing agricultural field drain along the eastern field boundary. An inspection of the drain uncovered a number of breaks which have now been repaired. It is hoped that this will alleviate surface water run-off from the higher ground in the short term. A formal drainage design has also been prepared as part of this proposal which will resolve surface water run off problems in the area and regulate surface water run off rates to a more sustainable green field rate. A drainage assessment is being finalised and will be submitted alongside the planning application.
3. Street Lighting – Taking account of comments from neighbours, low intensity lighting will be utilised to ensure it is sensitive to existing residents, particularly those in The Cottages at Whinney Hill.

Design and Access Statement (DAS)

As the proposal involves major development, a DAS has been submitted in accordance with the legislative requirements of the Act and The Planning (General Development Procedure) Order (Northern Ireland) 2015.

The submitted statement provides an analysis of the existing site conditions and surrounding context identifying the constraints and opportunities that have informed the development of the proposals. The statement outlines the design principles and concepts that have been applied to the development, incorporating the feedback obtained from the consultation events. The design concept principles set out in the DAS are summarised as follows:

- The proposal is for a residential development consisting of a variety of house types.
- The layout seeks to maximise the panoramic views towards Belfast Lough. The layout makes positive use of the contours, utilising split level designs to minimise the extent of retaining structures.
- A central spine of existing trees will be augmented to create an arboretum which will function as a centralised area of public open space
- The existing avenue off Whinney Hill which serves No. 5 will be upgraded to an adoptable standard and provide the main means of access to the site. A further section of the development consisting of 5 detached dwellings will be served via the existing Woodlands Avenue off the A2 Belfast/Bangor Road.
- Proposed apartments and dwellings have been designed to be dual-fronted and overlook both internal roads and Whinney Hill.
- A new section of footway will be constructed along the Whinney Hill site frontage with a pedestrian crossing point
- Scale and massing of existing Woodlands House shall be used as a design cue to achieve a more sustainable development density in line with the RDS aims.

- Establish character areas within the development to react to surrounding context
- Protect root structures of existing mature trees
- Employ Sustainable Urban Drainage Systems (SUDS) to resolve existing drainage issues and provide a sustainable means of future drainage on the site.

Environmental Impact Assessment

A determination was carried out upon receipt of the application under Regulation 12(1) of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 as to whether the proposal would be EIA development.

Based on the submitted information provided by the applicant, the Planning Service determined on 8th April 2019 that the proposal was not considered to be EIA development and as such did not need to be accompanied by an Environmental Statement.

Development Plan

Section 45 (1) of the Planning Act (Northern Ireland) 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 2015 (BMAP) has been declared unlawful. As a consequence of this, the North Down and Ards Area Plan 1984-1995 (NDAAP) is the statutory development plan for the area. The draft BMAP and the Planning Appeals Commission's (PAC) report on the Public Inquiry are also material considerations.

The site lies outside the settlement limit of Holywood in the NDAAP. In draft BMAP the site is also located outside the settlement limit. In the unlawfully adopted BMAP, the site was incorporated into the settlement limit of Holywood. This followed on from a concession by DOE Planning to agree with the PAC's opinion that the land subject to objections during the Public Inquiry should be included within the settlement limit.

The PAC considered that the existing development at The Cottages, Woodlands Avenue, Carlston and Invergourie already represented an urban character with the natural break in the development at the laneway serving 5 Woodlands Avenue. Consideration was also given to a number of development opportunities (infill sites between The Cottages and permissions around Woodlands Avenue) and the consequent potential for the urban nature of the area to be reinforced in future.

The weight to be attributed to the extant North Down and Ards Area Plan is a matter of judgement as Section 45 of the Planning Act requires that the Planning Authority must also have regard to any other material considerations. In this instance, the Draft Belfast Metropolitan Area Plan (dBMAP) and the PAC's report on the Public Inquiry into dBMAP and subsequent recommendations are material to the consideration of this proposal.

It is considered that the position of the site surrounded by existing and approved development, its current use as a residential curtilage, the PAC's recommendations and its status as conceded by DOE at Public Inquiry, are all important material factors which are considered to outweigh the NDAAP and Draft BMAP in respect of the settlement limit in this case and therefore render the residential development of the site acceptable in principle. In the event of BMAP being lawfully adopted it is highly likely that the revised development limit which has been considered during the Public Inquiry, and accepted by DOE Planning, will be adopted again.

The Council's previous acceptance of the principle of residential development in relation to planning permission for four dwellings immediately adjacent to the site (also outside of the designated settlement limit) is also a material consideration (see planning reference LA06/2016/0551/O outlined in planning history section above).

It is also of note that in a recent PAC decision relating to similar circumstances for residential development at Saintfield Road, Lisburn (2019/A0154), the PAC agreed that other material considerations outweighed the statutory Lisburn Area Plan and Draft BMAP in respect of the settlement limit. Another previous appeal decision (2017/A0220 – Beanstown Road, Lisburn) also supports this approach. Neither of these PAC decisions was challenged.

Therefore, given the position of the site surrounded by existing and approved development, its previous use as residential curtilage and its status as conceded by DOE Planning at Public Inquiry, it is considered that these are important material considerations that would render the proposed development acceptable in principle and that the development at this location would not harm the setting of Hollywood.

Taking account of the above factors, it therefore follows that determining weight is not afforded to any of the countryside policies contained within Planning Policy Statement 21: Sustainable Development in the Countryside, the extant NDAAP or Draft BMAP. Consequently, the proposal will be assessed under the policy provisions contained in Planning Policy Statement 7: Quality Residential Environments and the Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas.



Figure 5 - Extract from North Down and Ards Area Plan

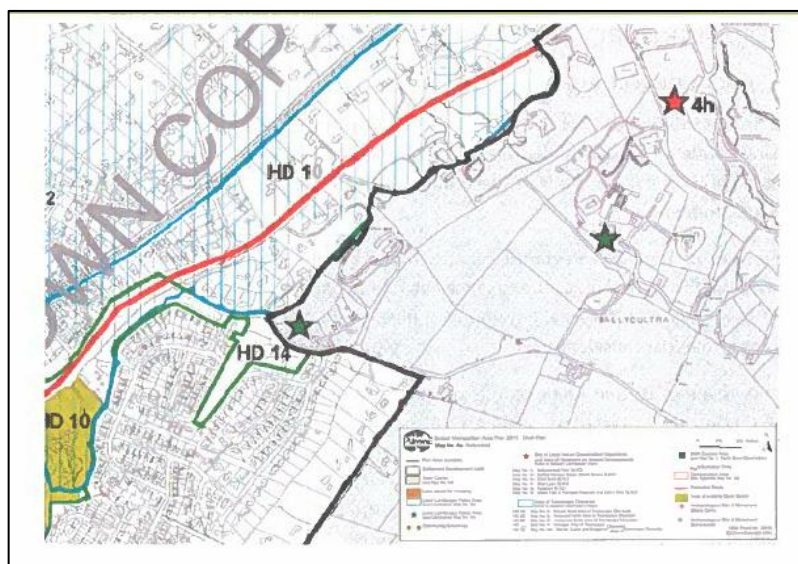


Figure 6 - Extract from Draft BMAP 2015

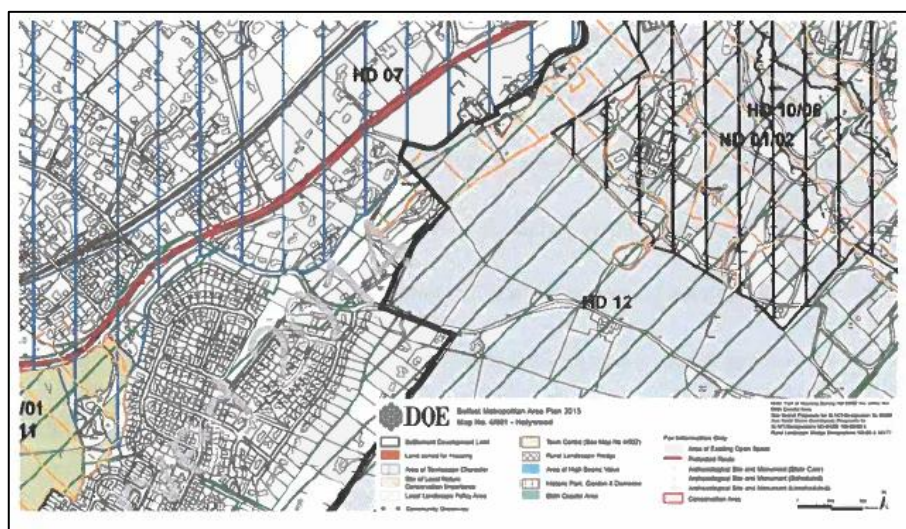


Figure 7 - Extract from Adopted (Quashed) BMAP 2015

Folk Park/Creighton Local Landscape Policy Area (LLPA) HD15

Within dBMAP, the site is located within the proposed Folk Park/Creighton Local Landscape Policy Area (LLPA) (designation HD15). In response to the draft Plan proposals and as part of the Public Inquiry process, objections were received seeking the site's removal from the LLPA designation. The objection to the LLPA designation was subsequently withdrawn during the Public Inquiry. It is therefore likely that the designation would be included in any future lawfully adopted BMAP.

Policy ENV3 of draft BMAP states that in designated LLPAs, planning permission will not be granted for development that would be liable to adversely affect those features or combination of features that contribute to environmental quality, integrity or character. Where proposals are within and/or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA.

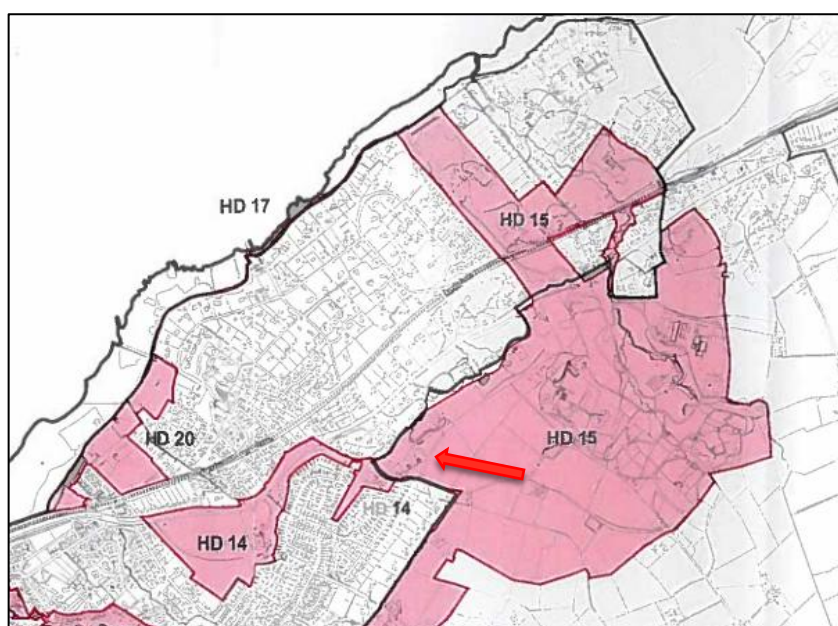


Figure 8 - Map 4b Draft BMAP – Hollywood LLPAs

Draft BMAP identifies a number of features which are considered to contribute to the environmental quality, integrity or character of the area. One of these includes the listed building known as The Hill and its associated expansive grounds. While Historic Environment Division raised concerns in relation to the initial proposal for 42 units, it has considered the reduced proposal for 27 units and is now content with the proposal subject to a condition requiring a landscape buffer along the NE boundary of the site to protect the setting of the listed building and the overall environmental quality of the LLPA. A revised Landscape plan was received with additional trees and shrubs planted through the site (see figure 9 below).



Figure 9 – Landscape plan

It is considered that taking account of the extensive landscaping scheme proposed along with the retention of existing landscape features, the proposal will not adversely affect those features or combination of features that contribute to the environmental quality, integrity and character of the proposed LLPA. The overall visual impact of the development on the landscape and character of the area is considered in further detail below.

Ulster Folk and Transport Museum and Cultra Glen Site of Local Nature Conservation Importance (SLNCI) HD13/06

Policy ENV2 of draft BMAP states that planning permission will not be granted for development that would be liable to have an adverse effect on the nature conservation interests of a designated SLNCI. In this respect, Policy NH4 of Planning Policy Statement 2 (PPS2) is a material consideration and the impact of the development on the proposed SLNCI is assessed under this policy heading below.

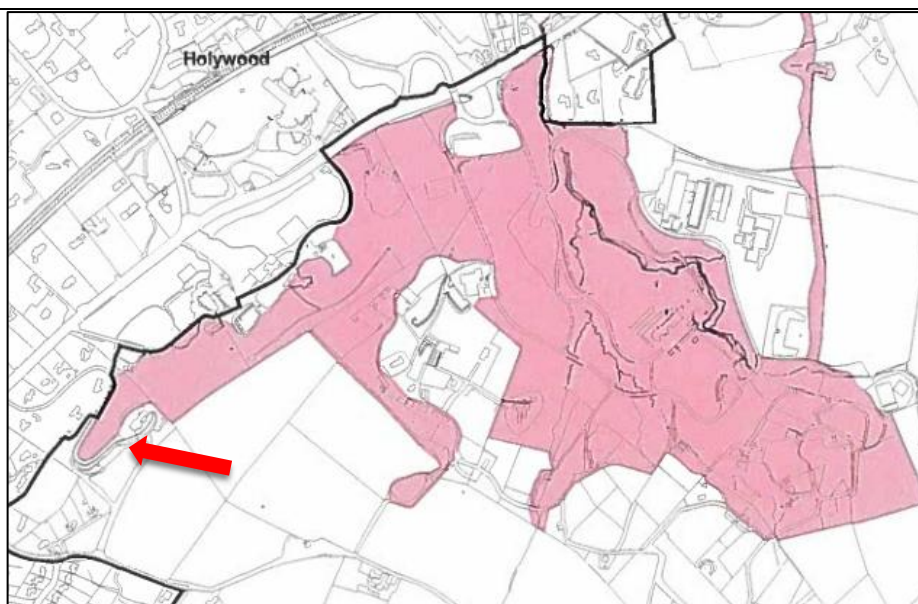


Figure 10 - Map 4h Draft BMAP – Proposed Ulster Folk and Transport Museum and Cultra Glen SLNCI

Strategic Planning Policy Statement for Northern Ireland (SPPS)

The SPPS states 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’. The core principles of the SPPS include improving health and well-being, creating and enhancing shared space, supporting sustainable economic growth, supporting good design and positive place making and preserving and improving the built and natural environment.

As outlined under the above Development Plan consideration, the principle of residential development is considered to be acceptable on this site. There are no policies within the SPPS which are considered to conflict with the retained Planning Policy Statements in respect of residential development.

Planning Policy Statement (PPS) 2: Natural Heritage

Policy NH 1 - European and Ramsar Sites, International

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);
- a listed or proposed Ramsar Site

This proposal has been considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of the Council

which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Having considered the nature, scale, timing, duration and location of the project it is concluded that further assessment is not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European site. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

Policy NH 2 - Species Protected by Law

Planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. A Preliminary Ecological Appraisal Report (PEA) and Bat Activity Assessment/Tree Survey Report were submitted with the application. Further bat roost potential surveys of the existing trees and buildings on the site were also submitted at the request of Natural Environment Division (NED). As some of the buildings proposed for demolition were assessed as having moderate roosting potential, NED requested further emergence/re-entry surveys to determine the presence or absence of roosting bats and provide appropriate mitigation where necessary. NED also requested a lighting plan, an updated PEA and Landscape Management Plan. All of the above was submitted by the agent and, subject to conditions, NED is now content with the proposal.

With regard to other protected species, a number of objection letters have raised concerns about badgers. While NED acknowledges that badgers are likely to be present in the area, it is content that no badger setts have been recorded on the site and as such has no concerns that any unacceptable harm would occur.

Policy NH4 – Sites of Nature Conservation Importance (Local) & Policy NH5 – Habitats, Species or Features of Natural Heritage Importance

As outlined above, part of the site lies within a small corner of the Ulster Folk and Transport Museum & Glen Site of Local Nature Conservation Importance (SLNCI) as designated under draft BMAP. In addition, the majority of the application site is classified as lost ancient woodland habitat.

NED has noted that the section of the SLNCI which lies within the application site, does not contain any woodland for which the SLNCI was proposed to be designated.

However, the mature trees which are located within the application site are highly likely to be the remnants of ancient woodland which once covered the site. The mature trees on the site are considered to be of ecological value, providing habitat connectivity within the wider area for protected species.

In its initial response in relation to the reduced scheme for 27 units, NED continued to raise concerns with the proposal and considered that in the absence of further information and amendments, the proposal would be contrary to the Habitats Regulations, Planning Policy Statement 2 and the SPPS. However, additional reports were then submitted in support of the application, which included a Bat Survey Report, a Lighting Plan, an updated PEA and Landscape Management Plan. Having considered

the additional information NED has confirmed in its latest response that it is now content with the proposal subject to conditions.

Planning Policy Statement (PPS) 3: Access, Movement and Parking

Policy AMP 2: Access to Public Roads & Clarification of Policy AMP3: Access to Protected Routes

The site is currently served by two access points. The first point is via a private entrance off Whinney Hill and the second is off the A2 Belfast/Bangor Road which is a protected route and serves the existing properties along Woodlands Avenue. It is proposed to upgrade the existing access onto Whinney Hill to current standards to provide visibility splays of 4.5m x 90 to the left-hand side emerging and 4.5m x tangent to the right-hand side. A 2m wide footpath will also be provided along the frontage of the site to the right-hand side of the access along with a crossing point. The existing access serving Woodlands Avenue will remain unaltered and will serve 2 No. new detached dwellings only. A Transport Assessment form has been submitted in support of the application.

Policy AMP2 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.
- b) the proposal does not conflict with Policy AMP3 - Access to Protected Routes

Under Policy AMP3 the policy 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 where:

- a) access cannot reasonably be taken from an adjacent minor road; or
- b) in the case of proposals involving residential development, it is demonstrated to the Department's satisfaction that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points.

It was originally proposed that 3 No. dwellings would be accessed off Woodlands Avenue; however, after consultation with DFI Roads, this was considered unacceptable as it would lead to intensification of the access and a need to improve the junction. At present this section of the site has an existing dwelling (5 Woodlands Avenue) which can access out onto the A2 via Woodlands Avenue and an extant permission for a single dwelling (LA06/2018/0545/F), also with a proposed access out onto the A2 via Woodlands Avenue, totalling 2 dwellings which could potentially access out onto the A2.

Amended plans were received that moved the access of Site 25 from Woodlands Avenue to the new access road off Whinney Hill, so there is no additional vehicular access off Woodlands Avenue. Therefore, there is no net increase in dwellings

accessed off Woodlands Avenue, i.e. 2 No. dwellings will be accessed off this road, as per the existing situation.

Further to the amended plan, DFI Roads was reconsulted and in its last response advised it had no objections to the proposal on road safety grounds.

Policy AMP 7 Car Parking and Servicing Arrangements

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

The proposed parking provision for the various house types assessed against the Creating Places Guidelines is as follows:

- 5 x House type C (5 bed detached) – 2 in curtilage spaces per unit are provided. Creating Places requires 3.25 per unit. Total of 16.25 spaces required (10 in curtilage and **6.25 communal/visitor**)
- 2 x House type J (5 bed detached) – 2 in curtilage spaces per unit are provided. Creating Places requires 3.25 per unit. Total of 6.5 spaces required (4 in curtilage and **2.5 communal/visitor**)
- 2 x House type F (4 bed detached) – 2 in curtilage spaces per unit are provided. Creating Places requires 3 per unit. Total of 6 spaces required (4 in curtilage and **2 communal/visitor**)
- 4 x House type B1 (2 bed apartments) – 7 communal unassigned spaces provided. Creating Places requires 1.5 per unit which equates to a total of 6 spaces required. Therefore, there would be an overprovision of 1 space.
- 1 x House type K (5 bed detached) – 2 in curtilage spaces provided. Creating Places requires 3.25 per unit. Total of 3.25 spaces required (2 in curtilage and **1.25 communal/visitor**).
- 12 x House type H - 22 communal unassigned spaces provided. According to standards, 8 x 2 bed apartment requires 1.5 per unit and 4 x 3 bed apartment requires 1.75 per unit which equates to a total of 19 spaces required. Therefore, there would be an over provision of 3 spaces.
- 1 x House Type L (5 bedroom detached) 2 in curtilage spaces provided. Creating Places requires 3.25 per unit. Total of 3.25 spaces required (2 in curtilage and **1.25 communal/visitor**).

In addition to the in-curtilage and communal parking provision for each dwelling and apartment, 19 visitor spaces have been provided within the development which would meet the overall requirements set out above.



Figure 11 – Parking Provision Plan

By way of public transport, there is a bus stop on the A2 Belfast/Bangor Road approximately 200m walk from the site access, with bus services operating to and from Belfast City Centre. The Marino railway halt is within walking distance of the site, 750m northwest of the site. Hollywood town centre is also approximately a mile southwest of the site and is well served by road, public transport and pedestrian linkages, with daily bus and train services running through Hollywood enroute to and from Belfast/Bangor and beyond.

Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage

Policy BH2 – The Protection of Archaeological Remains of Local Importance and their settings

HED Historic Monuments has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to the requirements of the SPSS and PPS6.

Policy BH11 – Development affecting the Setting of a Listed Building

Development will not normally be permitted 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 makes 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.

The site is in proximity to 'The Hill' (Grade B+) listed building. Historic Environment Division (HED) has considered the impacts of the proposal on the building and has advised that it is content that the amended proposal for 27 units will have no adverse impact on the listed building subject to a condition requiring all existing mature trees and hedging to the northeastern shared boundary with the listed building to be permanently retained.

Planning Policy Statement (PPS) 7 - Quality Residential Environments

Policy QD1 – Quality in New Residential Development

Policy QD1 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

All proposals for residential development will be expected to conform to all of the following criteria:

- (a) *the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas***

There is a variety of existing densities of development within the immediate area. While there are many medium to low density detached and semi-detached dwellings in the area, there are also pockets of higher density developments. The site is at a sensitive 'edge of settlement' location within a relatively low density established residential area. It is therefore paramount that any proposed development of the site respects this context. At present the site is only occupied by a single large, detached dwelling and its associated outbuildings. There are also extant planning permissions for 3no. additional single dwellings within the site which if implemented would equate to a potential density of 1.6 dwellings per hectare (dph).

The density of the proposed reduced scheme for 27 units, would equate to 11.25dph. As a comparison, the density of the approved development for 4 dwellings adjacent to the site (LA06/2016/0551/O) is 6.6 dph.

The density of development in the adjacent Knocknatten Avenue equates to approximately 9.8dph and within Woodlands Avenue, excluding the application site, the density equates to approximately 3.2 dph.

The density of the development at Whinney Hill Cottages, which includes a recent approval for a dwelling, equates to 9.8dph.

The development on the opposite side of Whinney Hill within Invergourie and Carlston Avenue contains higher density development with dwellings on smaller plots. As an example, units 1-3 Carlston which are smaller sized plots on this side of the road, have a density of 12.5 dph while Nos. 2-10 on larger plots have a density of 7dph. This higher density development within Invergourie and Carlston Avenue is, however, well concealed by roadside trees and vegetation and the curve in the road upon approach into Hollywood while development on the application site will be highly visible.

Given the mix of densities in the immediate vicinity, I do not consider that the density of the development itself at 11.25dph could be argued to be significantly higher than that found in the immediate area. However, density is only one consideration in the overall assessment of the impact on the character of the area. The site is highly visible at the edge of the settlement on approach into Hollywood therefore the visual impact of the proposal on the character of the area must be carefully considered.



Figure 12 – Existing residential development on opposite side of Whinney Hill



**Figure 13 – View of proposed site when travelling west along Whinney Hill
(Google Streetview image March 2022)**

The height, scale and massing of Apartment Building H was originally a concern due to the prominent location of the site. The Agent submitted several amendments reducing the overall height and massing of the block, see Figures 14 and 15 below. The latest amended elevations show that the ridge of the Apartment Building will not sit above that of the existing dwelling.



Figure 14 – Original proposed apartment block (H) elevations



Figure 15 – Proposed Apartment Block (H) elevations as currently proposed

Contextual computer-generated images (CGIs) along with updated sections to reflect the amended scheme for 27 units were also requested by the Council to enable it to fully assess how the building will sit in the landscape, see Figure 17. The CGI demonstrates that only the roof of the Apartment Building will be visible on approach to

the site from the south east heading towards Holywood and that it will not appear prominent in the skyline.



Figure 16 – Approximate location of proposed apartment building in place of existing dwelling



Figure 17 – CGI image of proposed apartment building

Given the reduction in scale, it is considered that the proposed Apartment Building would be able to satisfactorily integrate into the surrounding landscape and would not appear prominent or obtrusive despite its larger size. Additional landscaping has also been proposed to soften the impact of this building, see Landscape Plan below. Overall, I am satisfied that the proposed building will not appear prominent in the skyline upon approach into Holywood.

The amount of development fronting onto Whinney Hill has also been reduced to a single building housing 4no. apartments. The building has been designed to have the appearance of cottages and is restricted to one and a half storey. It has also been set further back from the road than the original proposal, thereby reducing any dominant impact.



Figure 18 – Siting and design of Building B1 fronting Whinney Hill

The images below show the approximate location of Building B1 with the existing Whinney Hill Cottages in the background. While closer to the road than the existing buildings, the design and scale will reflect that of The Cottages, and it is also acknowledged that the buildings on the opposite side of Whinney Hill sit immediately adjacent to the road. The Building B1 will be most visible on approach leaving Hollywood due to the rising topography; however, the low ridge height combined with the set-back from the road and a good landscaping scheme would help to minimise the impact from this approach.



Figure 19 – Proposed siting of Building B1 fronting Whinney Hill



Figure 20 – CGI image of Building B1 fronting Whinney Hill



Figure 21 – CGI image of Building B1 fronting Whinney Hill when travelling east

The row of House Type C dwellings right at the edge of the settlement limit are positioned closely together with the access road running in front (see Figure 22 below).



Figure 22 – Row of 5no. House Type C dwellings located at edge of settlement limit



Figure 23 – Split level House Type C



Figure 24 – Approximate location of House Type C dwellings



Figure 25 – CGI image of location of House Type C dwellings



Figure 26 – View towards site travelling East out of Holywood

The image above demonstrates that due to the falling topography, only the roof of the dwellings will be seen when travelling along Whinney Hill towards Holywood. Travelling out of Holywood, the row of houses will also be well concealed behind the existing cottages and given their set-back from the road will not appear prominent. Given the topography of the land and the existing and proposed landscaping, I am satisfied that these dwellings can be appropriately integrated into the landscape without causing any detriment to the surrounding area when viewed from the main critical viewpoints along Whinney Hill.

There will also be some views of the development from lower ground on Woodlands Avenue; however, these views will be partially screened by the existing dwellings at Nos. 1 and 3 and mature trees and planting along the existing lane and to the rear of the existing dwellings. It is acknowledged that the proposed dwellings will sit at a significantly higher level than the existing dwellings on Woodlands Avenue; however, the views will be intermittent and the proposed dwellings will be sited at a similar or lower level than the existing large dwelling on the site which is already clearly visible from Woodlands Avenue, as demonstrated in the photograph in Figure 27 below. For these reasons, I am therefore satisfied that the development will not result in any unacceptable visual impact on the character of the area.



Figure 27 – View towards site from front of 3 Woodlands Avenue



Figure 28 – View towards site from front of 1 Woodlands Avenue



Figure 29 – View of existing dwelling on site from entrance to 8 Woodlands Avenue

- (b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;**

While NIEA raised concerns initially regarding the potential impact of the original proposed development on landscape features, it is now content with the amended scheme subject to conditions. HED no longer have any objections to the proposal subject to a landscape buffer being retained.

- (c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;**

Public open space is required for a development of this size. This will be considered under PPS8 below. Creating Places recommends that for apartment developments, private amenity space should range from 10-30sqm per unit. For dwellings, a minimum of 40sqm per unit is recommended and an overall average of 70sqm per unit for a development is considered to be acceptable; however, the amount of amenity space provided should also take account of the site context.

In this case, the development proposes a minimum of 100sqm of private amenity space for each detached dwelling which is more than adequate. The 12no. apartments will have a private shared patio area of approximately 220sqm facing the planted embankment which would equate to approximately 18sqm per unit in line with the Creating Places Guidelines.



Figure 30 – Amenity space for apartments and dwellings

For the 4no. apartments adjacent to Whinney Hill, two areas of grassed communal amenity space are proposed to the immediate south and west of the building totalling an area of approximately 900sqm, which would significantly exceed the Creating Places recommended standards. These areas will also be bound by hedgerows and trees for added privacy.



Figure 31 – Amenity space for apartments facing Whinney Hill

Detailed landscaping proposals have been submitted with the application. A long-term management and maintenance plan has been submitted which covers a period of up to 20 years. No details of the arrangements as to who will be responsible for the long-term management of the areas have been submitted; however, any planning permission would be subject to a condition requiring submission of these details for approval prior to commencement of development.

In terms of existing and proposed landscaping, Figure 32 below shows the extent of existing trees on the site. The site is not subject to a Tree Preservation Order. In total there are 21no. trees within the application site itself. The majority of these trees are to be retained and incorporated into the development with only 4no. proposed for removal as recommended in the submitted tree survey due to poor condition.

The proposed landscaping scheme in Figure 33 below indicates that the proposed development will all be located outside the root protection areas of the trees therefore I am content that the development will ensure the long term retention of these trees.

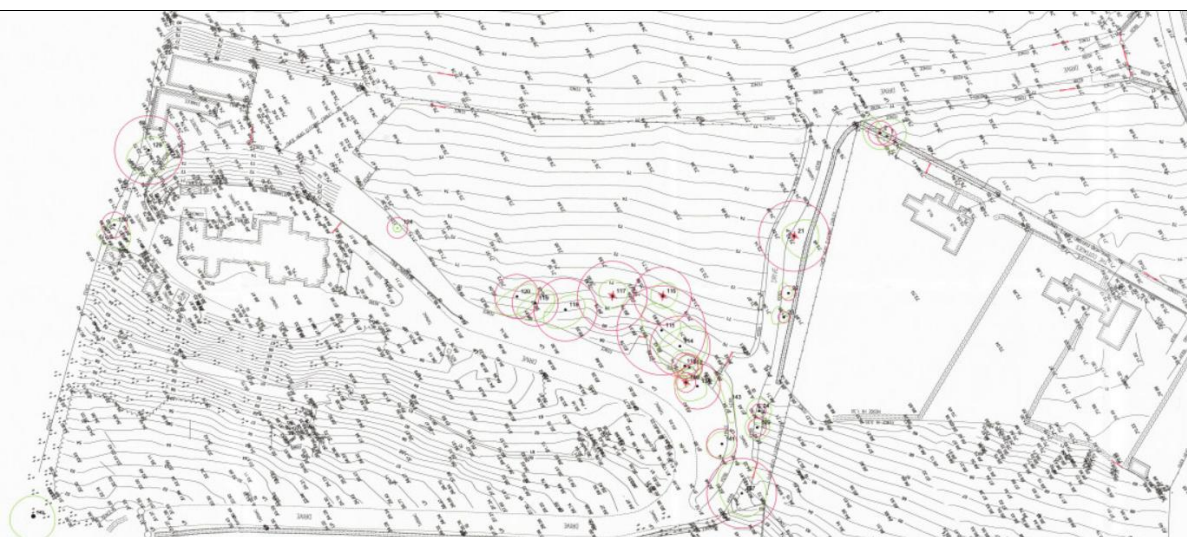


Figure 32 – Existing site survey showing existing trees



Figure 33 – Existing trees to be retained shown in light green

Extensive planting of woodland areas are proposed within the site as indicated in dark green in Figure 33 above. These will include a mix of semi-mature, extra-heavy standard and 60-80cm trees with the larger trees ensuring that these areas will be able to become established and have effect as soon as possible. It is considered that the extensive woodland planting will greatly enhance the overall environmental quality of the site.

- (d) *adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;***

The scale of the development does not warrant the provision of dedicated neighbourhood facilities; however, there are existing facilities located on the main A2 Belfast/Bangor Road within walking distance.

- (e) *a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;***

See detailed assessment above under PPS3.

- (f) *Adequate and appropriate provision is made for parking;***

See assessment above under PPS3.

- (g) *the design of the development draws upon the best local traditions of form, materials and detailing;***

I am satisfied that the proposed development draws upon the best local traditions of form, materials and detailing. The design of the dwellings will be appropriate to the setting with traditional pitched roofs and a material palette of render, blue/black roof tiles, natural stone facing detailing, timber effect cladding to dormers and red brown facing brick. Building B1 has been designed to resemble The Cottages while the large Apartment Building H has been designed to reflect a large manor house similar to the existing large dwelling on the site.

- (h) *the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;***

Proposed block Building B1 adjacent to Whinney Hill will be sited to the front of the existing dwellings at The Cottages, positioned a minimum of 25m away, the closest being Nos. 3 and 4. This is a significant improvement from the original proposal which not only had the apartments closer to the existing dwellings but there was also another block which has now been removed.

The proposed block, as amended, will sit between 2-4m above The Cottages; however, additional landscaping is proposed between the proposed apartments and the existing dwellings (see Figure 31 above) which will provide a degree of screening to further mitigate against any potential impact on the existing dwellings. Therefore, I am satisfied that the combination of the proposed landscaping, and separation distance in excess of the recommended 20m 'back to back' separation distance as outlined in Creating Places will ensure that there will be no unacceptable adverse impact by way of overlooking or loss of light in relation to the existing dwellings at The Cottages.

The other existing dwellings closest to the site, and most likely to be affected by the proposed development, are Nos. 1 & 3 Woodlands Avenue. 5no. detached dwellings are proposed to the southeast of these existing dwellings (see Figure 34 below). The House Types are F, L and J.

House Types F and L at Sites 23, 24 and 25 would be the closest to the existing dwellings, being approximately 10-13m from the party boundaries and with separation distances between the existing and proposed dwellings of between 26-40m as shown in Figure 35 below. House Type J at Site 26 would be positioned approximately 38m from the closest point of the rear elevation of No.1 and would be approximately 24m from the party boundary with No. 1 (see Figure 36 below).



Figure 34 – Position of Sections BB and CC

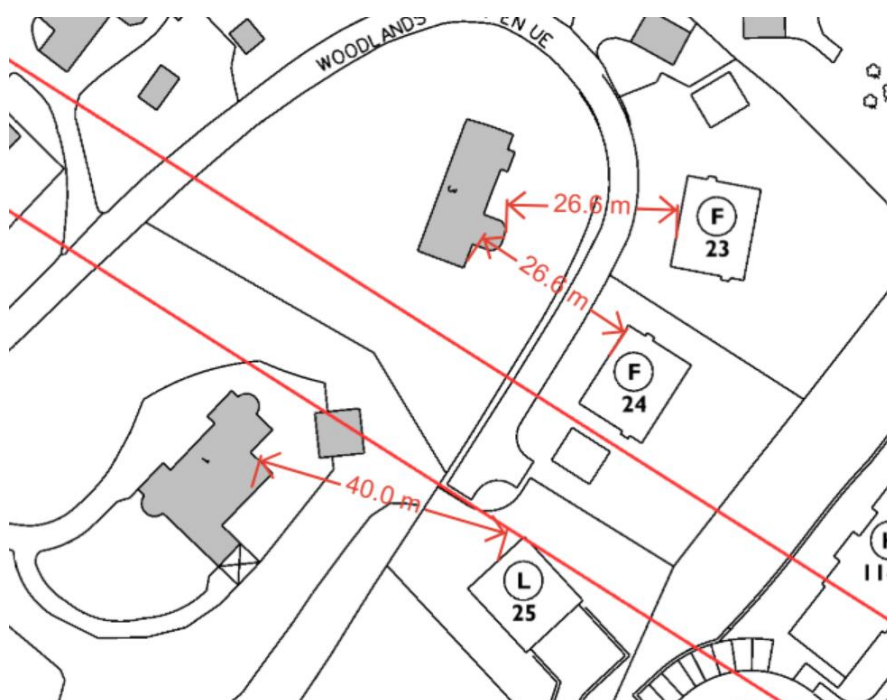


Figure 35 – Separation distances between existing and proposed dwellings



Figure 36 – Separation distance between existing dwelling at No. 1 Woodlands and proposed dwelling at Site 26.

Paragraph 7.16 of Creating Places recommends a separation distance of around 20m between existing and proposed dwellings, but also recommends that an enhanced separation distance may be necessary for development on sloping sites. As shown in

the sections in Figures 37 to 39 below, the site slopes quite significantly from south-east to north-west. The proposed development will sit at a higher level than the existing adjacent dwellings on Woodlands Avenue.

To the rear of No. 3 Woodlands Avenue, the dwelling at Site 23 will have a finished floor level approximately 2.8m above the finished floor level of No. 3 and the dwelling at Site 24 will have a finished floor level approximately 4.4m above.

House Type F is proposed at both of these sites (see Figure 38 below). This house type includes living, kitchen and dining accommodation at first floor level to the front of the dwelling which would face towards the rear of No. 3.

Creating Places recommends that great care will be needed in designs where new residential schemes include living rooms or balconies on upper floors as this can cause a significant loss of amenity to adjacent dwellings. The guidance goes on to recommend that where such development is proposed on greenfield or lower density areas, a separation distance of around 30m should be observed and a minimum distance of around 15m should be provided between the rear of the development and the common boundary. Sites 23 and 24 will fall slightly short of these recommended distances with a separation distance of 26.6m and distance to the party boundary of between 10-13m; however, this is not considered to be a significant shortfall given the added screening of the existing boundary vegetation (see Figure 39 below). I am therefore content that there would be no unacceptable adverse impact on No. 3 as a result of loss of privacy or dominance.



Figure 37 – Proposed Section BB (Relationship with 3 Woodlands Avenue)

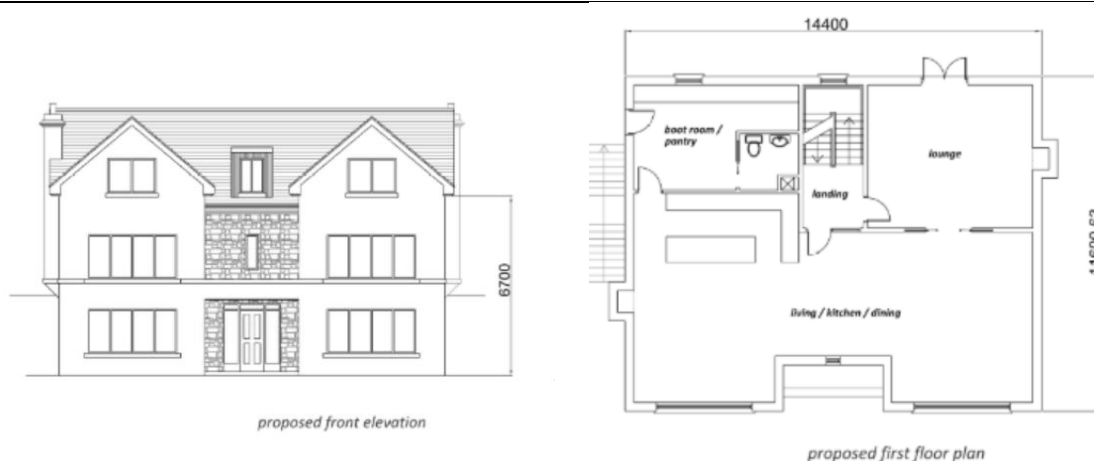


Figure 38 – House Type F with Living/Kitchen/Dining Accommodation at First Floor

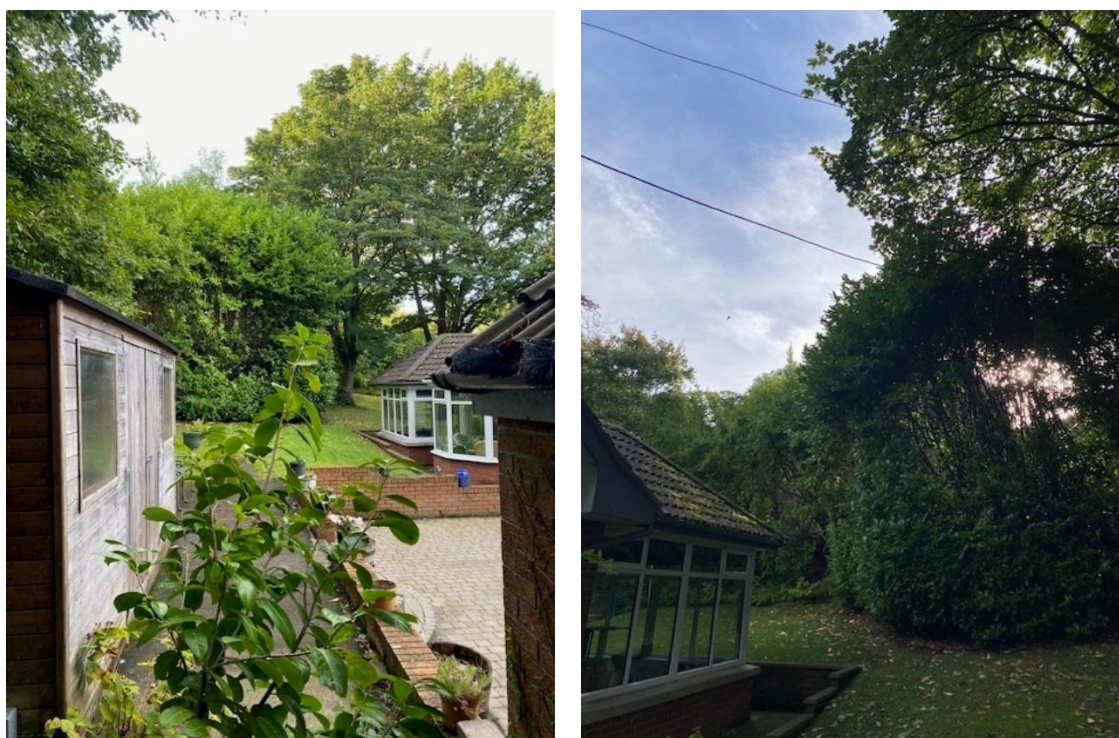


Figure 39 – Existing boundary vegetation to rear of No. 3

Another material consideration in the assessment of potential impact on No. 3 is the extant planning permission on this part of the site for a large two and a half storey dwelling with a similar position and finished floor level to the dwelling currently proposed for Site 23 (see Figures 40-44 below (LA06/2018/0545/F)). Given the similarity between the current proposal and extant permission, it is not considered that the proposed dwelling at Site 23 would result in any significantly greater impact. As outlined above, the proposed dwelling at Site 24 will sit at a slightly higher level than the dwelling at Site 23; however, as shown in Figure 35 above, Site 24 is located further to the south and will not sit directly to the rear of the existing dwelling at No.3, instead facing an area of dense vegetation within the curtilage of No.3. Given the difference in levels and the

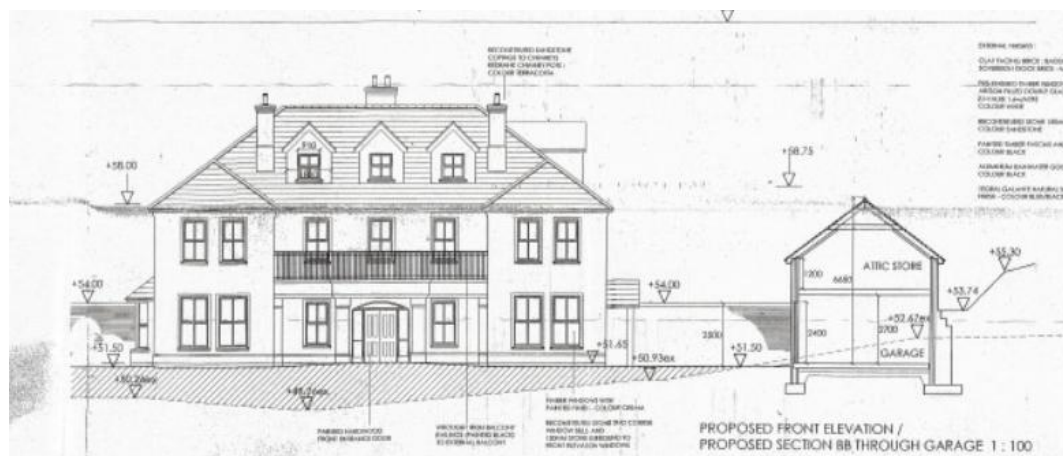


Figure 43 – Dwelling design (LA06/2018/0545/F)



Figure 44 – Proposed House Type F at Site 23

I am also satisfied that the proposed dwellings to the rear of No. 1 Woodlands Avenue at Sites 25 and 26 will have no unacceptable impact by way of loss of light, privacy or an overbearing impact. While the proposed dwellings will sit between 10-13m above the finished floor level of No. 1 Woodlands and will have living accommodation on upper floors (see Figures 47 and 48 below), the significant separation distance of between 38-40m and the distance to the party boundary of between 14-24m, will ensure that there will be no unacceptable adverse impact on the amenity of No. 1 Woodlands Avenue by way of loss of privacy, loss of light or an overbearing impact. All of the separation distances for these dwellings are within the recommended distances set out in Creating Places for development with upper floor living accommodation. It is further noted that House Type L with three storeys to the rear, is orientated to the northwest avoiding any direct views towards the rear of No. 1. There is also substantial boundary vegetation here with additional planting proposed, including extra-heavy standard and semi-mature trees which will further help to screen and mitigate against any potential adverse impact (see Figures 49 and 50 below).



Figure 45 – Proposed Section CC - Relationship between site 25 (House Type L) and No. 1 Woodlands Avenue



Figure 46 – Proposed Section DD – Relationship between Site 26 (House Type J) and No. 1 Woodlands Avenue

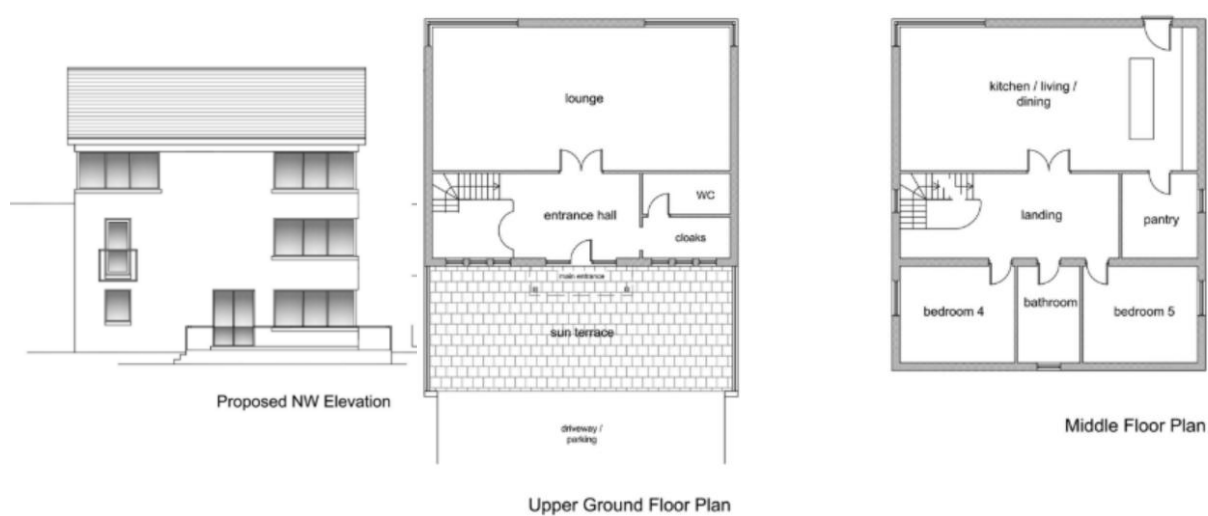


Figure 47 – House Type L at Site 25 with 1st and 2nd floor living accommodation

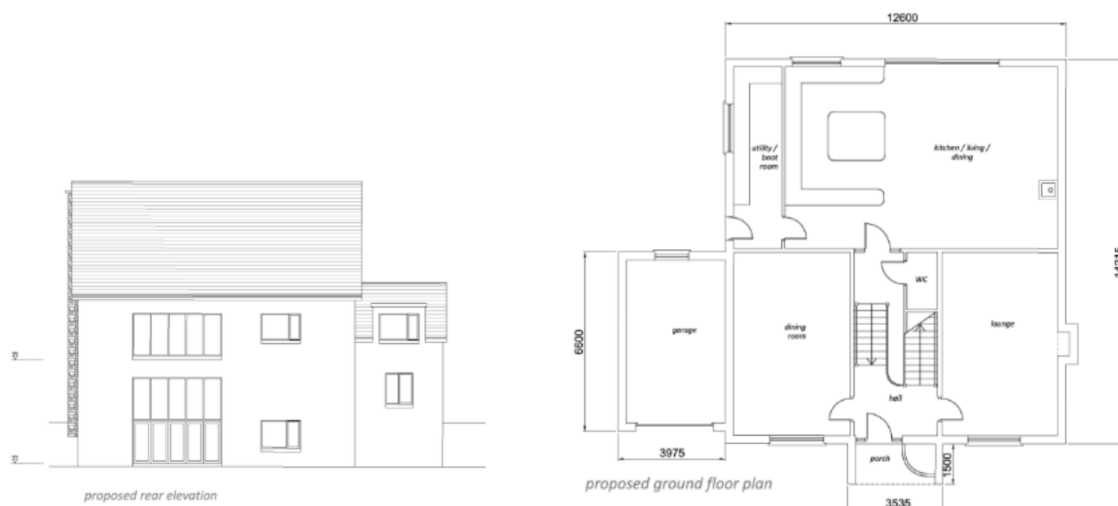


Figure 48 – House Type J at Site 26 with 1st floor living accommodation



Figure 49 – Existing vegetation along party boundary of site and No. 1 Woodlands



Figure 50 – Proposed additional planting to party boundary with No. 1 Woodlands

(i) *the development is designed to deter crime and promote personal safety.*

The scheme will provide secure accommodation. The areas of open space will be well overlooked by the proposed dwellings.

Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas

Policy LC1 – Protecting local character, environmental quality and residential amenity

The policy 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 the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out in Policy LC1 are met.

(a) The proposed density is not significantly higher than that found in the locality

As outlined in criterion (a) of policy QD1 above, the density of the development would equate to that found in the locality.

(b) Pattern of development is in keeping with overall character and environmental quality

As outlined in criterion (a) of Policy QD1 above, the pattern of development considered to be in keeping with the overall character and environmental quality of the area.

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

I am satisfied that this criterion would be complied with.

Planning Policy Statement 8 - Open Space, Sport and Outdoor Recreation**Policy OS2 – Public Open Space in New Residential Development**

Proposals for new residential development of 25 or more units or on sites of one hectare or more, will only be permitted where public open space is provided as an integral part of the development. Where the provision of public open space is required, the precise amount, location, type and design will be negotiated with applicants taking account of the specific characteristics of the development, the site and its context. The policy advises that a normal expectation will be at least 10% of the total site area.

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

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

In addition, planning permission will not be granted until the developer has satisfied the Department that suitable arrangements will be put in place for the future management and maintenance in perpetuity of areas of public open space.

It is argued in the submitted Design and Access Statement that an area significantly in excess of 10% has been set aside for open space taking the form of an arboretum located centrally within the site, as well as the creation of woodland linkages.

A total area of approximately 6,400sqm of public open space has been provided within the site. This includes the central Arboretum and the various areas set aside for Woodland planting. With the total site area equating to 2.4 hectares (2,4000sqm), the open space provision will be well in excess of 10%. While not all of these areas will be usable or accessible given the topography of the site and the extensive areas proposed for woodland planting, the areas will offer considerable visual amenity value and enhance the overall environmental quality of the development.



Figure 51 – Landscape Plan showing proposed communal open space

Planning Policy Statement (PPS) 12 – Housing in Settlements

The proposal complies with relevant policy and guidance in PPS 12. Although, the proposal involves an increase in density of housing it is considered to be acceptable given the varied densities in the area.

Planning Policy Statement (PPS) 15 – Planning and Flood Risk

FLD1 - Development in Fluvial and coastal Flood Plains

DFI Flood Maps (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

FLD2 - Protection of Flood Defence and Drainage Infrastructure

There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. The site may be affected by undesignated watercourses of which we have no record, in the event of an undesignated watercourse being discovered, Policy FLD 2 will apply.

FLD3 - Development and Surface Water

DFI Rivers has advised that a Drainage Assessment is required as the proposal exceeds the thresholds set out in the policy. This was submitted along with further addendums which have been considered by DFI Rivers. .

In the latest response, DFI Rivers acknowledged the submission of the Drainage Assessment Addendum 1 by Marrac Design, dated January 2024, and commented as follows:

Storm Network 1 and Storm Network 2

The Drainage Assessment has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year event, including an allowance for climate change (10%) and urban creep (10%), could be contained through the addition of an underground online attenuation system, when discharging at existing green field runoff rate, and therefore there will be no exceedance flows during this event. Further assessment of the drainage network will be made by NI Water prior

to adoption. However, in order to ensure compliance with PPS 15, DFI Rivers requests that the potential flood risk from exceedance of the network, is managed by way of a condition.

Units 23-25

The Drainage Assessment indicates that flood risk to and from Sites 23-25 are now proposed to be served by individual private SuDS systems (storm soakaways). The private soakaway system proposed has no outlet and drainage is via percolation through the soil strata. Commenting on the efficacy of the proposed SuDS is outside DFI Rivers' area of knowledge and expertise. Consequently, DFI Rivers cannot advise that the potential flood risk to the development, and from the development to elsewhere, has been satisfactorily addressed, or that the proposal is acceptable as required under policy. This will be managed by way of a condition relating to SuDS.

Given the above comments I am satisfied that the proposed development satisfies the relevant policies within PPS15.

FLD4 - Artificial Modification of watercourses

Not applicable to this site based on information provided, in the event of an undesignated watercourse being discovered, Policy FLD 4 will apply.

FLD5 - Development in Proximity to Reservoirs

Not applicable to this site.

Other Material Considerations

Sewerage Infrastructure

In terms of the NI Water response relating infrastructure capacity, the following comments were made:

- There is available capacity at the receiving Waste Water Treatment Works.
- The receiving foul sewerage network has reached capacity. The public system cannot presently serve this development proposal without significant risk of environmental harm and public dis-amenity including pollution, flooding and detrimental impact on existing properties. NI Water has no plans within its current investment cycle to upgrade the sewerage system in this Drainage Area and is recommending connections to the system are curtailed. The Applicant is advised to consult directly with NI Water. The applicant will need to submit an application to NI Water for a Wastewater Impact Assessment. NI Water will assess the proposal to see if an alternative drainage or treatment solution can be agreed.
- There is no public surface water sewer within 20m of the proposed development boundary; however, access is available via extension of the existing public surface water network, or via direct discharge to a designated watercourse, at an agreed discharge rate. Any discharges into a NIW surface water sewer will be restricted to a rate which does not exceed Greenfield Runoff of 10 litres/second/hectare, unless otherwise agreed in writing.

I am satisfied that the above capacity issues can be dealt with by attaching a negative condition stipulating that no development shall take place on-site until the method of sewage disposal has been agreed in writing with NI Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority.

The Applicant will be able to liaise with the relevant authorities outside of the planning process to establish if a solution can be reached. If the applicant is unable to find an acceptable solution, then he/she will be unable to implement the permission.

If a private treatment plant solution is required, a separate planning application for this would be required.

5. Representations

A total of 70 objections from 32 separate addresses have been received in relation to this planning application. These include an objection from the Woodland Trust, Holywood Conservation Group and objections from a number of elected representatives. In total, 31 objections were received in relation to the initial proposal for 42 units. 11 objections were received in relation to the amended scheme received in October 2021 for 31 units and then a further 23 objections were received in relation to the latest amended proposal for 27 units.

The main material planning concerns raised in representations throughout the processing of the application are summarised and considered below with many issues already considered in the main body of the report above.

Density of development will cause harm to the character of the area and is significantly higher than that found within the area, contrary to policy LC1 of the PPS7 Addendum.

See consideration above under PPS7 and PPS7 Addendum.

Unacceptable increase in traffic on Whinney Hill which is already at capacity

A TRICS report was submitted by the agent and considered by DFI Roads. DFI Roads was reconsulted and, in its last response of 23 September 2024, advised it had no objections to the proposal. Matters relating to traffic and road safety are fully assessed in the above report.

Loss of natural habitat and biodiversity, in particular the impact on bats and badgers

NED initially raised a number of concerns regarding the impact of the development on the natural heritage features of the site, including the impact on mature trees and the proposed SLNCI. Concerns regarding the impact of the development on bats were also raised and NED requested additional information which was submitted by the Agent and duly considered. After assessing the amended proposal along with all of the

supporting information, reports and surveys, NED has advised it would have no objection to the proposal subject to conditions.

Proposed plot ratios are not in keeping with the surrounding area of Woodlands Avenue. The North Down and Ards Area Plan specifies a minimum plot size of 0.4 hectares for the adjacent Cultra/Craigavad Policy zone.

The site is not located within any of the plot size policy areas of the NDAAP. The impact of the development on the character of the area, including the density of the development, has been considered in detail in the above report.

The proposed intensification of access onto the protected route is contrary to the North Down and Ards Area Plan which specifies in paragraph 5.17 that 'In the case of the Belfast to Bangor Road, there will be a strong presumption against approval of any development that involves a new access or intensification of the use of an existing access on to that road'.

DFI Roads has been consulted and in its last response of 23 September 2024 advised it had no objections to the proposal. There will be no intensification of use of the access onto the protected route via Woodlands Avenue. Only two proposed dwellings will access onto Woodlands Avenue, one will replace the existing dwelling on the site and one will be in place of the extant planning permission for a single dwelling on the site. See the main body of the report for a full consideration.

Access from Woodlands Avenue raises road safety concerns as it is a narrow, private lane with no footpaths or street lighting

DFI Roads was reconsulted and in its last response of 23 September 2024 advised it had no objections to the proposal on road safety grounds. As outlined above, Woodlands Avenue will only serve as an access for two of the proposed dwellings, representing no increase in the number of dwellings using the access. The Woodlands Avenue access is considered to be of a sufficient width to serve this small number of dwellings. Many dwellings are served by similar private lanes in both urban and rural areas without lighting or footpaths. Given there is no intensification of use proposed, there is no requirement for the existing lane to be upgraded to adoptable standards.

A condition has been included to limit vehicular access for traffic associated with the construction of Units 1-22 and 25-27 of the development to be from Whinney Hill only.

Site lies outside the settlement limit in the North Down and Ards Area Plan 1984
See consideration set out in the Development Plan section of the above report.

Proposed development of modern townhouses would destroy rural aspect and setting of Holywood from the Craigantlet approach

See consideration set out in the Policy QD1 of PPS7 section of the above report.

Development would have an adverse impact on trees within the site

The Council's Tree Officer has confirmed that the trees within the site are not protected by a Tree Preservation Order and has not raised any concerns regarding the potential impact of the development on any protected trees adjacent to the site. See full consideration of impact on existing trees in above report.

Lack of Flood Risk and Drainage Assessment submitted with application. There is a history of surface water flooding in the area and concerns that the increase in built development and hardstanding will exacerbate this and increase risk of flooding to neighbouring properties.

DFI Rivers does not consider a Flood Risk Assessment necessary for this development (see above consideration under PPS15). It had however requested the submission of a Drainage Assessment. DFI Rivers has assessed the submitted Drainage Assessment and is content and has no objection to the proposal subject to the recommended planning conditions.

Existing sewerage infrastructure is old and has insufficient capacity to deal with the additional dwellings

NI Water has recommended refusal due to network capacity issues as outlined in the above report; however, I am satisfied that this can be satisfactorily addressed outside of the planning process. It is recommended that a negative condition is included in any approval stipulating that no development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority.

Apartments are out of keeping with the area which is characterised predominantly by detached and semi-detached dwellings

While neither the relevant policies nor the Development Plan places an embargo on apartment development per se for this site or area, the above consideration outlines that the height, scale, massing and form of the proposed apartment buildings are considered to be acceptable.

The design of the proposed townhouses are out of keeping by way of scale, proportion and density and of an excessive height.

See consideration set out in the Policy QD1 of PPS7 section of the above report.

Proposed townhouses would cause a loss of privacy to existing dwellings at The Cottages

I consider the proposed separation distances to be sufficient to ensure that the new dwellings would not cause any unacceptable loss of privacy to the existing dwellings. The potential impact of the development on existing dwellings has been considered in detail in the above report.

The northern boundary line shown on the submitted site location plan includes a significant area to the side of the garage of No. 8 Woodlands Avenue which is within the ownership of the occupants of No. 8

This issue was raised with the Agent back in September 2021 who advised that the applicant is content that he owns all of the land within the application site outlined in red. In the absence of any evidence to the contrary, I am content to accept the applicant's confirmation of ownership. I am also content that the objector who has raised the ownership dispute has not been prejudiced in any way given that he is aware of the planning application and the extent of the proposals. The approval of planning permission does not confer title and any disputes over party boundaries or land ownership are civil or legal matters to be resolved between the parties outside of the planning process.

Noise and pollution from build

A certain extent of noise and disruption is common with any new build development; however, any disturbance will be of a temporary nature. Environmental Health has been consulted on the application and has raised no concerns by way of noise, dust or potential disturbance during construction.

Previous approvals for area need to be considered with application

The previous planning permissions, both on and adjacent to the site, have been considered in the above report.

6. The planning balance

The process of 'weighing up' the relevant factors is often described as the 'planning balance'. The planning authority must exercise its judgement and consider many (sometimes) conflicting issues to decide whether planning permission should be granted. This balance is carried out pursuant to Section 6(4) of the 2011 Act which is detailed at the start of this report requiring that a decision under the Act must be made in accordance with the development plan unless material considerations indicate otherwise. This will mean examining the development plan and taking material considerations which apply to the proposal into account. These matters must be properly considered otherwise the decision of whether or not to grant permission will have excluded a consideration.

This proposal has been considered weighing, inter alia, the following matters:

- The site's location within the countryside as designated within the extant NDAAP and draft BMAP;
- DOE Planning's concession that the land should be included in the settlement limit, at Public Inquiry;
- The Planning Appeals Commission recommendations to include the site within the settlement limit of Holywood (Public Inquiry into objections to dBMAP) and unlawful adoption of BMAP including site within settlement limit;
- Council's previous approval for residential development outside the settlement limit;

- Other unchallenged PAC decisions approving development outside development limit in extant plans;
- Extant residential approvals on site;
- Assessment against prevailing planning policy and guidance;
- Consultee responses.

7. Recommendation

Weighing up all of the material considerations detailed in this report and as set out above, I recommend on balance to the Committee that the planning application should be APPROVED, subject to the conditions detailed below.

Grant Planning Permission

8. Conditions

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 means of vehicular access for traffic associated with the construction of residential units 1-22 and 25-27 of the development hereby approved shall be from Whinney Hill only.

Reason: In the interests of road safety.

3. The residential units hereby approved shall not be occupied until provision has been made within the curtilage of the site for the parking of cars in accordance with Drawing No.23A.

Reason: To ensure adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

3. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No.14G prior to the commencement of development hereby permitted.

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

4. The gradient of the access road hereby permitted shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

5. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway, prior to the commencement of development hereby permitted, and such splays shall be retained and kept clear permanently thereafter.

Reason: To ensure adequate parking in the interests of road safety and the convenience of road users.

6. The width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 14G.

Reason: To ensure there is a safe and convenient road system within the development.

7. No development hereby permitted shall be commenced until the works necessary for the improvement of the public road have been completed in accordance with the details outlined blue on Drawing Number 14G.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

8. The development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted and approved by the DFI Roads Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

9. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the DFI Roads Street Lighting Section.

Reason: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians.

10. The finished floor levels of the dwellings hereby approved and the proposed ground levels within the site shall be in accordance with the details set out on drawing Nos. 14G, 16D, 20H, 25A and 27A.

Reason: In the interest of privacy and visual amenity.

11. All proposed retaining walls, structures and supporting banks within the development hereby approved, shall be designed and constructed in accordance with the relevant British Standard 8002:2015 'Code of Practice for Earth Retaining Structures'. Any such design shall be certified by an appropriately qualified structural engineer, evidence of which shall be submitted in writing to the Council alongside plans and details showing the final detailed design of all proposed

retaining structures and banks, prior to the commencement of the development hereby approved.

Reason: To ensure the stability of lands and the proposed works.

12. No development shall commence on site until a Landscaping Phasing Plan has been submitted to and agreed in writing with the Council. All hard and soft landscape works shall be carried out in accordance with the approved timings and details of the Phasing Plan and in accordance with the details indicated on approved Drawing No.19D, and the appropriate British Standard or other recognised Codes of Practice.

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

13. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

14. The existing trees and natural screenings of this site, as indicated on Drawing No.19D including the existing mature trees and hedging to the northeastern shared boundary with the adjacent listed building, shall be retained unless removal is necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

Reason: To ensure the development integrates into the surroundings and to ensure the maintenance of screening to the site and the protection of the wider setting of the listed building.

15. If any retained planting is removed, uprooted or destroyed or dies, another hedgerow/tree/s shall be planted at the same place and shall be of such size and species to be agreed in writing with the Council. The planting as approved shall be planted within the next available planting season.

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

16. The Landscape Management Plan dated 8th April 2025, compiled by McIlwaine Landscape Architects, shall be implemented in full permanently in accordance with the approved details and all works on site shall conform to the approved Landscape Management Plan, unless otherwise approved in writing by the Council.

Reason: To protect the biodiversity value of the site and to ensure the sustainability of the approved landscape design through its successful establishment and long-term maintenance.

17. No more than 24 dwellings shall be occupied until the open space shown on drawing No. 19D has been laid out in accordance with the approved details and these areas shall not thereafter be used for any purpose other than as open space.

Reason: To ensure amenity space is available concurrently with the development of the site.

18. The long term management and maintenance of the open space as indicated on drawing No. 19D shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing with the Council prior to the occupation of any dwelling hereby approved.

Reason: To ensure the provision and maintenance of public open space within the site.

19. The Lighting Plan indicated on drawing No. 22A shall be implemented in full in accordance with the approved details and all works on site shall conform to the approved Lighting Plan, unless otherwise approved by the Council.

Reason: To avoid disturbance of bats and other wildlife.

20. No development shall take place on site until the method of sewage and surface water disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999 by the relevant authority, evidence of which shall be submitted to the Council prior to commencement of development. The development shall be carried out in accordance with the approved details.

Reason: To ensure protection to the aquatic environment and to ensure a practical solution to sewage disposal is possible at this site.

21. Prior to the construction of the drainage network, the applicant shall submit a final Drainage Assessment, compliant with Policies FLD 3 & Annex D of PPS 15, to be agreed in writing by the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event including an allowance for climate change (10%) and urban creep (10%). The development shall be carried out in accordance with the approved details.

Reason: In order to safeguard against surface water flood risk.

22. No development shall commence on site until details of a surface water drainage scheme, which shall incorporate Sustainable Urban Drainage System (SUDS) principles, has been submitted to and approved in writing by the Council. The scheme shall include a programme for implementation of the works and proposals for future maintenance and management. The development shall not be carried out unless in accordance with the approved SUDS scheme.

Reason: To ensure sustainable drainage of the development. Approval is required upfront as the design of the drainage is an integral part of the development and its acceptability.

23. None of the dwelling units hereby approved shall be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority as required under conditions 22 and 23 above.

Reason: In the interest of public health and to safeguard against surface water flood risk.

24. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015 (or any order revoking and/or re-enacting that order with or without modification), no extension, garage, shed, outbuilding, wall, fence or other built structures of any kind (other than those forming part of the development hereby permitted) shall be erected without express planning permission.

Reason: Any further extension or alteration requires further consideration to safeguard the amenities of the area.

Informative

This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Portal.

Site Photographs



Site entrance onto Whinney Hill



Whinney Hill from existing access (looking west)



Existing access lane to 5 Woodlands Avenue



Existing access lane to 5 Woodlands Avenue and view towards The Cottages



View of fields to the East from access lane



View towards Whinney Hill to east from access lane



Woodlands Avenue – where lane splits, facing west



Woodlands Avenue – where lane splits, looking towards The Cottages



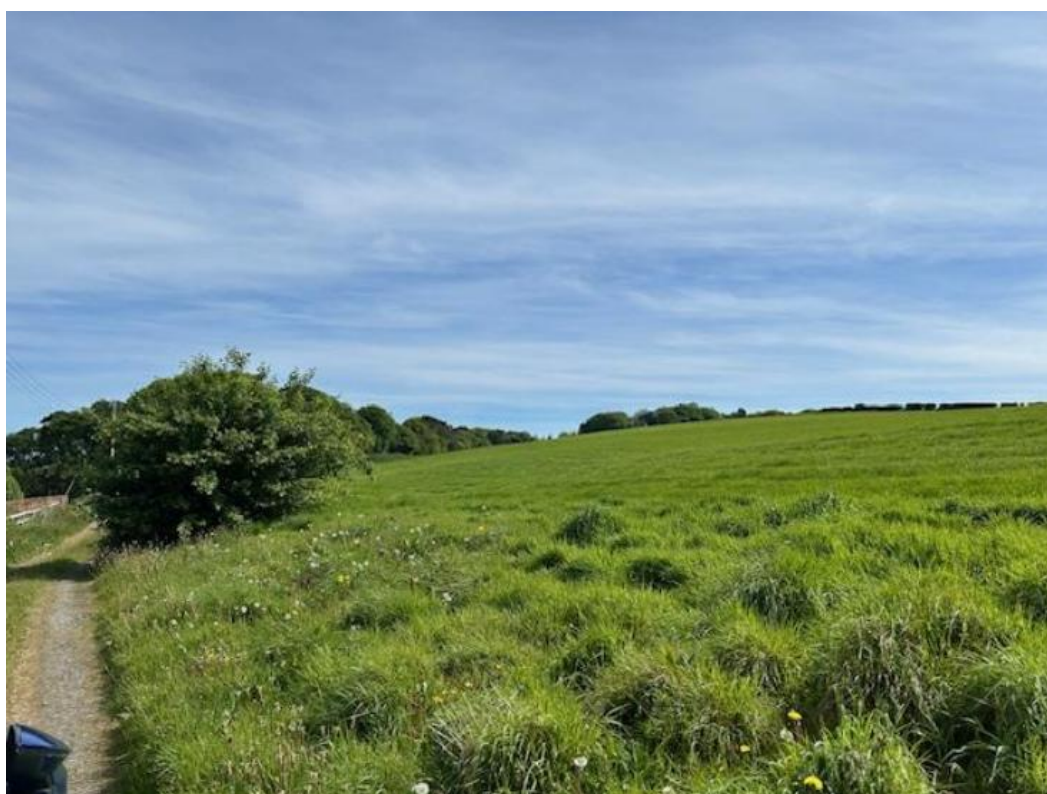
View of site from private lane looking towards west



View of site and existing dwelling looking west



View of existing dwelling from private lane



View towards rising land to east of private lane



Existing dwelling viewed from private lane



Yard and outbuilding to north east of dwelling



Garage/shed in yard to rear of dwelling



Rear of existing dwelling



Rear of existing dwelling



Side of existing dwelling



Area to front of existing dwelling



Area to front of existing dwelling looking towards northern boundary of site



Front of existing dwelling



Side of existing dwelling



Side of existing dwelling viewed from laneway



Private lane from dwelling leading onto Woodlands Avenue



Woodlands Avenue within applications site



Woodlands Avenue



View towards existing dwelling from Woodlands Avenue



View of site and dwelling looking east from Woodlands Avenue



View of dwelling from western end of Woodlands Avenue

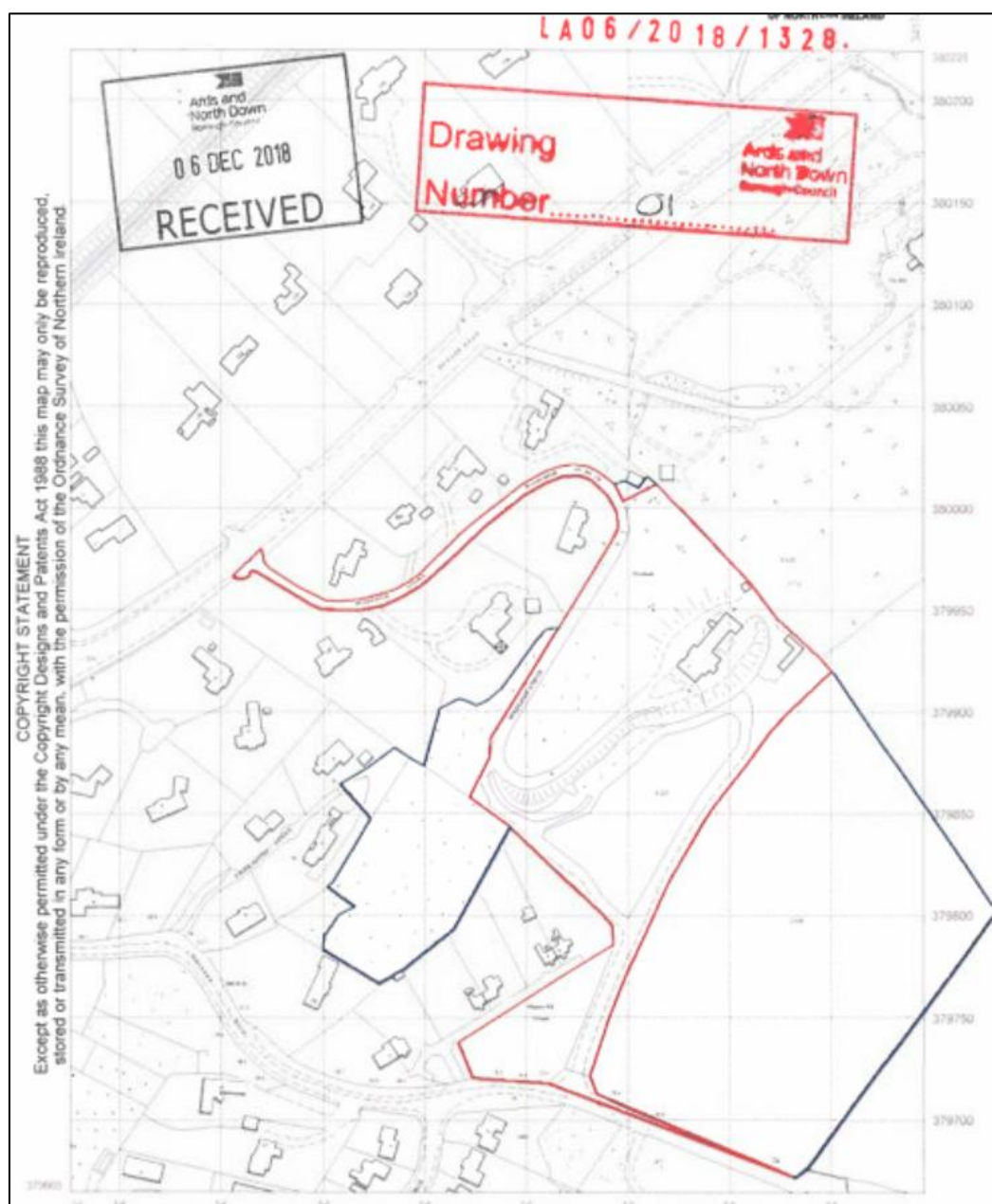


View of site and existing dwelling from 3 Woodlands Avenue



1 Woodlands Avenue

Plans



Site Location Plan



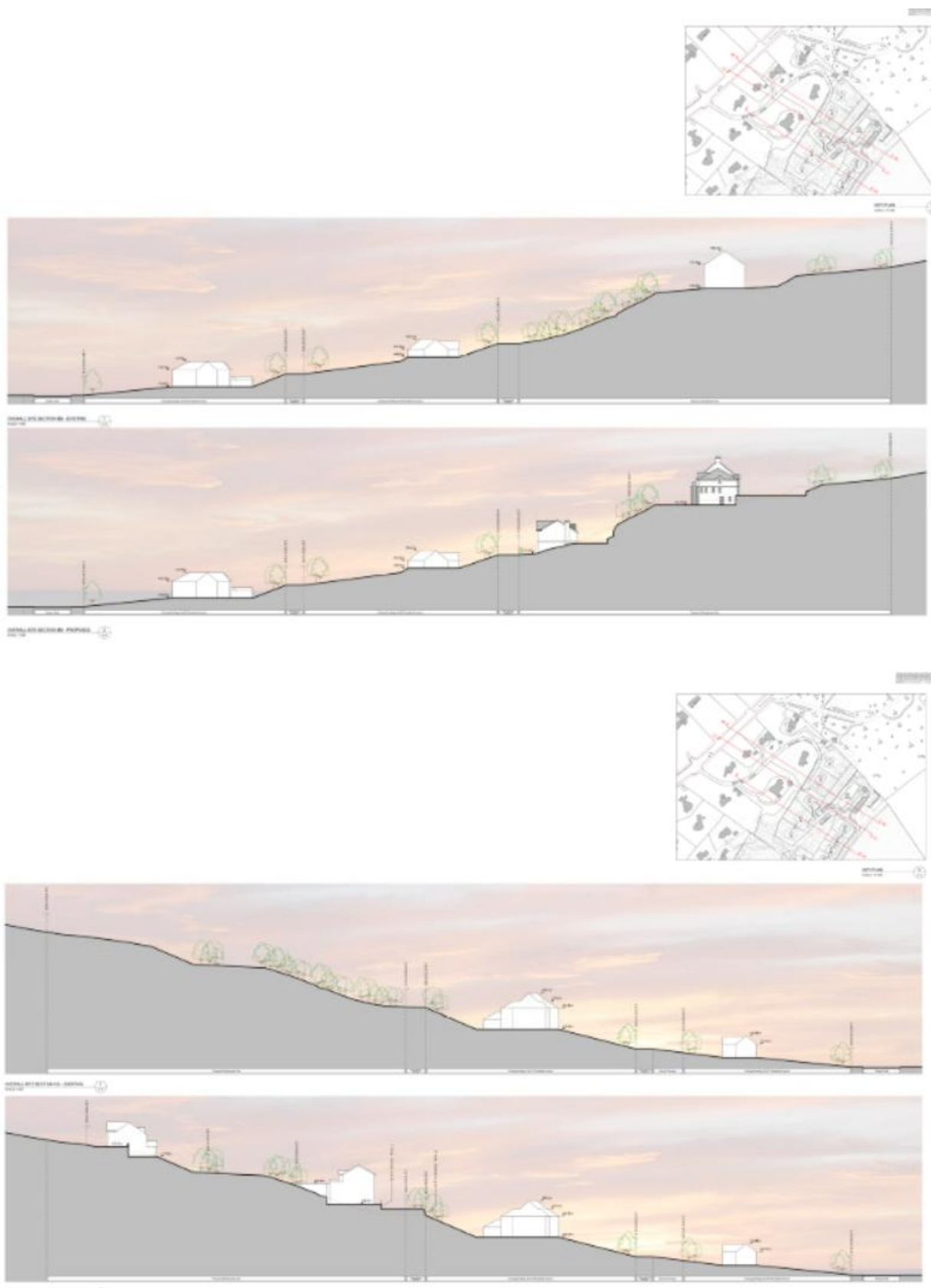
Site Layout and Landscaping Plan

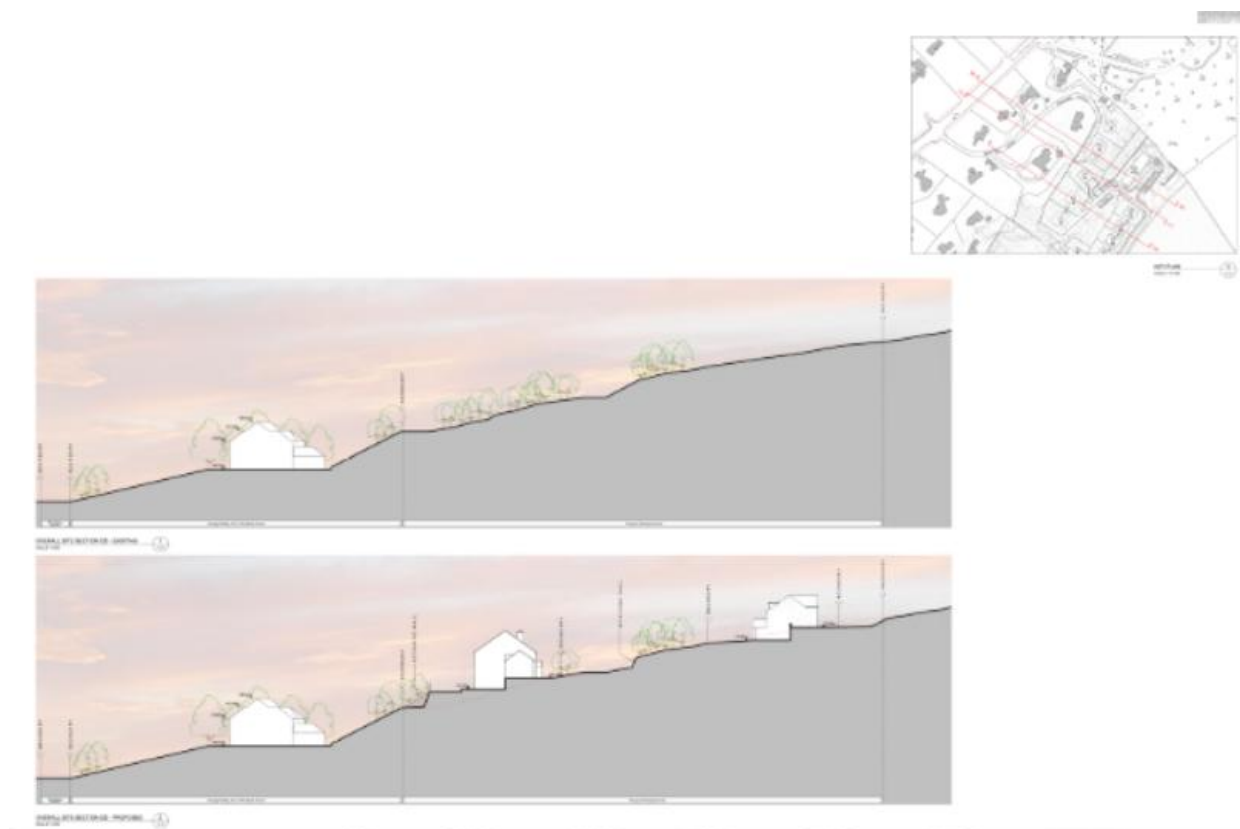


Private Streets Determination Drawing

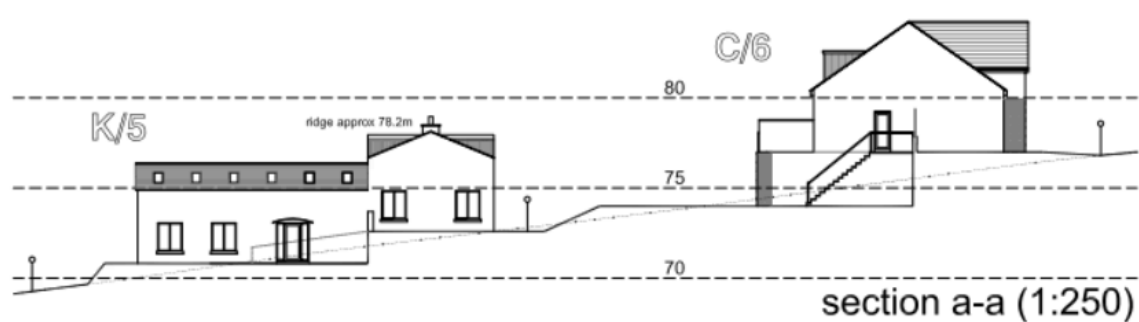








Existing and Proposed Sections



Section through Proposed House Types K and C



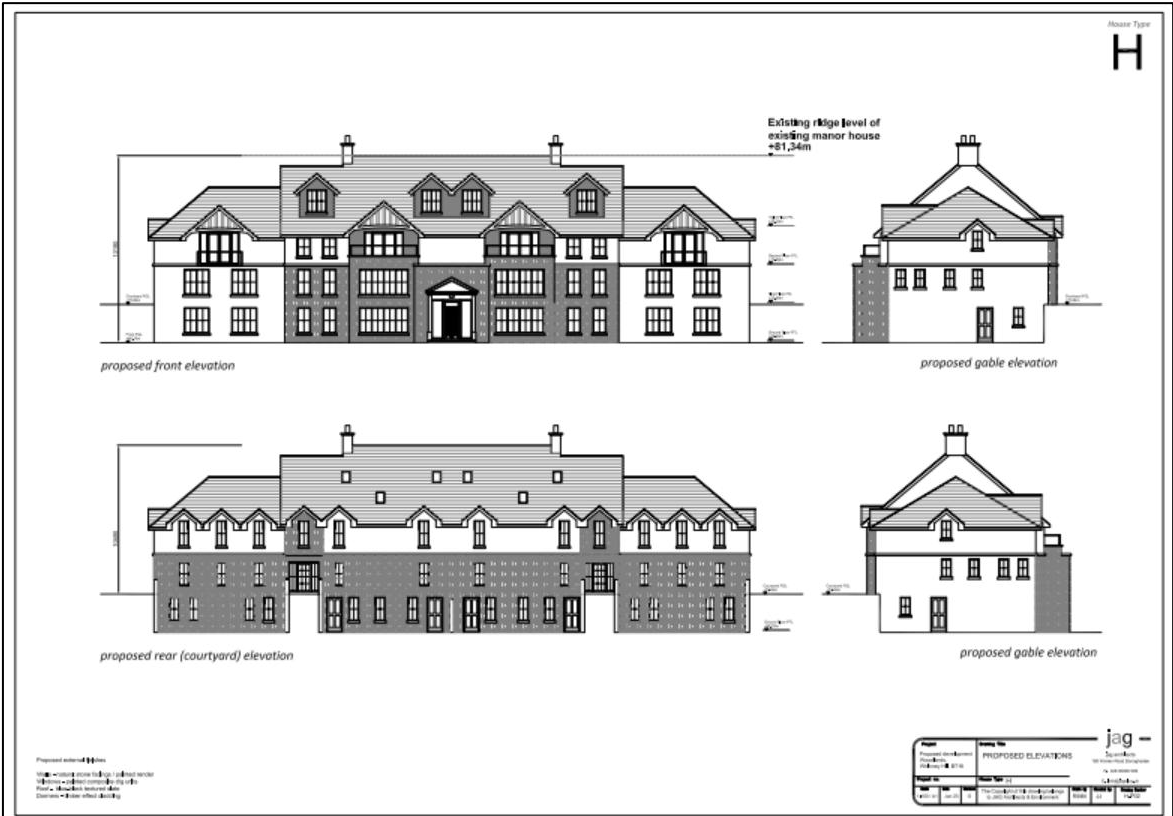
House Type F

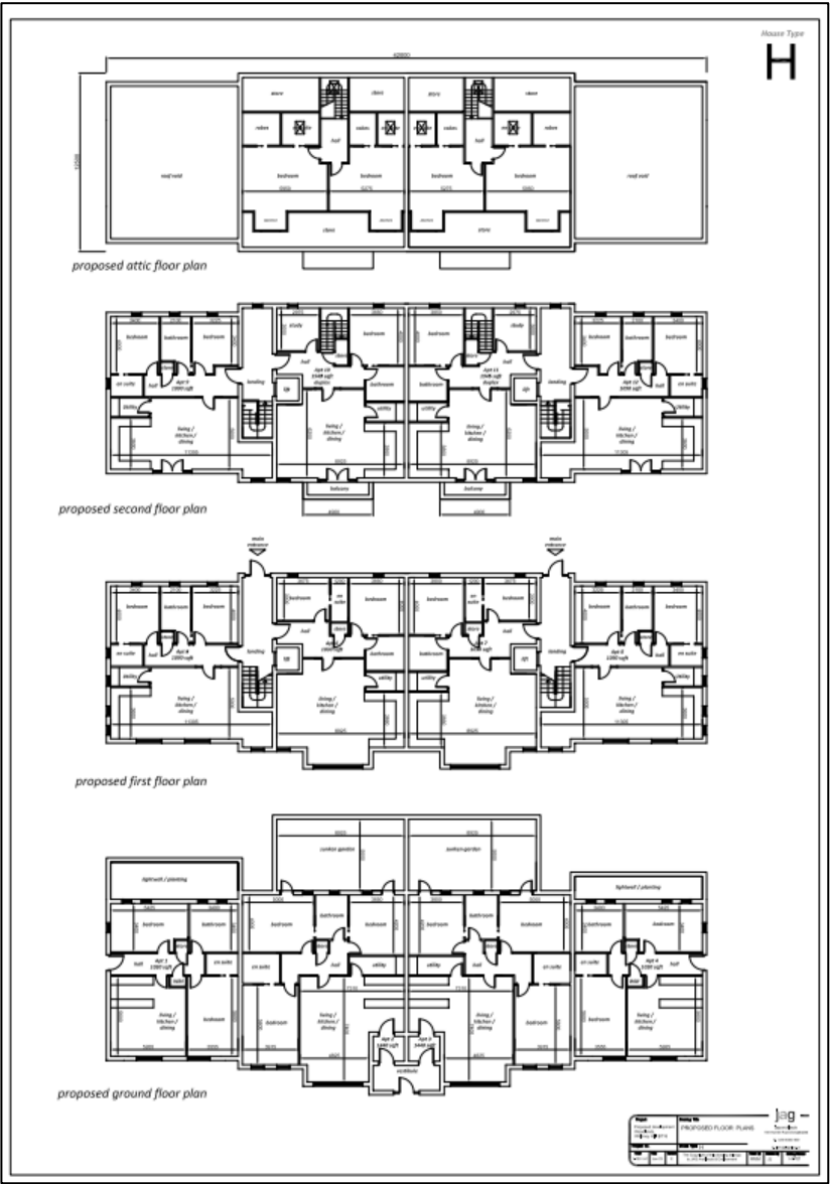


House Type J1

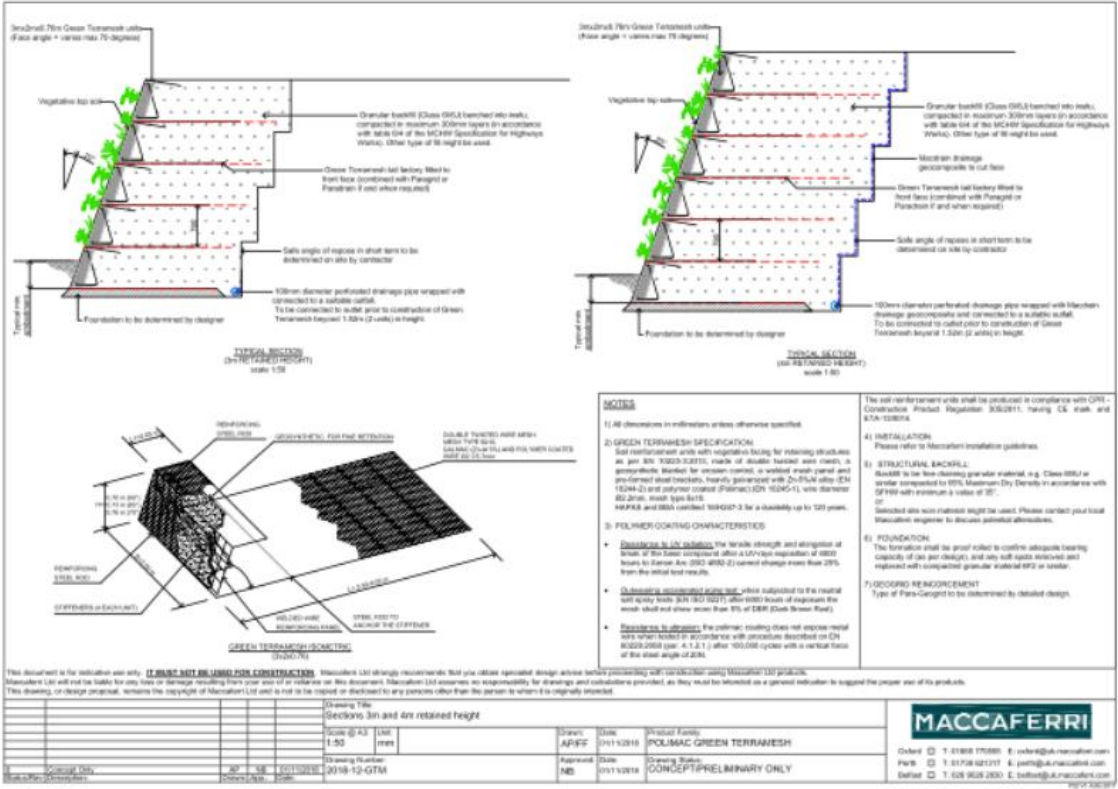


House Type L





House Type H (12 Apartments)



Proposed retaining structures

Development Management Case Officer Report			 Ards and North Down Borough Council	
Reference:	LA06/2024/0116/F	DEA: Ards Peninsula		
Proposal:	20 dwellings - 16 semi-detached dwellings, 4 No. detached dwellings. Adjacent to and accessed via Rockfield Park			
Location:	Lands immediately to the east of 31 Rockfield Park and to the rear of Nos. 9 – 31 Rockfield Park, Portaferry			
Applicant:	Conor McCarthy			
Date valid:	05.03.2024	EIA Screening Required:	Yes	
Date last advertised:	09.09.2025	Date last neighbour notified:	09.09.2025	
Letters of Support: 0	Letters of Objection:14 (6 different addresses)		Petitions: 0	
Consultations – synopsis of responses:				
NI Water		Refusal – negative condition		
Ards and North Down Environmental Health		No objection subject to informative regarding radon affected area		
Shared Environmental Services		No objection subject to condition		
NIEA Water Management Unit		Refusal – sewerage to be agreed		
NIEA Natural Environment Division		No objection subject to condition		
DFI Roads		No objection subject to conditions		
DFI Rivers		No objection subject to condition		
Summary of main issues considered:				
• Principle of development • Design and impact on character and appearance of the area • Impact on residential amenity • Access and parking • Flooding • Impact on natural heritage • Impact on AONB				
Recommendation: Grant Planning Permission				
Report Agreed by Authorised Officer				

Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning portal (<https://planningregister.planningsystemni.gov.uk/simple-search>).

1. Site and Surrounding Area

The site consists of a portion of land to the southeast of Rockfield Park. The land is within the settlement limit of Portaferry and is designated as a Housing Policy Area HPA 3 'Land to the rear of Rockfield Park'. The site is also located within Strangford and Lecale Area of Outstanding Natural Beauty.

The site is currently undeveloped and is an area of grass/scrub land situated to the rear of dwellings along Rockfield Park.

From inspection the site is not flat, it falls from the rear of Rockfield Park towards the southeastern boundary and rises towards the southwestern portion.

Vegetation appears to denote the southeastern boundary. Access is presently from Rockfield Park. The site lies at the edge of the settlement limit adjacent to open countryside.



Figure 1 - View within application site



Figure 2 - Orthophotography of application site

2. Site Location Plan



Figure 3 – Site Location Plan

3. Relevant Planning History

There is no relevant planning history on the application site itself. However, planning permission was granted for development of adjacent land in 2019 which has since been constructed (see details below) to the NNE.

LA06/2017/1046/F - Proposed residential development consisting of 3 No. detached and 16 semi-detached dwellings (total 19No.), Adjacent to and accessed via Rockfield Park – Permission Granted 12 August 2019

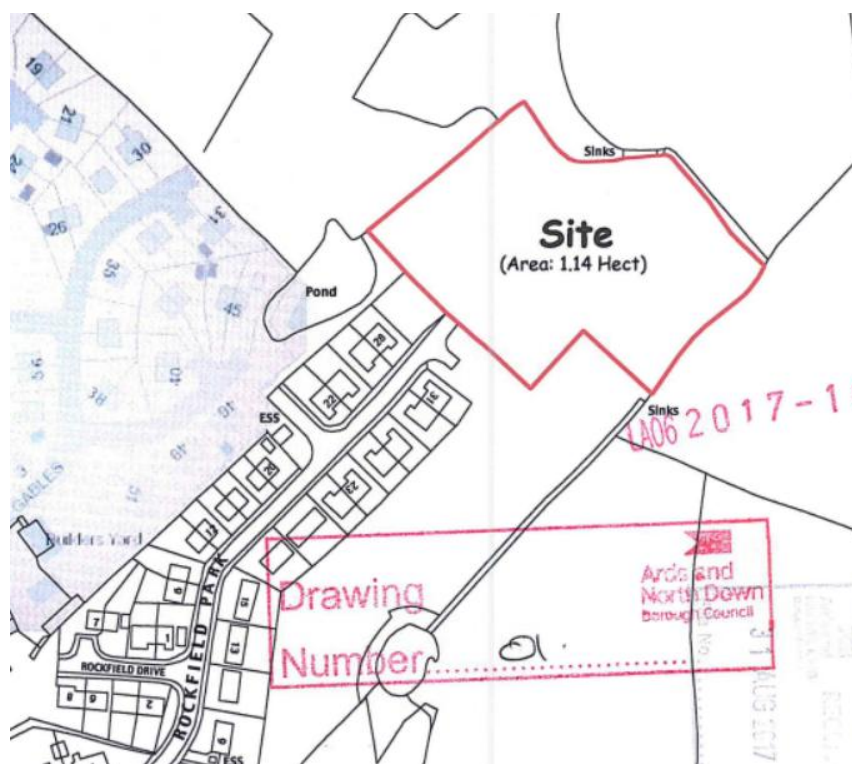


Figure 4 – LA06/2017/1046/F Site Location Plan

4. Planning Assessment

The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- 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 8 – Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 12 - Housing in Settlements
- Planning Policy Statement 15 – (Revised) Planning and Flood Risk

Planning Guidance:

- Creating Places
- DCAN 8: Housing in Existing Urban Areas
- Parking Standards

Principle of Development

The Ards and Down Area Plan 2015 sets out the land use proposals that will be used to guide development within the area. The site is within the settlement limit of Portaferry and within the Strangford and Lecale Area of Outstanding Natural Beauty. The site is designated as a housing policy area (HPA 3).

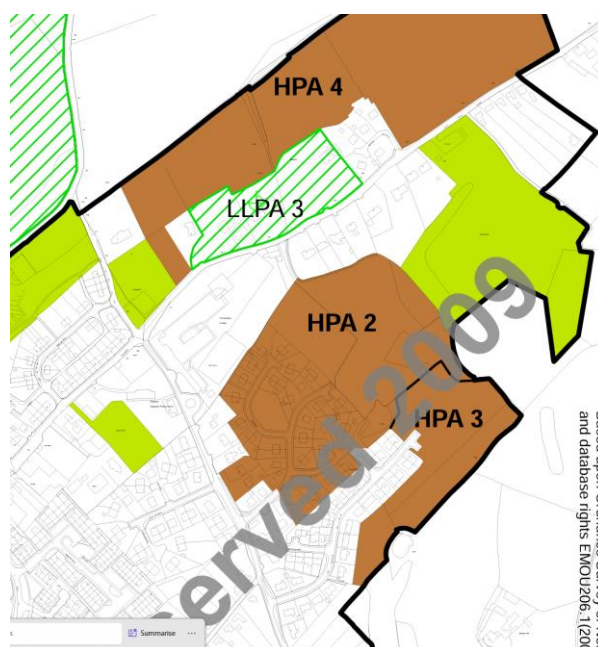


Figure 5 - Extract from Ards and Down Area Plan 2015 showing site designated as HPA 3 and within the settlement limit of Portaferry

Key site requirements are shown in the below extract of Ards and Down Area Plan 2015. These key site requirements are considered below.

HPA 3 Land to the rear of Rockfield Park

- » housing development to be a minimum gross site density of 20 dwellings per hectare;
- » existing vegetation along the southern and eastern boundaries with the open countryside shall be retained and enhanced with a 3-5m planted buffer of indigenous trees;
- » the provision of a satisfactory standard of access through Ballyphillip Road, and not through Rockfield Park; and
- » interim sewage disposal measures may be necessary until such time as the required upgrade to the Waste Water Treatment Works for Portaferry is complete and fully operational.

Figure 6 – HPA 3 Key Site Requirements

- Housing development to be a minimum gross density of 20 dwellings per hectare;

A key site requirement specifies a minimum gross site density of 20 dwellings per hectare. The density is 20 dwellings/1.14ha = 17.5 dph. This is due to constraints on the site; for example, the requirement of a planted buffer and the topography of the application site. I consider this is comparable to the density of 16 dph approved in phase one. A density of 17.5dph is considered acceptable in this instance.

- Existing vegetation along the southern and eastern boundaries with the open countryside shall be retained and enhanced with a 3-5m planted buffer of indigenous trees;

The applicant has advised that the existing trees and hedgerows along the southeastern boundary of the site are outside of his ownership, therefore their retention cannot be conditioned under this application. However, the development itself would be unlikely to impact the existing planting given its set back from this boundary. A proposed landscaping plan has been submitted showing a 5m planted buffer along the southeastern boundary with a native species planted mix along with a tree and hedge protection barrier to be placed in position prior to commencement of development to protect the existing boundary. This is considered to be acceptable. It will provide a wildlife corridor and soften the impact of the proposed development when viewed from the adjacent open countryside.

- The provision of a satisfactory standard of access through Ballyphilip Road and not through Rockfield Park;

Access to the site will be via Rockfield Park. Access to the housing designation from Rockfield Park has already been accepted under the previous approval LA06/2017/1046. It was accepted that access from the Ballyphilip Road was not a feasible option given that it would require the purchase and demolition of No. 22 Ballyphilip Road in order to keep the access within the settlement limit. Furthermore, visibility splays would have to be provided across the frontages of Nos. 24 and 26 Ballyphilip Road. DFI Roads has been consulted and has no objections to the proposal including access from Rockfield Park. Rockfield Park continues to provide the most appropriate access to the application site, and it is therefore considered to be acceptable.

- Interim sewerage disposal measures may be necessary until such time as the required upgrade to the Waste Water Treatment Works for Portaferry is complete and fully operational.

NIW has been consulted and confirms there is available capacity at the Waste Water Treatment works; however, it will be necessary for the applicant to prepare a Waste Water Impact Assessment. I am content that this can be dealt with by way of a negative condition to any subsequent approval.

As residential dwellings are proposed on an area designated for housing it complies with the relevant regional planning policies below.

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

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 7 – Quality Residential Environments, PPS 3 - Access, Movement and Parking, PP2 2 – Natural Heritage and PPS 15 – Planning and Flood Risk.

The Regional Development Strategy 2035 (RDS) acknowledges that housing is a key driver of physical, economic and social change and emphasises the importance of the relationship between the location of housing, jobs, facilities, services and infrastructure. This proposal would allow housing on an accessible and designated site within a settlement in line with the aims of the RDS and SPPS.

As the site is within the settlement limit and designated for housing, the principle of residential development is acceptable.

Design, Visual Impact and Impact on the Character of the Area

Policy QD1 of PPS 7 seeks to achieve residential developments which promote quality and sustainability in their design and layout, and which respect the character, appearance and residential amenity of the local area.

The proposal will not damage the quality of the local area and will respect the surrounding context. The site is within the settlement limit of Portaferry where the character of the immediate area is residential properties.

The layout, scale and massing of the proposed dwellings will respect the topography of the site and the character of the area.



Figure 7 - Proposed Site Layout

Some representations have raised concerns that the proposed dwellings would be out of character with the surrounding area. The dwellings will be two-storey with pitched roofs and finishes include grey/black roof tiles, upvc windows and a render and stone clad finish. The dwellings are similar in style and design to those recently constructed within phase one of the development. There is also a mix of two and single storey dwellings within Rockfield Park and the wider area with dwellings also displaying a wide variety of finishes. The proposed two storey dwellings are therefore not considered to be out of character with the surrounding area.



Figure 8 - Existing recently constructed two storey dwellings adjacent to the application site



Figure 9 - Streetview image of two storey dwellings viewed from Rockfield Park



Figure 10 – Streetview image of existing dwellings within Rockfield Park include a mix of two storey and single storey with a wide variety of finishes





Figure 11 - Example elevations of proposed dwellings

Planting will be added throughout the site to aid integration, provide interest and soften the visual impact of the development. A landscape plan has been submitted showing proposed planting buffers between the existing (Rockfield Park) and proposed dwellings. A number of new trees are proposed alongside retention of some existing vegetation. The critical view points of the proposed development are from within the existing Rockfield development. Due to the distance of the site from the Ballyphillip Road and the intervening topography and vegetation, views of the development from the open countryside within the AONB will be very limited.



Figure 12 – Restricted view towards site from Ballyphillip Road

As outlined above, a key site requirement is that there is a minimum gross site density of 20 dwellings per hectare. The density is $20 \text{ dwellings} / 1.14 \text{ ha} = 17.5 \text{ dph}$. This is due to constraints on the site and is comparable to the density of 16 dph approved in phase one. If a density of 20 dph was provided on this site it may entail reduction in plot sizes and replacement of semi detached and detached dwellings with terraces which are not considered in keeping with the character of the surrounding area.

It is considered that the density on site will not erode or cause harm to the character

of the area as the form, scale, massing and layout of the new development will respect that of adjacent housing and will create a quality residential environment with sufficient amenity space, parking, and landscaping.

The proposal is therefore considered to comply with parts (a) and (g) of Policy QD1 of PPS 7, Policy LC1 of the Addendum to PPS 7 and all relevant guidance.

Amenity Space

Sufficient amenity space will be provided within the development. The size of plot for each dwelling is adequate to ensure that sufficient provision is made for private amenity space in rear gardens with the average space standard for the development as a whole providing greater than the minimum 40m² amenity space per dwelling as recommended in Creating Places. The private amenity space for the dwellings ranges from approx. 95 sqm to over 320 sqm. This is in accordance with the guidance set out in Creating Places.

In order to comply with Policy OS 2 of PPS 8, as the site is in excess of 1 hectare, an area of usable open space is included within the proposal. The open space has been designed as an integral part of the development. The dwellings adjacent to the open space have been designed to overlook it to provide an attractive outlook and security. The provision of public open space contributes to creating a quality residential environment.

The normal expectation of open space for housing developments over 1 hectare will be at least 10% of the total site area. I am satisfied that the proposal complies with open space requirements. The proposal will provide sufficient amenity and open space for future residents and thus the proposal complies with part (c) of Policy QD1 of PPS 7, Policy OS 2 of PPS 8 and all relevant guidance.

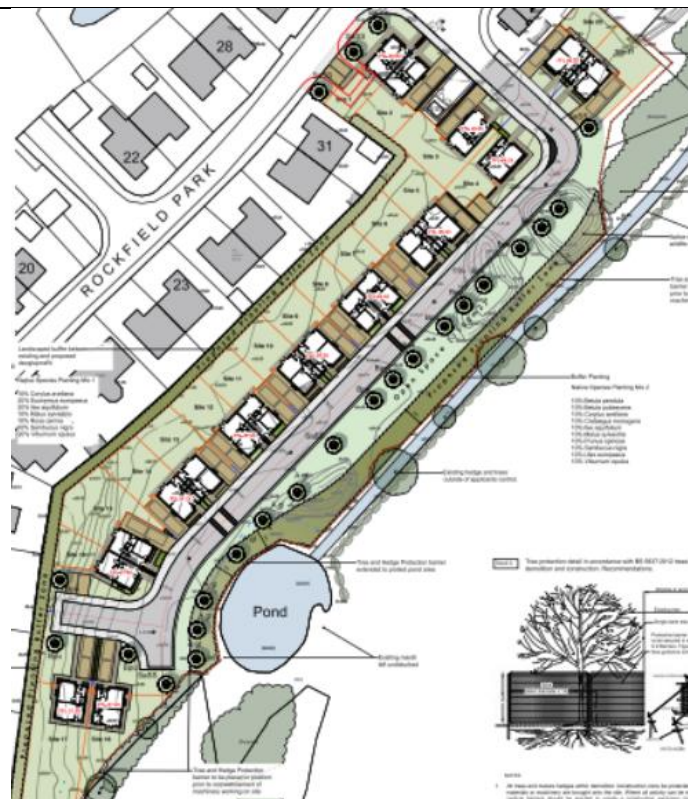


Figure 12 – Proposed landscaping scheme showing area of open space

Impact on Residential Amenity

The proposal will have no unacceptable adverse impact on adjacent dwellings and will cause no significant overlooking or loss of daylight.

The proposal is located to the rear of existing properties with Rockfield Park and some representations have raised concerns regarding potential impact on residential amenity. The properties 9 – 31 Rockfield Park (odds) are single storey in height and abut the application site. Separation distances from the rear of the proposed dwellings to the rear of existing single storey dwellings are in excess of 20m with a proposed planting buffer zone between proposed dwelling and existing rear boundaries of the dwellings in Rockfield Park. This separation distance is in compliance with the 20m 'back to back' separation distance recommended in Creating Places and is considered satisfactory to ensure there will be no unacceptable degree of overlooking towards the private amenity space or windows of existing dwellings to the rear.

Levels annotated on the proposed plans indicate that the site sits at a lower level than the existing development in Rockfield meaning that although the proposed dwellings are two storey in design and have a ridge height of approx. 8.1m they will not have an overbearing or dominant impact on the existing dwellings due to a higher ground level. Ground levels around the existing dwellings within Rockfield Park are indicated as being between 29.00 to 33.00 while the proposed finished floor levels of the new dwellings would be between 26.50 and 27.50.

The proposed dwellings also satisfy the 25 degree light test therefore the proposal

will not have a significant detrimental impact in terms of loss of light to neighbouring dwellings.

Within the site, the layout has been designed to protect the residential amenity of future residents. There will be sufficient separation distances between of the dwellings with 1.8m high timber fencing between the rear amenity spaces to ensure privacy to rear garden areas.

It is therefore considered that the proposal complies with part (h) of Policy QD 1 of PPS 7 and all relevant guidance.

Access, Roads Safety and Car Parking

Access to the site will be via Rockfield Park. The key site requirements for the HPA state that provision of a satisfactory standard of access through Ballyphilip Road and not through Rockfield Park. As outlined above, application LA06/2017/1046 has already considered this issue and access from Rockfield Park to the designated housing site has been established. DFI Roads has been consulted and has no objections to the application including access from Rockfield Park. Rockfield Park continues to provide the most appropriate access to the application site and is considered to be acceptable.

DFI roads has provided conditions and have approved associated private streets plans. The internal road network has been designed in accordance with Creating Places and Development Control Advice Note 15: Vehicular Access Standards. The proposed roads consist of traffic calming in the form of flat top humps and low speed bends.

In relation to the parking provision on site the table below sets out how the proposal meets the parking standards.

HOUSE TYPE	No. OF DWELLINGS	SPACE REQUIRED PER DWELLING	IN-CURTILAGE SPACES 	ON-STREET REQUIREMENT 		TOTAL REQUIREMENT
3 bed semi	8	2.5	16	4.00		20.00
3 bed det	1	2.75	2	0.75		2.75
4 bed semi	10	2.75	20	7.50		27.50
4 bed det	1	3.0	2	1.00		3.00
TOTAL	20		40	13.25		53.25
ACHIEVED			40	15		55.00

Each dwelling has at least two in-curtilage parking spaces provided as well as the capability of some off-street provision. The proposal is therefore considered acceptable in terms of parking provision.

It is therefore considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. The proposal complies with Policies AMP 2, AMP 3 and AMP 7 of PPS 3, part (f) of Policy QD1 of PPS 7 and all relevant guidance.

Security from Crime

The layout has been designed to deter crime and promote safety as all dwelling units will front onto the road, parking areas or public open space and rear amenity space will be protected by fencing and landscaping. It is therefore considered that the proposal complies with part (i) of Policy QD1 of PPS 7 and all relevant guidance.

Local Neighbourhood Facilities

As the proposal is for 20 dwellings there is no need to provide local neighbourhood facilities as part of the development. There is also no key site requirement under the zoning for neighbourhood facilities. The site is within the settlement limit of Portaferry with access to shops, services, education etc. It is therefore considered that the proposal complies with part (d) of Policy QD1 of PPS 7 and all relevant guidance.

Designated Sites and Natural Heritage

Representations raised a number of concerns regarding the potential negative impact of the proposal on protected species and priority habitats. There is a small ditch adjacent to the site. While a pond is indicated on the site location plan, this has dried up and only an area of wet ground remains. Interrogation of all the environmental GIS layers, datasets and advice from NIEA has found no viable hydrological or other pathway to European Sites re Strangford Lough, 750 metres away. SES concludes no conceivable effects from proposed construction phase works. This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of the Council which is the competent authority responsible for authorising the project.

Following an appropriate assessment in accordance with the above Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation. It is concluded that, provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. The condition to be included is "No development to take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the

terms of the Water (NI) Order 1999 by NIEA WMU.”

A Preliminary Ecological Appraisal was also prepared and submitted with the application. Natural Environment Division (NED) was consulted and noted that a 25-metre badger protection zone had been provided around the main badger sett entrances and raised no concerns subject to a planning condition regarding the establishment of the protection zone.

While there is an area marked as a pond at the south-west end of the site, which could potentially provide a habitat for Newts, this area now has no open water and has been classified as Swamp, it being a very damp area. The area is also isolated from other suitable sides by houses and intensive agriculture. The habitat was assessed in the PEA and given a suitability score of 0.49 (Poor) as with no extant water present its suitability for Newts is much reduced. Mitigation is, however, required.

With regard to bats, the habitat is mainly open with the only suitable habitat being the hedgerow along the edge of the field outside of the application site. The hedge is assessed as having low foraging potential as there are no larger trees with potential roost features within the red line and all are assessed as having negligible bat roost potential. There are also no buildings within the red line. On this basis, no further surveying was required.

It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2 and will have no likely adverse impacts on designated sites, protected or priority species, habitats or features of natural heritage importance.

Flooding and Drainage

There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. The site is bounded at the south-east by an undesignated watercourse. Representations have raised concerns in relation to flooding and pollution of the pond and waterway.

Policy FLD1 - Development in Fluvial and coastal Flood Plains

The Flood Maps (NI) do not indicate a flood plain associated with the undesignated watercourse that is located along the southeastern boundary of the site. This is due to the fact that the minor watercourse falls below the threshold in terms of catchment area for River Modelling. However, this does not mean that there is no associated flood risk with this watercourse. DFI Rivers has advised it is the applicant's responsibility to appoint a competent professional to assess the flood risk and to mitigate the risk to the development and any impacts beyond the site.

Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure

Under 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 DFI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.

Policy FLD3 - Development and Surface Water

Dfl Rivers reviewed the Drainage Assessment by Marrac Design, and commented as follows:

The Drainage Assessment has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year event, including an allowance for climate change (10%) and urban creep (10%), could be contained through the addition of an attenuation system, when discharging at existing green field runoff rate, and therefore there will be no exceedance flows during this event. Further assessment of the drainage network will be made by NI Water prior to adoption. However, in order to ensure compliance with PPS 15, Dfl Rivers requests that the potential flood risk from exceedance of the network, is managed by way of a condition relating to the submission of a final drainage assessment prior to the construction of the drainage network.

Policy FLD4 - Artificial Modification of watercourses

Is not applicable to the site based on information provided.

Policy FLD5 - Development in Proximity to Reservoirs

Is not applicable to the site.

The proposal is therefore acceptable from a flood risk perspective, and it is considered that it will not result in flood risk to the development or elsewhere, subject to conditions.

Water and sewerage

The applicant has indicated on the submitted P1 form that surface water will be disposed to an existing watercourse and foul sewage will be disposed of via public mains.

NI Water has advised that there is available capacity at the receiving Waste Water Treatment Works to serve the development; however, a high level assessment has indicated potential network capacity issues. This establishes significant risks of detrimental effect to the environment and detrimental impact on existing properties. For this reason, NI Water is recommending connections to the public sewerage system are curtailed. The applicant is advised to consult directly with NI Water to ascertain whether any necessary alternative drainage /treatment solutions can be agreed.

NIEA WMU Water Management Unit is concerned that the sewage loading associated with the above proposal has the potential to cause an environmental impact if transferred to Portaferry Waste Water Treatment Works (WWTW). Water Management Unit notes Northern Ireland Water Limited (NIW) (dated 5th March 2024) in which the applicant is advised to submit a Wastewater Impact Assessment to assess if an alternative treatment solution can be agreed. Following this, if NIW indicate that the WWTW and associated sewer network is able to accept the additional load, with no adverse effect on the WWTW or sewer network's ability to comply with its Water Order Consents, then WMU would have no objection to this

aspect of the proposal. If NIW advises it is not possible to connect the proposed development to mains sewer, then alternative arrangements will be required, and a Discharge Consent issued under the terms of the Water (NI) Order 1999 will be required for the discharge of sewage effluent from the proposed development. It should be noted that Discharge Consent can only be assessed whenever the department has received an application deemed complete as a number of site-specific factors need to be taken into account in assessing the suitability of the proposed means of effluent disposal. The applicant should note there is no guarantee that Discharge Consent will be granted.

The applicant has provided evidence by way of an e mail, confirming that following assessment at Stage 1, proposals for a potential solution are considered by NI Water to be suitable and advising to proceed to Stage 2 sign off. Therefore, I am satisfied that the above issue can be dealt with by attaching a negative condition stipulating that no development shall take place on-site until the method of sewage disposal has been agreed in writing with NI Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority.

The applicant will be able to liaise with the relevant authorities outside of the planning process to finalise the details of the proposed solution. If the applicant is unable to deliver the required solution, then he/she will be unable to implement the permission. If a private treatment plant solution is proposed as an alternative to resolve the issue, a separate planning application for this would be required.

5. Representations

In total, 14 letters of objection from six separate addresses have been received in relation to the application. The full objections can be viewed on the planning portal, however the main points have been summarised below. Those issues not considered in the main body of the report have been considered below.

- The site is home to protected badgers and other wildlife including frogs, newts, bats, birds, and insects.
Considered above
- Vegetation clearance has already disrupted habitats; further development risks permanent damage.
Considered above
- The pond and waterway are at risk of pollution, drying out, and ecological degradation.
Considered above
- Displacement of vermin (rats, mice) could lead to infestations in nearby homes and gardens, affecting pets and property.
Considered a private or environmental health matter, typically addressed through other regulatory regimes. Environmental Health has been consulted and raised no concerns.

- The land is boggy and unstable, with a history of incidents (e.g., a horse sinking).
Considered above
- Concerns about sinkholes, poor drainage, and flooding.
A drainage assessment has been submitted and DFI Rivers is content.
- Ground piling may affect the structural integrity of existing homes—liability for any damage is unclear.
Structural integrity and potential damage to property are typically matters covered by building regulations and civil law. The onus is on the developer to ensure all required surveys have been carried out in advance of development by a competent and fully qualified person and any recommendations adhered to. This is not considered to be a material planning consideration.
- The single access road is already congested and unsuitable for increased traffic.
Considered above
- Previous developments added significant vehicle load, causing road damage and safety risks.
DFI Roads has been consulted with the proposal and has no objections in terms of road safety.
- Construction traffic poses a danger to children playing and causes noise and disruption.
DFI Roads has raised no concern regarding road safety as a result of construction traffic. Any disruption caused by construction traffic will be temporary.
- Responsibility for road maintenance and repair is unclear.
Private streets drawings have been agreed and conditioned, therefore it is proposed that the road will be adopted and maintained by DFI Roads.
- NI Water has raised concerns about sewerage and water pressure, which are already problematic.
It is the responsibility of the developers to seek further consent from NIW as per the attached planning condition and as outlined above. Existing water pressure issues are the responsibility of NIW
- Loss of privacy due to two-storey houses overlooking single-storey homes.
Considered above
- Loss of countryside views, which were a key selling point for existing properties.
Views or value of property are not considered to be material planning considerations. Regardless the land was designated for housing in the Ards and Down Area Plan 2015, which was adopted in 2009.

- Noise, dust, and odour from construction will affect residents' quality of life. Previous construction projects by the same developer caused significant disruption, with little regard for residents.
Environmental Health has been consulted and has raised no concerns. The developer is advised to comply with all health and safety requirements during construction. A degree of disruption as a result of construction is to be expected however this will only be temporary.
- Shading and loss of light from taller buildings will affect natural daylight.
Considered above.
- Proposed housing is not in keeping with the existing architectural style.
Considered above
- The development would detract from the character and visual appeal of the neighbourhood.
Considered above
- The buffer zone and wildlife habitats proposed lack clarity on long-term maintenance and could become neglected.
Any planning approval would be subject to a condition requiring the submission and agreement of a Landscape Management and Maintenance Plan prior to commencement of development.
- While recognising the need for new housing, the location and scale of this development are not feasible given the current infrastructure and environmental constraints
This proposal is for residential dwellings on land which has been designated for housing in the extant plan. Therefore, presumption is in favour of development. The principle of dwellings on this site is acceptable.

6. Recommendation

Grant Planning Permission

7. Conditions

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 Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the

land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 07C Proposed PSD Layout.

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

3. No development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined in blue on Drawing No 07C Proposed PSD Layout. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

4. No dwelling shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling

5. No dwelling shall be occupied until provision has been made for that dwelling for the in-curtilage parking of private cars at the rate of 2 spaces per unit. The parking spaces shall be permanently retained thereafter.

Reason: To ensure adequate (in-curtilage) parking in the interests of road safety and the convenience of road users

6. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999 by NIEA WMU.

Reason: To ensure a practical solution to sewage disposal is possible at the site that will protect potentially hydrologically connected features of Strangford Lough SAC/SPA/Ramsar from adverse effects.

7. No development activity, including ground preparation or vegetation clearance, shall take place until a protection zones, clearly marked with posts joined with hazard warning tape, has been provided around each badger sett entrance at a radius of 25 metres, as shown on Site Plan Proposed Rev C. No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zones without the consent of the Council unless an appropriate Wildlife Licence has been obtained from NIEA. The protection zones shall be retained and maintained until all construction activity has been completed on site.

Reason: To protect badgers and their setts on the site.

8. No development shall commence on site until a Landscaping Phasing Plan has been submitted to and agreed in writing with the Council. All hard and soft landscape works shall be carried out in accordance with the approved timings and details of the Phasing Plan and in accordance with the details indicated on approved Drawing No.19D, and the appropriate British Standard or other recognised Codes of Practice.

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

9. A detailed landscape management and maintenance plan including long term design objectives, performance indicators, management responsibilities, and maintenance schedules for all the communal open space and landscaped areas shall be submitted to the Council and agreed in writing prior to the occupation of any dwelling hereby approved. The landscape management and maintenance plan shall be adhered to permanently as approved.

Reason: To ensure the sustainability of the approved landscape design through its successful establishment and long-term maintenance.

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.

11. No more than 5 of the dwelling units hereby approved shall be occupied on site until the proposed open space as indicated on Drawing No. 09 has been laid out in accordance with the approved details. The open space area shall be permanently retained and shall not thereafter be used for any purpose other than as open space/ play space.

Reason: To ensure amenity space is available concurrently with the development of the site.

12. The long-term management and maintenance of the open space, as indicated on Drawing No. 09, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing by the Council prior to the occupation of any dwelling hereby approved.

Reason: To ensure the provision and maintenance of public open space within the site.

13. A tree and hedge protection barrier shall be erected in the position shown by dashed brown line on drawing no 09 prior to commencement of machinery working on site and shall be retained until construction of development is complete.

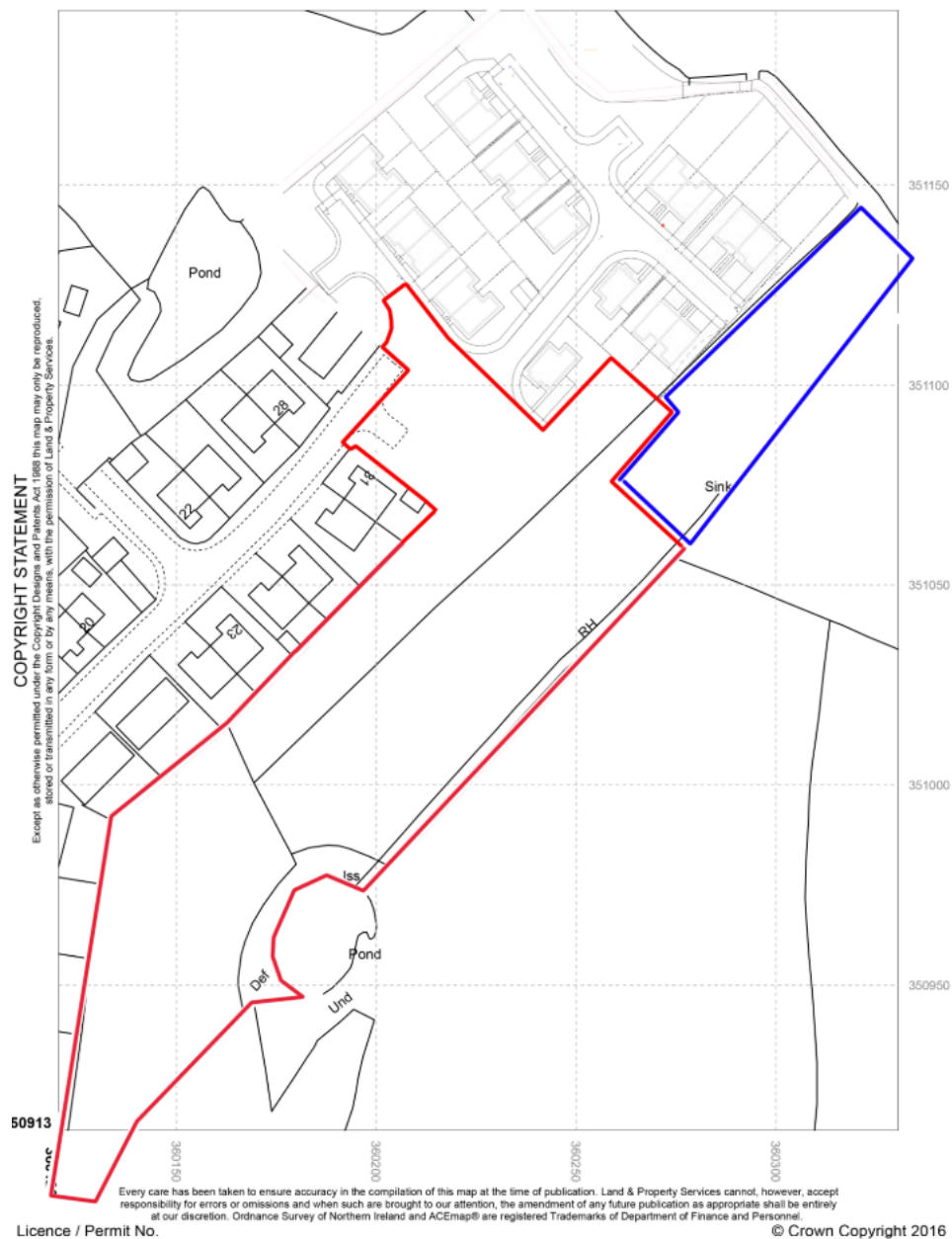
Reason: To ensure protection of existing landscaping on site

14. Prior to the commencement of the construction of the drainage network, the applicant shall submit a final drainage assessment, compliant with Policy FLD 3 and Annex D of PPS 15, to be agreed in writing with the Council. The assessment must demonstrate the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event including an allowance for climate change and urban creep. Development must be carried out in accordance with the final agreed Drainage Assessment.

Reason: In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere.

Informatives:

This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Portal.



Site location



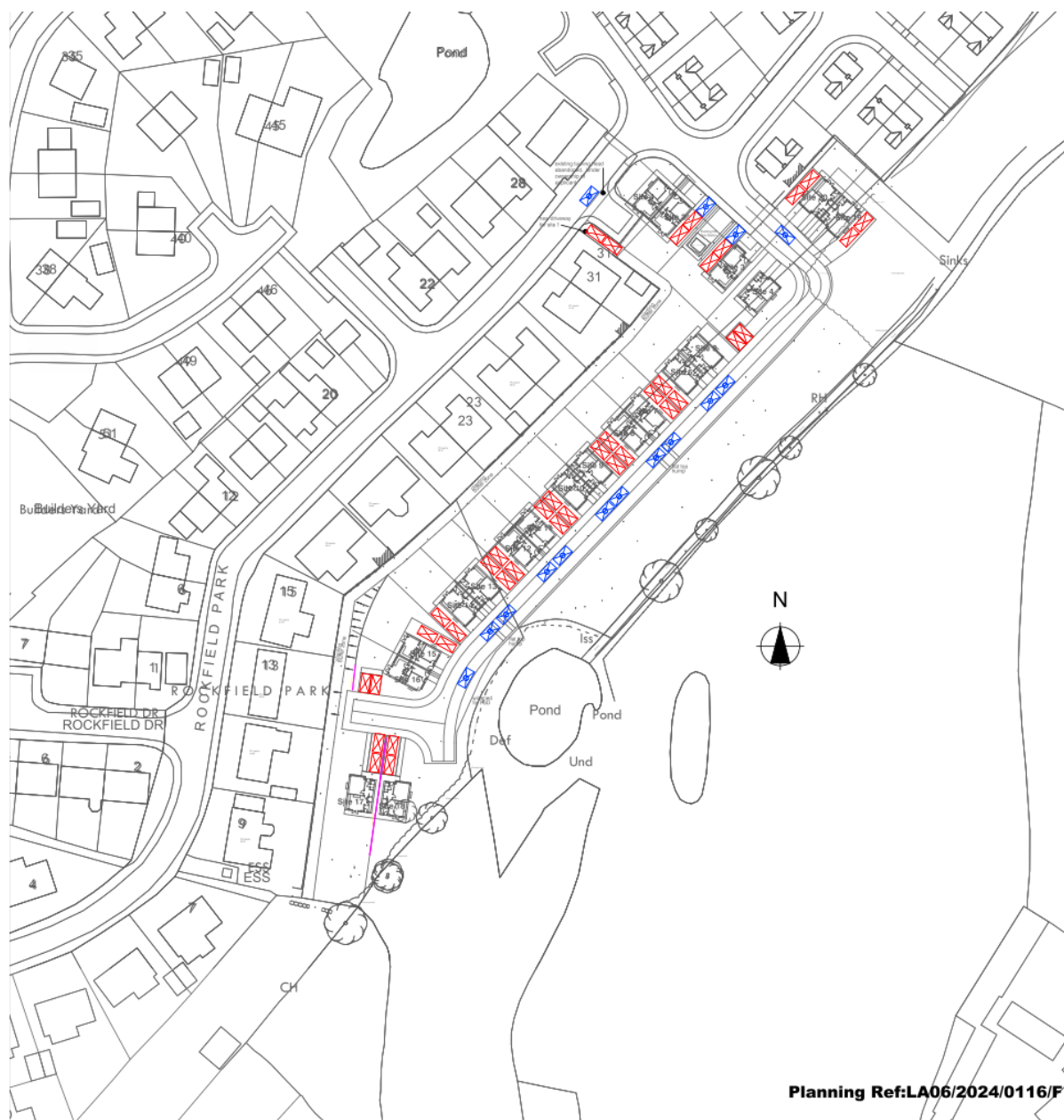
Proposed site plan 02C



Proposed plans and elevations 03



Proposed plans and elevations 04



Proposed parking layout 05C

Project: Residential Development at Rockfield Park, Portferry - Phase 2
Landscape Proposals

Legend:

- Existing Trees to be Retained
- Existing Shrubs to be Retained
- Existing Grassland to be Retained
- Existing Trees and Shrubs to be Retained
- Proposed Tree Planting (see Schedule 1)
- Proposed Shrub Planting (see Schedule 2)
- Proposed Grass Planting (see Schedule 3)
- Proposed Water Features (see Schedule 4)
- Proposed Pathways (see Schedule 5)
- Proposed Fencing (see Schedule 6)
- Proposed Lighting (see Schedule 7)
- Proposed Other Features (see Schedule 8)

Plant Schedules

Schedule 1: Tree Planting

Plant Name	Quantity	Plant Name	Quantity
Platanus	10	Quercus	10
Alnus	10	Salix	10
Betula	10	Ulmus	10
Castanea	10	Fraxinus	10
Corylus	10	Juniperus	10
Fagus	10	Larix	10
Pinus	10	Picea	10
Populus	10	Taxus	10
Salix	10	Thuja	10
Ulmus	10	Yucca	10

Schedule 2: Shrub Planting

Plant Name	Quantity	Plant Name	Quantity
Alnus	10	Quercus	10
Betula	10	Salix	10
Castanea	10	Ulmus	10
Corylus	10	Fraxinus	10
Fagus	10	Juniperus	10
Pinus	10	Larix	10
Populus	10	Picea	10
Salix	10	Taxus	10
Ulmus	10	Thuja	10
Yucca	10		

Schedule 3: Grass Planting

Plant Name	Quantity	Plant Name	Quantity
Alnus	10	Quercus	10
Betula	10	Salix	10
Castanea	10	Ulmus	10
Corylus	10	Fraxinus	10
Fagus	10	Juniperus	10
Pinus	10	Larix	10
Populus	10	Picea	10
Salix	10	Taxus	10
Ulmus	10	Thuja	10
Yucca	10		

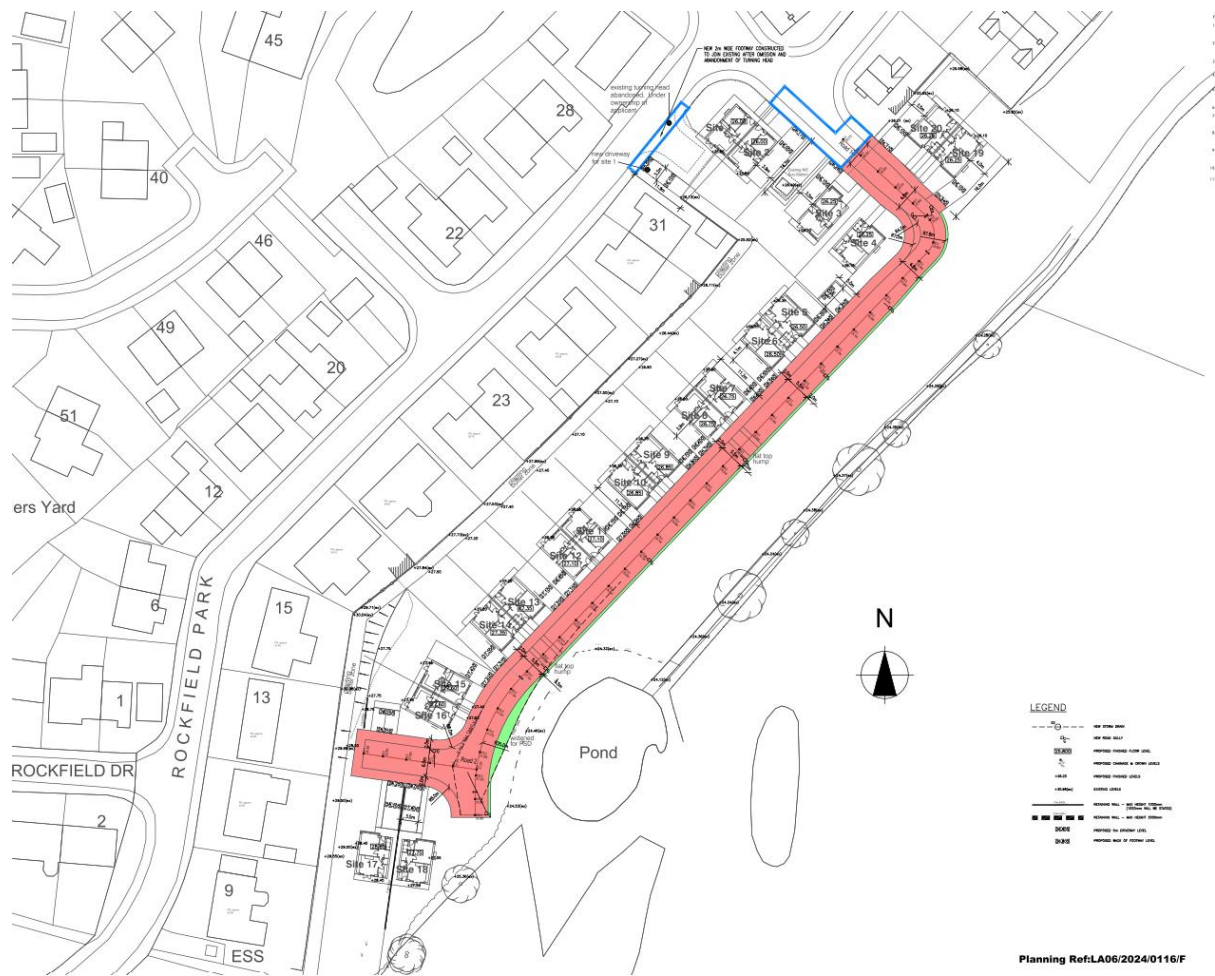
Schedule 4: Water Features

Plant Name	Quantity	Plant Name	Quantity
Alnus	10	Quercus	10
Betula	10	Salix	10
Castanea	10	Ulmus	10
Corylus	10	Fraxinus	10
Fagus	10	Juniperus	10
Pinus	10	Larix	10
Populus	10	Picea	10
Salix	10	Taxus	10
Ulmus	10	Thuja	10
Yucca	10		

Schedule 5: Pathways

Plant Name	Quantity	Plant Name	Quantity
Alnus	10	Quercus	10
Betula	10	Salix	10
Castanea	10	Ulmus	

28



PSD drawing signed by DFI Roads

Photographs of site



Looking south west and rear of dwellings along Rockfield Park



Application site with rear of existing dwellings



Topography changes within the site



view from site looking north east towards existing two storey dwellings



Looking towards entrance to site



North west boundary and rear of existing dwellings in Rockfield Park



Within application site



Within application site.



Development Management Case Officer Report  Ards and North Down Borough Council		
Reference:	LA06/2024/0242/F	DEA: Comber
Proposal:	Proposed extension and alteration of car park including demolition of no.23 Church Hill Park.	
Location:	Spar, 2 Saintfield Road, Ballygowan	
Applicant: Paul Toal		
Date valid:	15/03/2024	EIA Screening Required: No
Date last advertised:	02/05/2024	Date last neighbour notified: 02/10/2025
Letters of Support: 0	Letters of Objection: 16 (13 Separate addresses)	Petitions: 0
Consultations – Synopsis of Responses:		
DFI Roads	No objection	
NIEA Regulation Unit and Groundwater team	No objection	
Environmental Health	No objection	
Summary of Main Issues: • Principle of development • Access, Road Safety and parking • Visual Impact • Impact on Residential Amenity • Environmental impact and contamination Recommendation: Grant Planning Permission Agreed by Authorised Officer		
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Northern Ireland Public Register.		

1. Site and Surrounding Area

The planning application site currently comprises of a SPAR retail unit, a two-pump island petrol forecourt, fourteen car parking spaces and the residential property at No 23 Church Hill Park. The SPAR is part single storey, part two storey and provides a range of important services to the village of Ballygowan. It incorporates a Post Office, ATM, Barista Bar, hot food/deli counter, bulk fuel sales and an Air/Water/Vacuum facility.

There is a mix of uses within the immediate vicinity including a retail unit, car sales courtyard and bus depot on the opposite side of the Saintfield Road and residential development to the immediate east and south of the site. The area is within the settlement limit of Ballygowan as designated in the Ards and Down Area Plan 2015.



Figure 1 – Site viewed from Saintfield Road

2. Site Location Plan

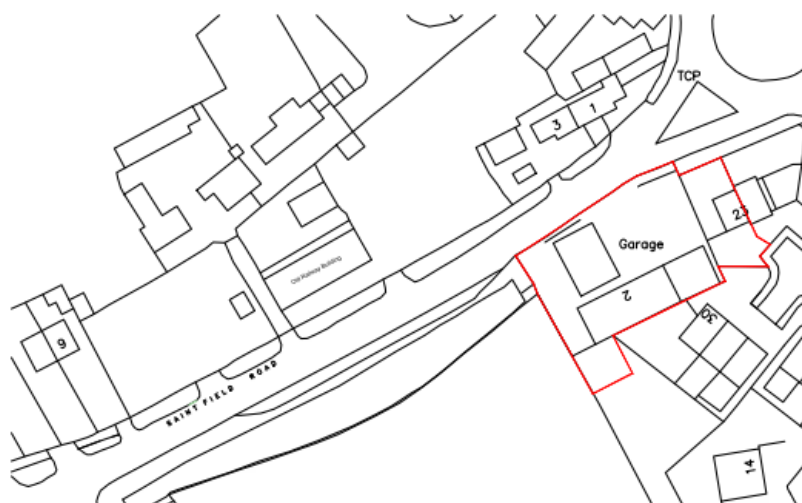


Figure 2 - Site Location Plan

3. Relevant Planning History

W/2023/1320/F - Decommissioning of existing below ground fuel storage tank and insertion of new 50,000 L twin compartment fuel storage tank to NE of the site – Application withdrawn

LA06/2023/1890/A - Shop signage (Retrospective) – Consent granted

X/2004/1713/F - 2 Storey extension to shop unit with ground floor retail extension and first floor office, staff room accommodation – Permission Granted (06/04/2005)

There are several planning permissions on the site relating to the use as a petrol filling station and retail unit. The history above demonstrates the use as a petrol filling station and retail unit is well established on the site.

4. Planning Assessment

The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2 - Natural Heritage
- Planning Policy Statement 3 - Access, Movement and Parking

Principle of Development

The Ards and Down Area Plan currently acts as the LDP for this area. The site is within the settlement limit of Ballygowan; no other environmental or architectural designations affect the site. With no specific policies in relation to this type of development, it is therefore considered to be in general conformity with the plan, subject to the prevailing regional policy considerations below.

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 3 – Access, Movement and Parking and PPS 2 – Natural Heritage.

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

The proposal is for the demolition of No. 23 Church Hill Park, an extension to the SPAR car park, and amendments to the parking layout to provide 24 car parking

spaces i.e. an increase of 10 parking spaces. There are no development works proposed to the fabric of the existing retail unit.

The site is not in a Conservation Area or Area of Village Character and, as such, demolition of No. 23 Church Hill Park is permitted development and acceptable in principle. As the proposal relates to the extension of an existing car park serving an established petrol filling station within the settlement limit of Ballygowan, the principle of development is considered to be acceptable.

The SPPS sets out policy in relation to 'Town Centres and Retailing', incorporating a town centre first approach for retail and other main town centre uses. The SPPS seeks to encourage development at an appropriate scale in order to enhance the attractiveness of town centres. The aim of the SPPS is to support and sustain vibrant town centres through the promotion of established town centres as the appropriate first choice location of retailing.

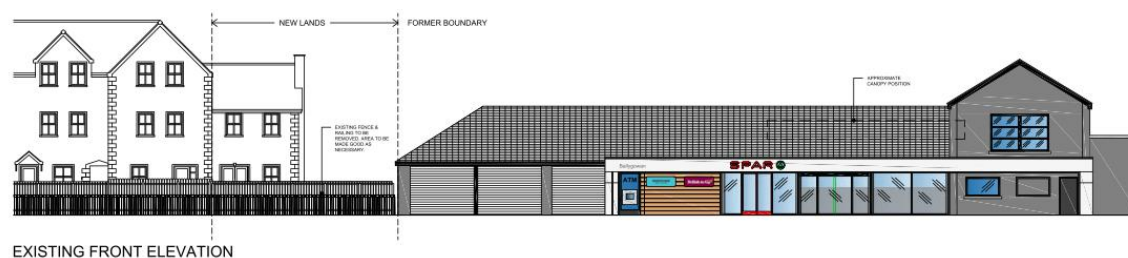
Paragraph 6.276 states that planning authorities should retain and consolidate existing district and local centres as a focus for local everyday shopping and ensure their role is complementary to the role and function of the town centre. In these centres, extensions should only be permitted where the applicant has demonstrated that no adverse impact will result on town centres on the catchment. There will be no increase in floor space of the retail offering on the site, therefore no negative impact on town centres.

The proposal aims to improve the operation of the site with the provision of 10 additional car parking spaces.

Initially the application proposed eight additional car parking spaces and a pedestrian access from the application site from Church Hill Park. This was considered to be unacceptable in terms of potential detrimental impact on the residential amenity of Church Hill Park. Redesign allowed for the extension to provide a total of 10 car parking spaces.

Visual Impact and impact on Character of Area

This planning application relates to proposed extension and alteration of car park including demolition of no.23 Church Hill Park



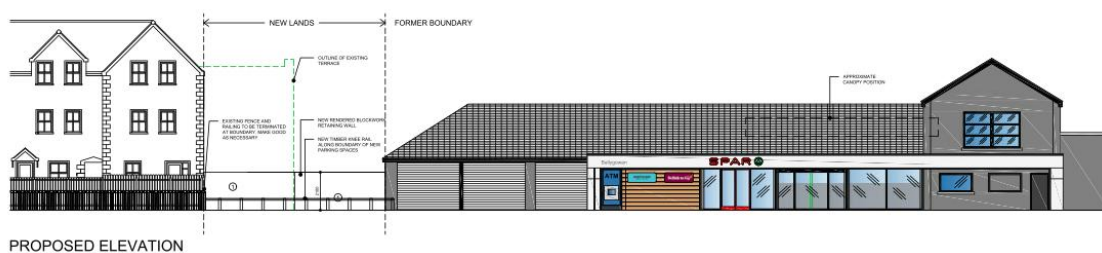
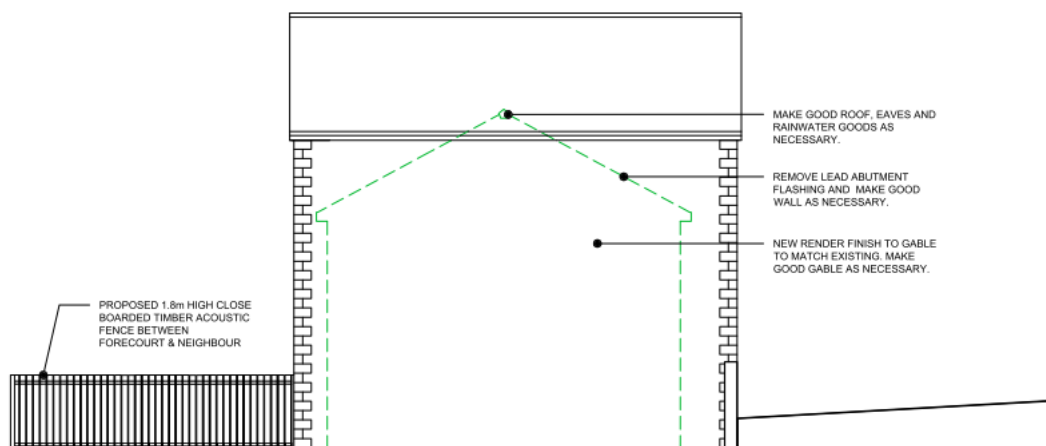


Figure 3 - Existing and proposed elevations

Figure 3 above shows the demolition of No. 23 Church Hill Park, the existing fence and railing to the roadside elevation to be terminated at the new site boundary and a new timber knee rail along the front boundary of the new car parking spaces.

The site is readily visible when travelling in either direction along Saintfield Road and also on approach to the roundabout from Belfast Road. Given that no extension is proposed to the retail building, the main aspect in relation to visual impact is the demolition of No. 23 Church Hill Park, which is an end of terrace dwelling. It must be noted that as the site is not within a conservation area, demolition of the dwelling is considered permitted development.



PROPOSED TERRACE GABLE ELEVATION

Figure 4 - Proposed side elevation

The agent has provided the proposed gable elevation showing the remaining dwelling gable (21 Church Hill Park) made good, with a render finish to gable to match the existing. A planning condition will require this to be completed prior to the commencement of use of the extended car park area.

The demolition of No. 23 Church Hill Park is not considered to have a detrimental impact in terms of the character of the area or the existing terrace of dwellings fronting onto Saintfield Road. It is my opinion that the removal of the current close

boarded timber fence to the front boundary and replacement with a timber knee rail will be a visual betterment when viewing the application site from public viewpoints.

A 2.1m high rendered block work retaining wall is proposed to the rear of the site which will be readily visible from Church Hill Park and within the car park itself. The rendered finish of the wall is in keeping with the surrounding dwellings and it will not appear dominant, overbearing or out of character. The proposed site plan also shows planting proposed which will help to soften the impact.

I am content that the proposal will have no unacceptable impact on the character of the surrounding area.

Impact on Amenity of Neighbouring Residents

Residential properties are located to the side, rear and across the road from the application site. Several concerns have been raised in relation to the potential detrimental impact of the proposal on the residential amenity of the surrounding properties.

Removal of the pedestrian access way from Church Hill Park has reduced the potential for any adverse impact on the residential amenity of neighbouring properties in terms of noise, disturbance and loss of privacy.

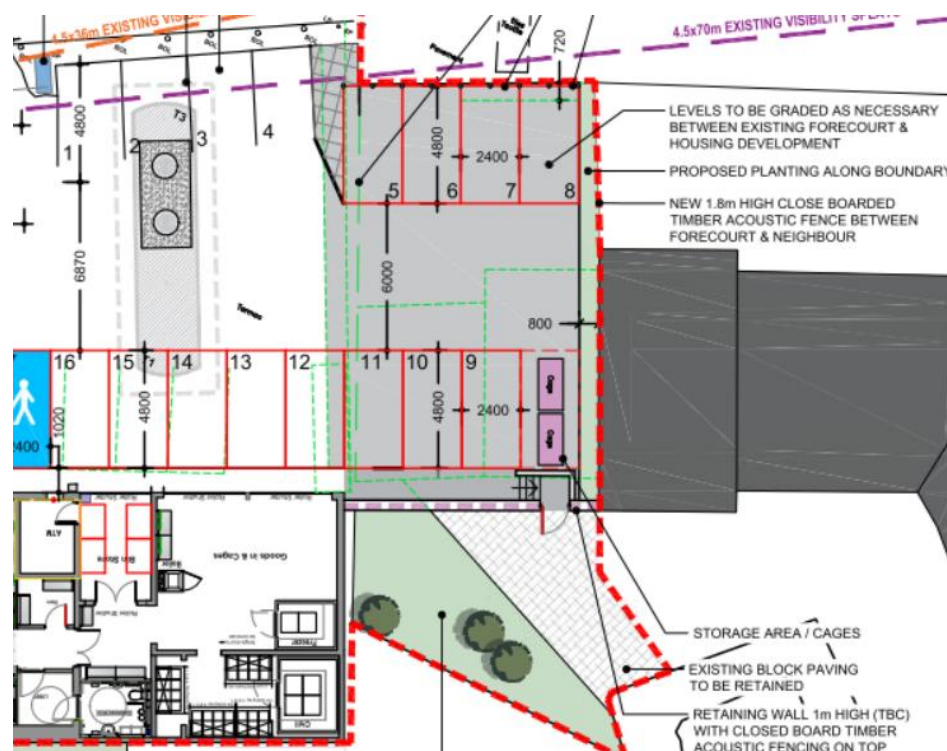


Figure 5 – Original proposal including pedestrian access to Church Hill Park

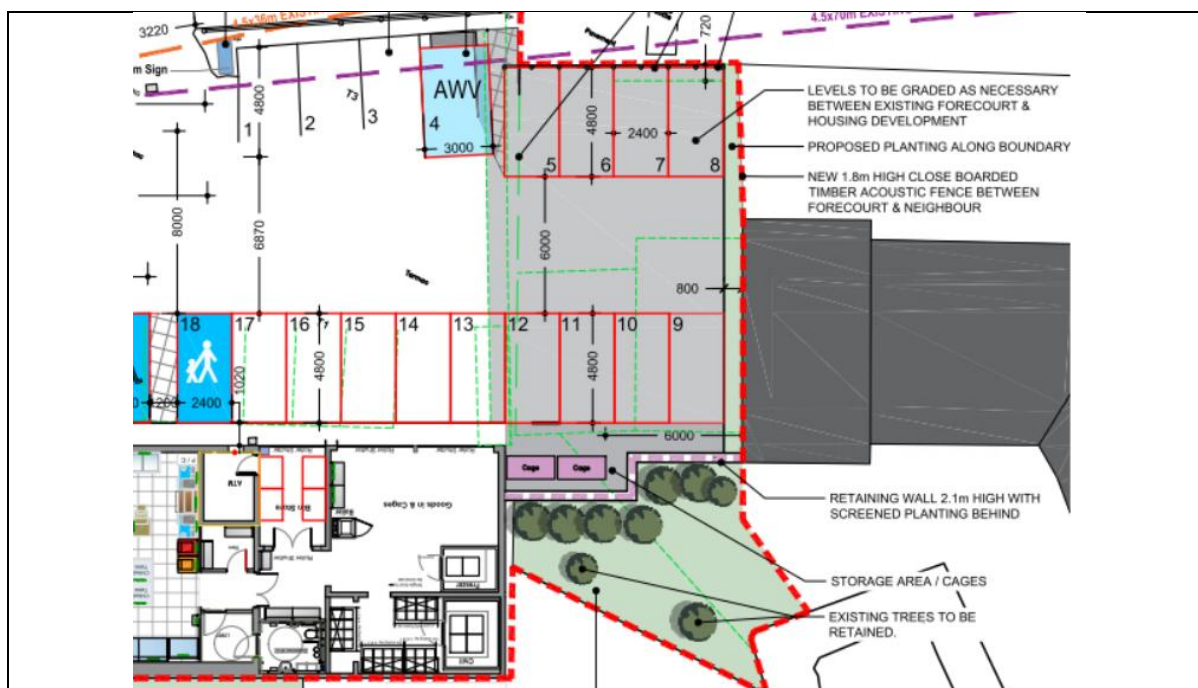


Figure 6 – Amended proposal with pedestrian access removed

A Noise Impact Assessment has been submitted with the application and considered by the Council's Environmental Health Department. Environmental Health has confirmed that it is content with the findings of the assessment and that the proposal would not result in any unacceptable level of noise or disturbance to adjacent residential properties subject to conditions requiring the installation of an acoustic fence as indicated on the site plan and restricting the hours of construction activity and deliveries to 07:00 – 19:00 Monday to Friday and 08:00 – 13:00 on Saturdays.

As no buildings or other structures are proposed as part of the development, there will be no impact on the adjacent residential properties in terms of overshadowing or loss of light.

Privacy concerns have been raised by some residents, however given the proposed boundary treatments including a 1.8m high acoustic fence along the party boundary with No. 21 Church Hill Park and the 2.1m high retaining wall and new screen planting in place of No. 23, I am satisfied that there will be no unacceptable adverse impact on the privacy of the adjacent dwellings. The relationship between the extended car park area and the adjacent dwelling will also be the same as the relationship between the existing car park and No. 23, therefore it is not considered that there will be any greater impact on amenity.



Figure 7 – Existing relationship between dwelling at No. 23 and car park with timber fence providing screening

As no additional floorspace is being added to the existing retail unit there is not anticipated to be an increase in either staff or visitor numbers.

Given the existing use of the site as an established petrol filling station and convenience store, I am satisfied that the proposal will not adversely affect the residential amenity of the neighbouring dwellings to any unacceptable degree.

Access, Roads Safety and Car Parking

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic.

Parking standards for a Petrol filling station are shown below,

Petrol Filling Station	1 space per pump position, plus 1 waiting space per pump position not impeding entry or exit from the site or any other site facility, plus appropriately located parking for retail shop as per shopping standard	Space for discharging petrol tanker. Retail as per shopping standard.	Minimum of 2 per unit
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1 space per pump – 3 pumps = 3 spaces
1 waiting space per pump = 3 spaces

Retail shop – 1 space per 14 sqm GFA = 331 sqm approx./14 = 23.6 spaces.
Total requirement = **29.6 spaces**.

The existing parking provision on site includes 14 spaces with 3 at the pumps and 3 waiting therefore maximum provision is around 20 spaces. The proposed includes 24 spaces with 3 at the pumps and 3 waiting, therefore the potential to accommodate 30 spaces. Although it is recognised that waiting space at the pump may be difficult to achieve (as it is currently), the increase in 10 parking spaces within the site brings the existing petrol filling station more in line with the parking standards.

DFI Roads was consulted on this application and raised no concerns. It is my planning judgement that additional in curtilage car parking will be a betterment and will help to reduce parking along the roadside by visitors to the retail unit. No changes are proposed to the vehicular entrance or exit to the site.

The proposal will therefore not prejudice road safety or inconvenience the flow of traffic.

Impact on Designated Sites/Other Natural Heritage Interests

Ards and North Down Borough Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 07/05/2024. This found that the project would not have an adverse effect on the integrity of any European site.

Part 1 of NIEA's Biodiversity Checklist and a preliminary ecological assessment provided was used as a guide to identify any potential adverse impacts on designated sites. No such scenario was identified.

Therefore, the potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

In terms of protected and priority species, Part 2 of the Checklist was referred to and did not identify a scenario where survey information may reasonably be required. The proposal does involve demolition of a residential building; however, assessment has concluded no protected species surveys are required. In this instance it has indicated that there is not a reasonable likelihood of there being protected species present and therefore further investigation is not considered necessary.

Drainage and Sewerage Infrastructure

There will be no impact on drainage and sewerage as a result of this proposal. It was not considered necessary to consult with NIW.

The applicant is referred to standing advice and guidance for pollution documents in order to minimize the impact of the proposal on the environment.

No Drainage Assessment is required for a development of this size.

Contamination.

A Generic Quantitative Risk Assessment has been presented in support of this application. No unacceptable risks to the water environment are identified. Regulation Unit (RU) Land and Groundwater Team have considered the information provided and have no objections to this application subject to conditions provided relating to the protection of environmental receptors to ensure the site is suitable for use.

5. Representations

14 letters of objection were received to the proposal prior to the submission of the amended plans showing the removal of the pedestrian access to Church Hill Park. Following re neighbour notification of the amended plans two further objections have been received (both parties had objected initially).

The objection letters can be viewed on the Planning Portal, but main points raised are summarised below.

- Impact from building noise and potential for vermin
- Noise and disturbance from building works

Environmental Health has been consulted on the submitted Noise Impact Assessment and has no objection subject to a condition requiring the installation of an acoustic barrier as indicated on the site plan and a condition restricting the hours of construction activity and deliveries. No concerns were raised by Environmental Health with regard to vermin potential. Any issues regarding vermin at the site would be outside the remit of the planning process and should be raised with Environmental Health.

- Additional traffic noise after completion

The proposal is not considered to result in any significantly greater or unacceptable traffic noise given the existing use as a carpark for an established retail use.

- Visual amenity

Considered above

- Proposals contravene the obligations of the lessee (Hendersons Group) as contained in the covenants with the deeds of the properties in Church Hill Park.

Restrictive covenants are not a material planning consideration and are a matter to be dealt with between the parties outside of the planning system.

- Gated pedestrian access would cause noise pollution and create health and safety concerns

Pedestrian access to Church Hill Park has been removed.

- Concerns regarding the party wall and building structural integrity once No.23 is demolished.

Demolition of No. 23 does not require planning permission. The applicant has provided details of how the gable wall of the adjoining property at No. 21 will be finished and made good. It is the developer's responsibility to ensure that all demolition and building works are carried out in accordance with the relevant Building Control Regulations. Any damage to No. 21 or impact on the structural integrity of the building caused would be a civil matter to be resolved between the parties outside of the planning process.

- Reduction in privacy currently afforded to Church Hill Park

The difference in ground levels between the site and Church Hill Park and the 2.1m high retaining wall will restrict direct views into Church Hill Park. Landscaping is also proposed along the site boundary which will provide additional screening.

- Concerns regarding demolition of housing stock to provide car parking
- Proposed demolition should be a separate planning application

Demolition of No. 23 is permitted development and the Council cannot insist on its retention. A separate planning application to demolish this building is not a requirement.

- How will they access the area during construction

Access to the site is available from the Saintfield Road. The developer is advised to comply with good practice in relation to the construction phase of the development.

- Gas cylinders, location of gas cages and fire risk
- Industrial sized bins all in close proximity of private housing will be unacceptable.

A bin store is located within the fabric of the retail shop behind a roller shutter door as per existing arrangement. Environmental Health has been consulted and has raised no concerns regarding bins or gas storage. Gas cylinders are already currently stored on site. No additional storage is proposed.

- Devaluation of property

Potential impact on the value of surrounding properties is not a material planning consideration.

- This proposal to demolish a house to expand the Spar site and potential future plans to purchase and demolish more houses along this row will result in the opening up of one end of the development.
- Set precedent for more properties to be purchased and more expansion.

The Council can only consider what has been applied for and in this instance, it involves the demolition of a single dwelling house, not multiple properties. It should be noted that the demolition of these properties would not require planning permission. Any future proposal for the further expansion of the car park or store would be subject to a separate planning application which would be considered on its own merits.

- With the property removed there will be a reduction in privacy due to visual lines opening up from the A21, along with increased airborne noise travelling up street
- Loss of Green Space: The demolition of a residential property would result in the loss of green space, which is essential for maintaining biodiversity, absorbing carbon dioxide, and enhancing air quality.

Only a small garden area to the front of No. 23 Church Hill Park will be removed, which is not considered to result in any significant loss of green space within the area. It is also noted that the existing hard surfaced driveway to the front of No. 23 will be replaced with grass and additional planting which will help to compensate for the loss of the front garden area. It is considered that the proposed wall and planting will provide an adequate degree of screening and privacy to the residential development

- Anti-social behaviour

The pedestrian access from Church Hill Park has been removed from the proposal. The extension of the existing car park is not considered to create additional anti-social behaviour.

- Neighbour notification

Planning legislation sets out that 'any identified occupier on neighbouring land' must be informed of a planning application. This is known as 'neighbour notification'. 'Neighbouring land' is land which directly adjoins the application site, or which would adjoin it but for an entry or road less than 20 metres in width. An 'identified occupier' is an occupier of premises within a 90-metre radius of the boundary of the proposed application site. If the boundary of a site abuts the red line of the application site but the property is outside of 90 metres, the neighbour will not receive a notification. Properties must also be occupied.



The yellow circles indicate properties which qualify for notification under the legislation. These include Nos. 1 and 3 Saintfield Road, 21, 23 and 30 Church Hill Park. All of these properties were notified by post on 25 April 2024 and again on 2 October 2025 following the submission of the amended plans.

The proposal has also been advertised in the press on 2 May 2024 and 16 October 2025 in accordance with the legislation. The Council has therefore fulfilled its statutory duty in respect of notification and advertisement.

6. Recommendation

Grant Planning Permission

7. Conditions

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. A minimum of 1.8m high acoustic barrier with a surface weight of at least 15kg/m² shall be installed and retained as specified in the Noise Impact Statement for Retail Development, Saintfield Road, Ballygowan, prepared by FR Mark & Associates and dated March 2024. The barrier must be located in the position shaded blue on drawing no. 03B and be of solid construction (no holes or gaps). If the barrier is a timber fence, it shall be ship lapped/ fully overlapped design.

Reason: To protect residential amenity

3. There shall be no construction activity or deliveries to site on Sundays, Bank/Public Holidays, or outside the hours of 07:00 – 19:00 Monday to Friday and 08:00 – 13:00 on Saturdays.

Reason: To protect residential amenity

4. If during the development works, new contamination or risks are encountered which have not previously been identified, works shall cease, and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Council in writing and subsequently implemented and verified to its satisfaction. This strategy must be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.

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

5. After completing any required remediation works, and prior to operation of the development, a Verification Report should be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The Verification Report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the development wastes and risks and achieving the remedial objectives.

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

6. In the event that fuel tank decommissioning is required, the development hereby permitted shall not commence until all fuel storage tanks (and associated infrastructure) are fully decommissioned and removed in line with current Guidance for Pollution prevention (GPP 2 and GPP 27). The quality of surrounding soils and groundwater shall then be verified and agreed with the Council. Should any additional contamination be identified during this process, conditions for new contamination and risks, as detailed, will apply.

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

7. The 2.1m high retaining wall highlighted in yellow on drawing 03B shall constructed prior to commencement of operation of the car park and permanently retained thereafter.

Reason: To protect residential amenity

8. No development (other than site clearance, site preparation, demolition and the formation of foundations and trenches) shall commence on site unless a detailed landscaping scheme has been submitted to and approved in writing by the Council. The scheme shall include all trees, hedgerows and other planting which are to be retained; a planting specification to include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation.

All soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out during the first available planting season following commencement of any part of the development unless otherwise agreed in writing by the Council. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council.

Reason: In the interests of the character and appearance of the area.

9. Further to demolition of No. 23 Church Hill Park, the gable wall of No. 21 Church Hill Park shall be made good and finished in accordance with details annotated on Drawing 05B. This shall be carried out prior to commencement of the use of the car park hereby approved.

Reason: To preserve the amenity and appearance of the existing dwelling.

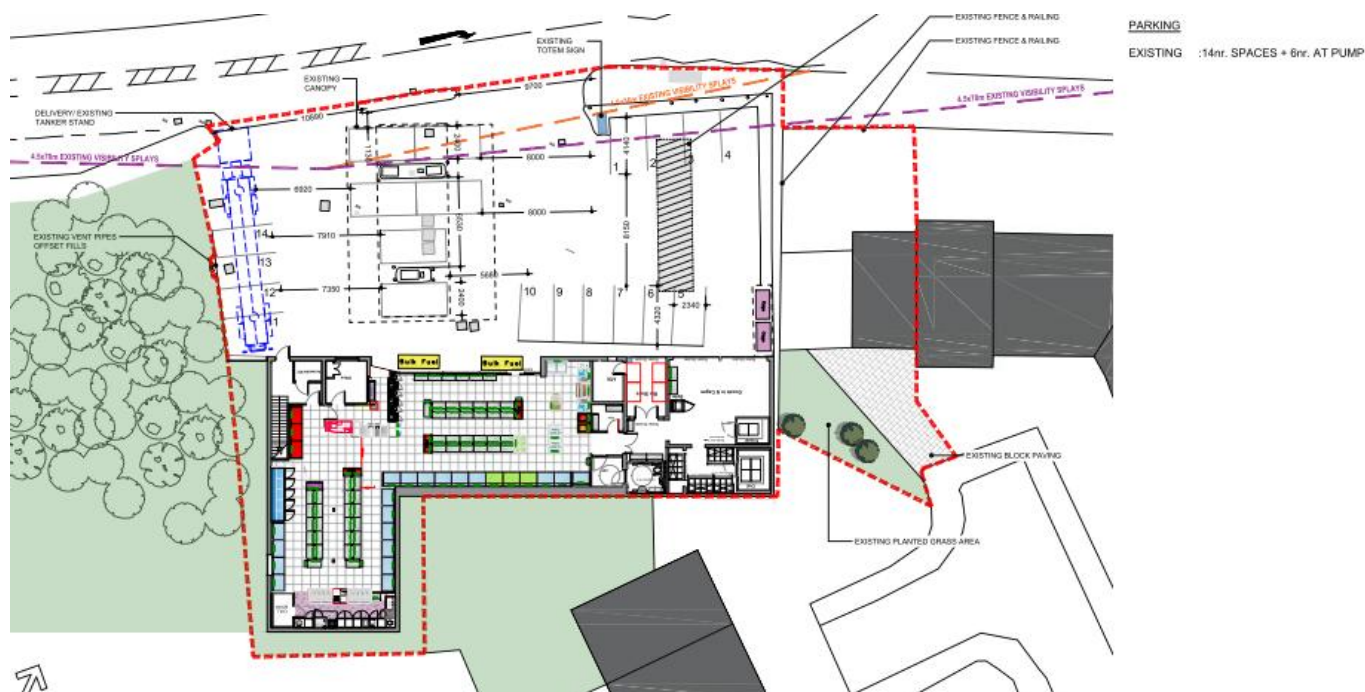
Informative

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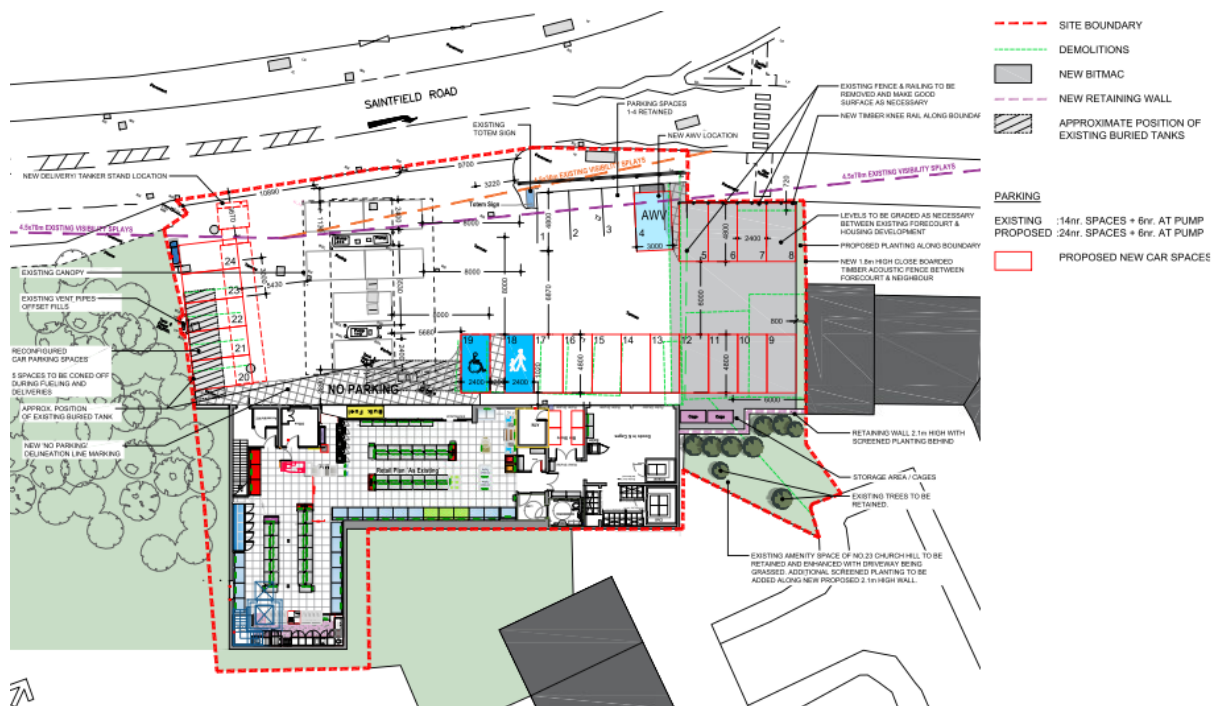
Annex 1 – Plans



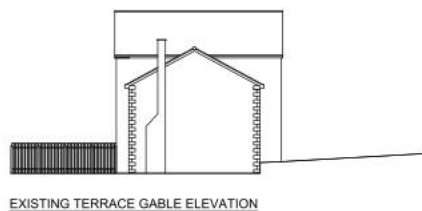
Site location Plan – 01



Existing Site Layout Plan – 02



Proposed Site Layout Plan - 03A



Existing Elevations -04

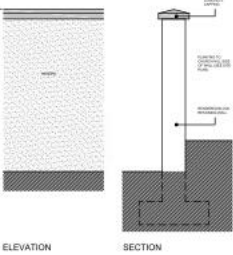
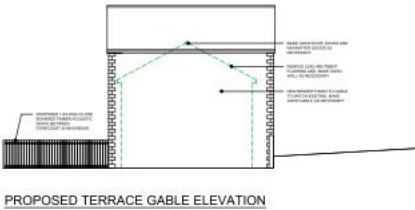
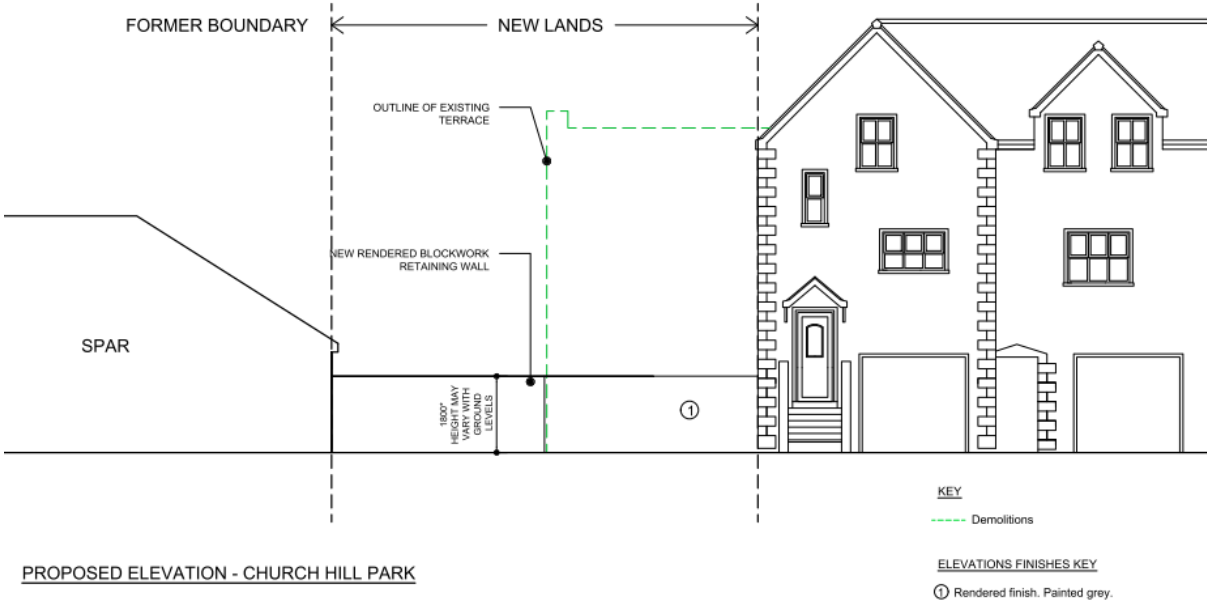


IMAGE - EXEMPLAR BOUNDARY TREATMENT
Timber Knee Rail

Proposed Elevations -05B



Proposed Elevations Church Hill Park- 06

Site Photographs



Existing car park, petrol filling station and shop



Number 23 Church Hill Park to be demolished



View of application site and terrace at Church Hill Park



View of application site from Church Hill Park

Development Management Case Officer Report			 Ards and North Down Borough Council	
Reference:	LA06/2025/0454/F	DEA: Ards Peninsula		
Proposal:	Temporary Double Classroom Modular Building, permanent security fencing and associated site works (Retrospective)			
Location:	Victoria Primary School, 2 Victoria Road, Ballyhalbert			
Applicant:	Stephen McClelland			
Date valid:	05/06/2025	EIA Screening Required:	No	
Date last advertised:	23/10/2025	Date last neighbour notified:	29/07/2025	
Letters of Support: 0		Letters of Objection: 0		Petitions: 0
Consultations – synopsis of responses:				
Environmental Health		No objections		
NI Water		No objections		
Summary of main issues considered: - Principle of Development - Impact on Design and Appearance - Impact on the Character and Appearance of the Area - Impact on Residential Amenity & Privacy - Impact on Biodiversity				
Recommendation: Grant Planning Permission				
Report Agreed by Authorised Officer				
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal				

1. Site and Surrounding Area

The subject plot is located in the northwestern corner of the larger school site.

The overall site of Victoria Primary School is relatively extensive, consisting of a main access road, parking area, main school building, ancillary buildings and areas for outdoor sport and recreation.

Within the wider locale, land use is dominated by a variety of residential properties to the north and west.

The building proposed is to be constructed on an area of the site which is largely flat and currently laid in grass, with site boundaries defined by a mix of fencing and mature trees/hedging.

At the time of the initial site inspection the building had not been constructed however following a further site inspection on 14th October 2025, construction of the building appeared to be complete but the fencing had yet to be erected (see photograph in figure 2 below).



Figure 1 – Existing Primary School (prior to construction of building)



Figure 2 – Building Constructed

2. Site Location Plan

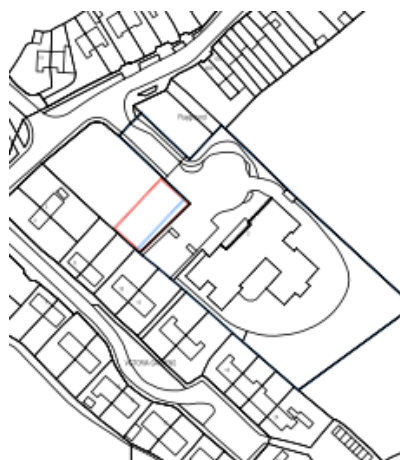


Figure 2 - Site Location – Victoria Primary School

3. Relevant Planning History

No relevant planning history.

4. Planning Assessment

The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation

Area Plan and Policy Consideration

Section 45 (1) of the Planning Act (Northern Ireland) 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 site described is located within the settlement limits of Ballyhalbert as designated in the Ards and Down Area Plan 2015, and so there is no conflict with the plan.

Strategic Planning Policy Statement (SPPS)

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

Principle of Development

The existing use of the site is that of a school. The school is well-established in the area. The site is located within the settlement limits of Ballyhalbert as designated in the Ards and Down Area Plan 2015, and so there is no conflict with the plan. The SPPS does not contain any specific policy for the proposal and so the principle of development does not conflict with the SPPS.

Proposal

The proposal includes the Installation of a double Mobile Classroom with fence, which will be positioned towards the front of the school site.



Figure 3 - Proposed Block plan

Natural Heritage

PPS 2 sets out the planning policies for the conservation, protection and enhancement of our natural heritage. In safeguarding Biodiversity and protected Habitats, the Council recognises its role in enhancing and conserving our natural heritage and should ensure that appropriate weight is attached to designated sites of international, national and local importance; priority and protected species and to biodiversity and geological interests with the wider environment.

Policy NH 2 of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. The biodiversity checklist was considered, and it is not likely to have a significant impact on any protected species and further investigation is not considered necessary.

Policy NH 5 of PPS 2 seeks to protect European Protected Species and Priority Habitats. It is considered that there will be no significant impact caused to protected species as a direct result of the proposed development.

Design and Appearance

The proposal is for a prefabricated building to provide 2x additional SEN classroom spaces for the existing school. The prefabricated building is to be completed with a composite panel wall and roof system and has an external footprint of approximately 26m x 6.4m with a 3.5m high (FFL) standard flat roof.



Figure 6 – View on approach travelling in SW - NE direction – views limited



Figure 7 – View on approach travelling NE – SW direction – limited views

Being located at the front of the site and set back a considerable distance from the public road, it is my opinion that views of the classroom unit will be of a minimal nature in terms of the overall surrounding area and I would assert then that the proposal will have a negligible impact upon the surrounding area.

In my professional judgement, the design and appearance of the proposal is of a relatively typical and standard design and massing, which when developed, will be readily absorbed into what is a long-established school site and would not be of detriment to the character of the wider area.

Neighbour Amenity

Whilst the proposed classroom is set within a sizeable school site, it is of note that beyond its boundaries, there is a considerable amount of residential development. Of particular note are dwellings to the south on Victoria Gardens and in particular those that share a common boundary with the school site.

Separation distances measured from the submitted site location plan, indicate that the distance between the southern edge of the classroom to the shared boundary with No's

06, 08 and 10 is within a range of 5.5m to 6.5m, which in my professional judgement is satisfactory.

Whilst the subject mobile shall be built closer to occupied dwellings (06, 08 & 10 Victoria Gardens), it is also of note that both land uses (i.e.: education & residential), have co-existed for a considerable period within the local area, and the proposal is necessary to accommodate the operational needs of the established school.

As is to be expected, use of the proposed classroom will be normally limited to the school day and within term times, with activities and associated noise etc. therefore restricted to the regular operational hours of the school.

Further to consultation with Environmental Health (EH), an indication has been given that the proposed development will not significantly increase noise levels and no objection to the development has been proffered by the EH team within ANDBC. However, it is considered that the classrooms should be conditioned to restrict use to school operating hours only to protect the amenity of nearby dwellings.

On balance then, it is not anticipated that the addition of this classroom to the overall site would be of significant detriment to the amenity of neighboring dwellings and use of their ancillary garden areas.

I would therefore assert that the relationship between the two forms of land use is well established, and the extended educational function of Victoria Primary School, will have a limited impact upon the residential amenity of neighboring dwellings.

Open Space

The area of land on which the proposed building is to be located is a flat grassed area owned by Ards and North Down Borough Council. The area is enclosed by paladin fencing with locked gates so does not appear to be currently accessible to the public. The area would still however be considered to fall within the definition of open space as set out in Planning Policy Statement 8, Open Space, Sport and Outdoor Recreation.

Annex A of PPS8 provides the definition of open space. Open space is defined as all open space of public value. Open space, whether or not there is public access to it, is important for its contribution to the quality of urban life by providing important green lungs, visual breaks and wildlife habitats in built-up areas. One example given is amenity green space and informal recreation space in and around housing which the subject lands would appear to constitute.

Under Policy OS1 of PPS8, there is a presumption against the loss of open space. However, an exception is permitted where redevelopment will bring substantial community benefits that would outweigh the loss of the open space. It is considered that the proposed development would meet this exceptional test as it will provide the school with essential additional classrooms. Furthermore, I am satisfied that the loss of this small area of open space will have no significant detrimental impact on the amenity, character or biodiversity of the area as a whole. The modular classrooms are also only being permitted on a temporary basis for 5 years to meet the current needs of the school, rather than as a permanent extension and permanent loss of this area of open space. While this permission could be renewed for a further period of time, the need for

the classrooms would be kept under review. The existing area of open space covers a total area of 1817sqm. The area occupied by the proposal would equate to 454sqm, still leaving a substantial usable green space of 1363sqm for community use.

5. Representations

None

6. Recommendation

Grant Planning Permission

7. Conditions

1. This decision is issued under Section 55 of the Planning Act (Northern Ireland) 2011 and takes effect from the date of this permission.

Reason: This is a retrospective application.

2. The modular building, hereby granted planning permission, shall be removed and the land restored to its former condition on or before five years from the date of this decision.

Reason: This type of temporary accommodation is such that its permanent retention would be detrimental to the area and would prejudice the development of the site on a properly planned and comprehensive basis.

3. The modular building hereby approved, shall be used during school operating hours only.

Reason: To protect the amenity of nearby residents.

Informative

1. This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose.

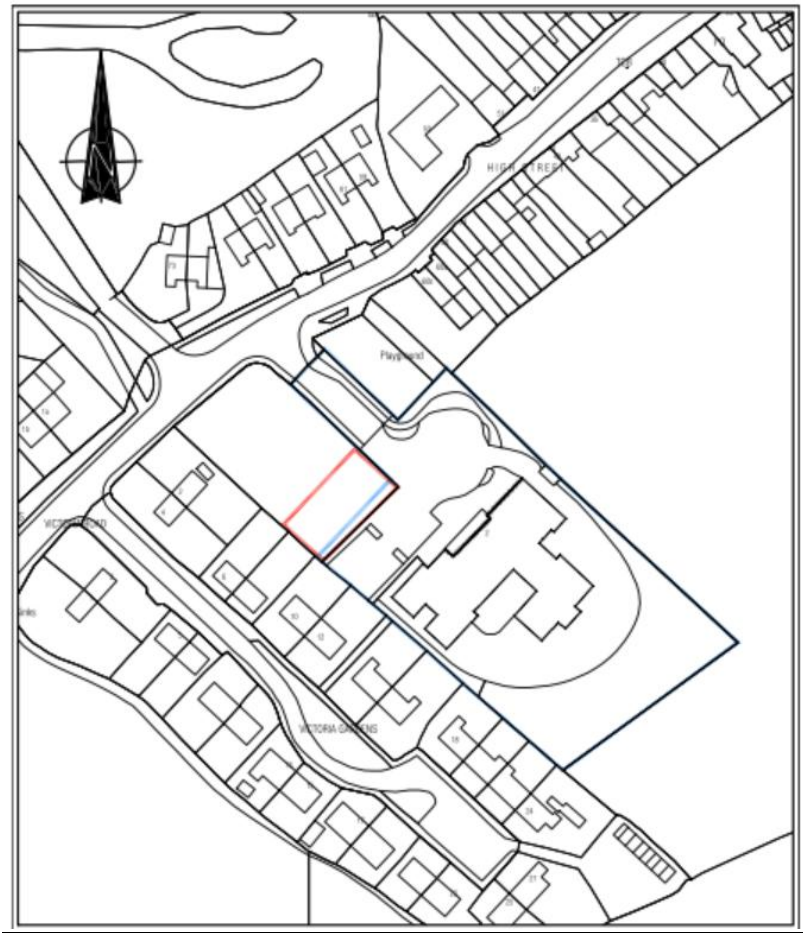
Site Photographs (prior to construction)



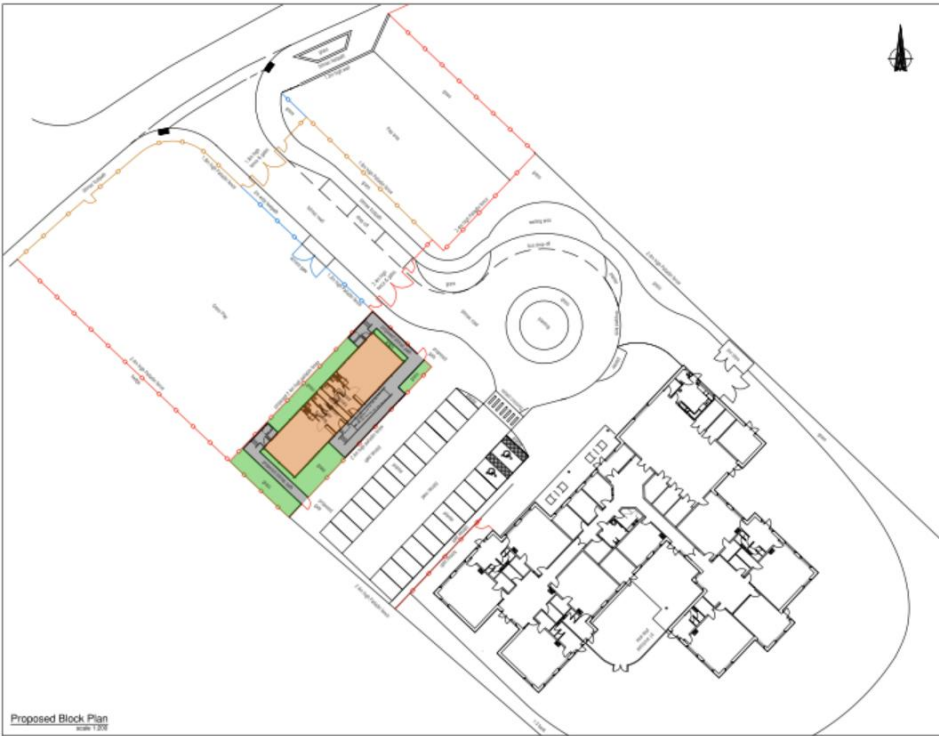
Site Photographs (following construction)



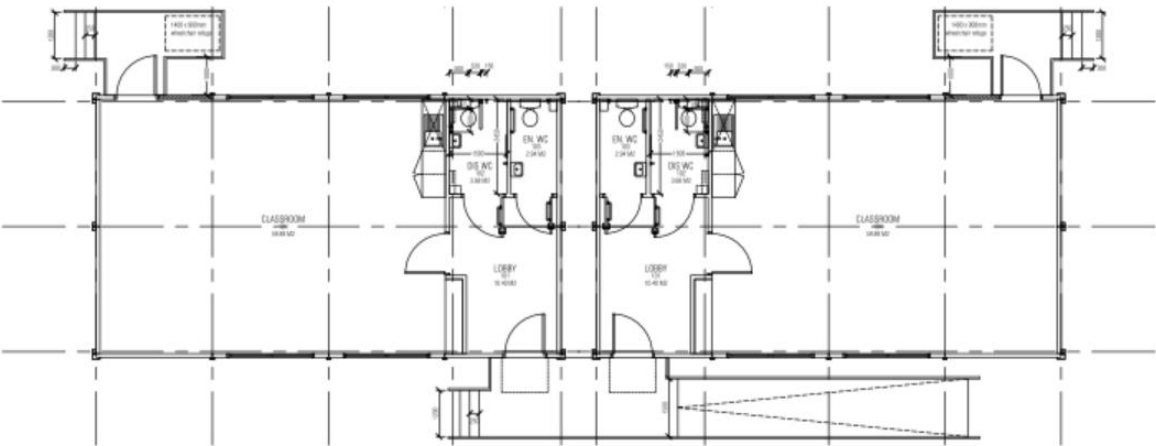
Plans



Site Location Plan

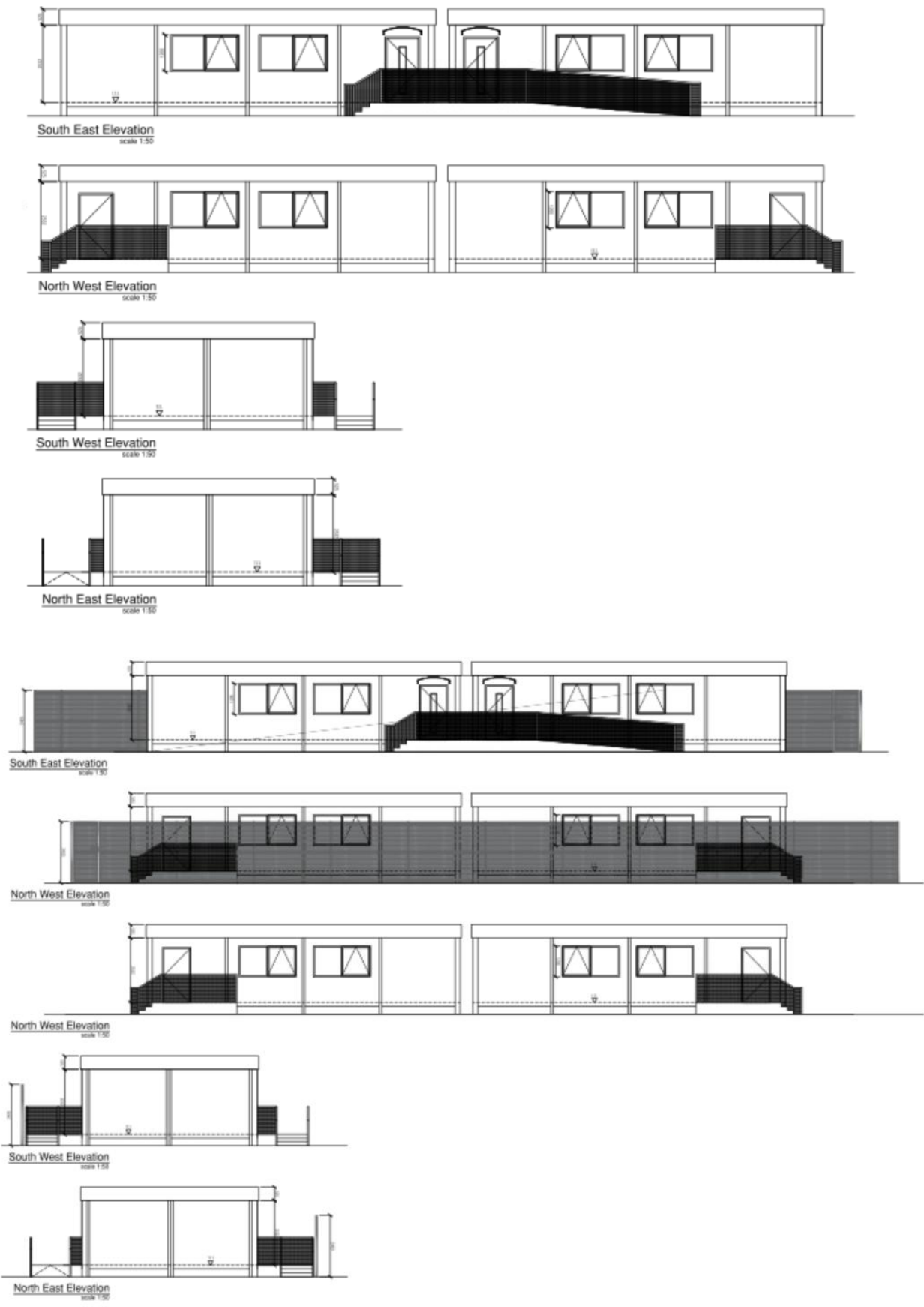


Proposed Block Plan



Proposed Temporary Modular Building Plan
scale 1/50"

Proposed Floor Plan



Proposed Elevations

Development Management Case Officer Report					
Application Ref: LA06/2025/0538/F			DEA: Bangor West		
Proposal: Single storey extension to front and rear of clubhouse and a first floor extension to include a new viewing gallery and balcony					
Location: Bryansburn Rangers Football Club, Ballywooley Playing Fields, Crawfordsburn Road, Bangor					
Applicant: Bryansburn Rangers Football Club					
Date Valid: 24/06/2025			Env Statement Requested: No.		
Date last Advertised: 16/10/2025					
Date last Neighbour Notified: 10/10/2025					
EIA Screening required: Yes					
Consultations: Yes					
Consultee responses: NI Water: No objections. Environmental Health: No objections.					
Representations: Yes					
Letters of Support	1	Letters of Objection	0	Petitions	0
Summary of Main Issues: • Principle of development • Visual and residential amenity impacts • Access and road safety					
Recommendation: Grant Planning Permission Agreed by Authorised Officer					
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the NI Planning Portal.					

1. Description of Site and Surrounding Area

The site is on the southern side of Crawfordsburn Road in Bangor and comprises the grounds of Ballywooley Playing Fields which Bryansburn Rangers Football Club currently occupies. The proposed development is to improve the existing clubhouse which is located immediately to the south of the public road, between the road and the pitches, in the north-west corner of the site.



Figure 1 Aerial image of application site

2. Site Location Plan



Figure 2 Site location plan

3. Relevant Planning History

There is no relevant planning history within or adjacent to the site.

4. Planning Policy Framework

The relevant planning policy framework for this application is as follows:

- Draft BMAP 2015
- North Down and Ards Area Plan 1984-1995
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation

5. Supplementary Planning Guidance

There is no relevant supplementary planning guidance for this application.

6. Consideration and Assessment

The proposal

Single storey extension to front of clubhouse to increase size of changing rooms, single storey extension to rear of clubhouse for storage and a first-floor extension to include a new viewing gallery and balcony to enable spectators to view the football pitches.

Principle of Development

Compliance with the development plan Section 45 (1) of the Planning Act (Northern Ireland) 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 Area Plan unless material considerations indicate otherwise. The relevant development plans are the extant North Down and Ards Area Plan 1984- 1995 (NDAAP) and Draft BMAP 2015, which remains a material consideration.

Development Plan

The relevant development plans for this proposal are Draft BMAP 2015 and the extant North Down and Ards Area Plan 1984-1995 (NDAAP).

Draft BMAP

The site lies outside the settlement limit in Draft BMAP 2015 and is within the countryside and has not been zoned for any specific use. The proposal is for development that is associated with the use of the pitches as a football ground and to

improve the facility. On this basis it is considered the proposed development is in conformity with Draft BMAP.

The North Down and Ards Area Plan 1984-1995 (NDAAP)

NDAAP shows the site is also outside the settlement limit and is within the countryside and has not been zoned for any specific use. The proposal is for development that is associated with the use of the pitches as a football ground and to improve the facility. On this basis it is considered the proposed development is in conformity with the extant NDAAP.

The relevant policy for assessing proposed development on areas of open space is PPS 8 and this will be considered later in this report.

Strategic Planning Policy Statement (SPPS)

Under the SPPS (which came into effect in September 2015), 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.

Paragraph 2.5 of the SPPS states when decision taking planning authorities should contribute positively to health and wellbeing through “safeguarding and facilitating quality open space, sport and outdoor recreation.” Paragraph 6.199 adds “...open space, sport and outdoor recreation is important to society now and in the future. It supports many cultural, social, economic, health and environmental benefits...”. This is recognised in the Regional Development Strategy 2035 which highlights the need to provide adequate provision in towns such as Bangor.

Paragraph 6.200 adds “Open space, whether or not there is public access to it, is important for its contribution to the quality of urban life by providing green lungs, visual breaks and wildlife habitats in built-up areas....” Paragraph 6.201 of the SPPS sets out the regional strategic objectives for open space, sport, and outdoor recreation. This includes ensuring that sporting facilities are convenient and accessible for all sections of society, particularly children, older people and those with disabilities. The proposed improvements to the existing facilities are in line with this objective.

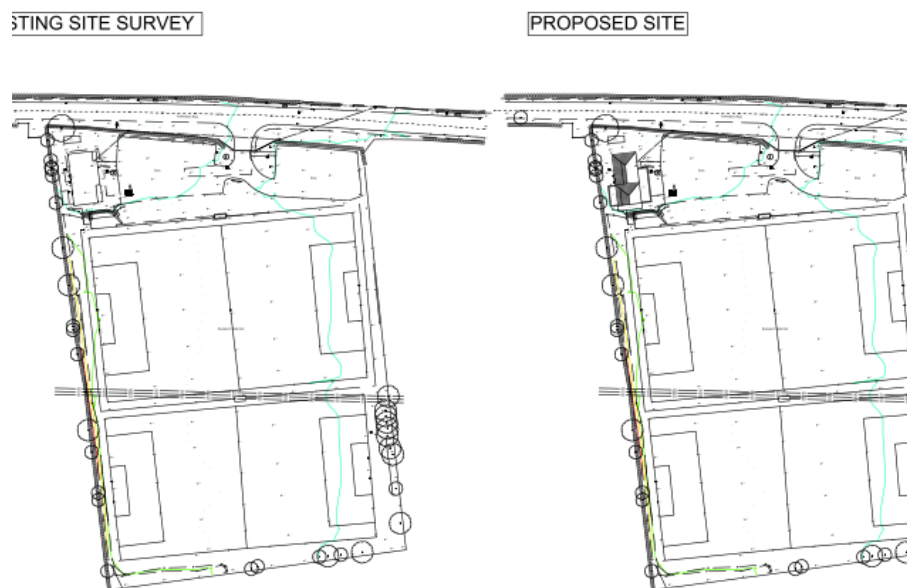


Figure 3 Existing and Proposed site layout

EXISTING BUILDING

EXISTING MATERIALS
 ROOF: CLAY TILES
 WALLS: RENDER WITH RED BRICK PLINTH
 WINDOWS: STAINED TIMBER
 RAINWATER GOODS: GREY UPVC

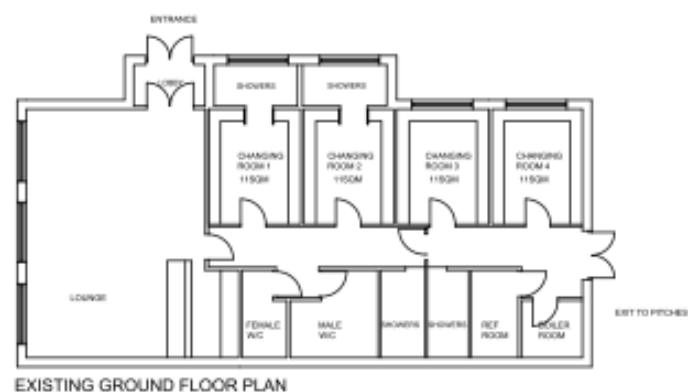


Figure 4 Existing floor plan

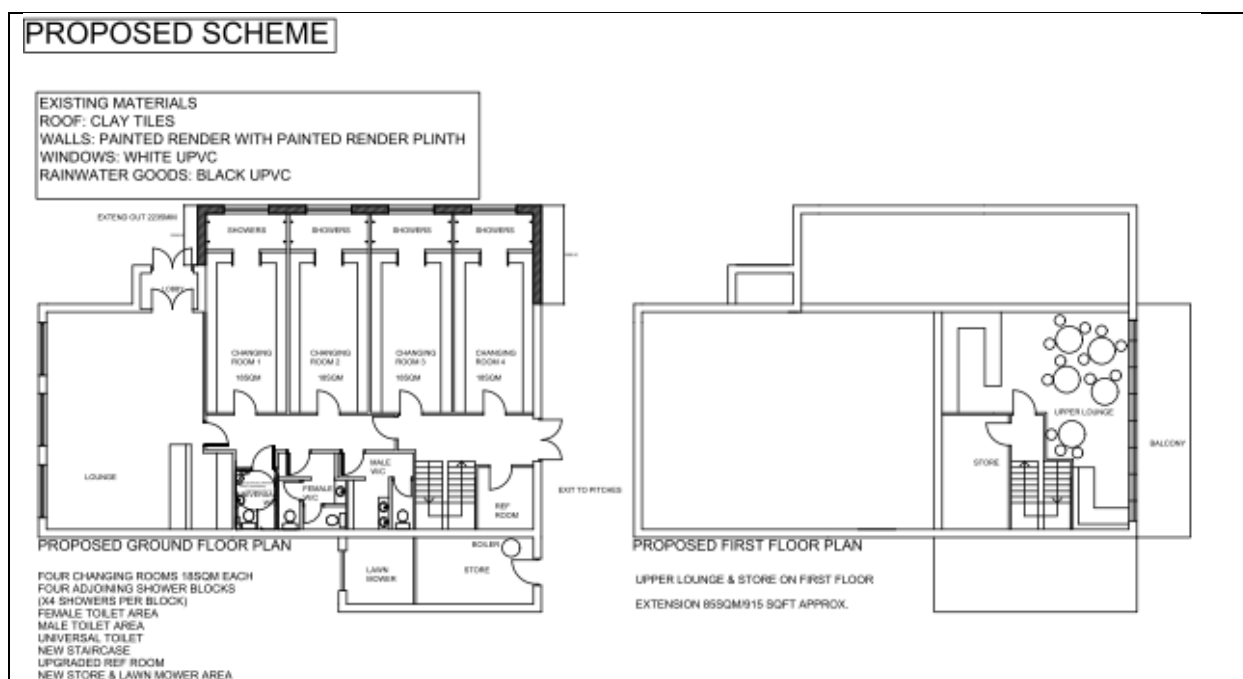


Figure 5 Proposed floorplans

Planning Policy Statement (PPS) 8

The most relevant Planning Policy Statement is PPS8 (Open Space, Sport, and Outdoor Recreation). Annex A of PPS8 identifies sports pitch facilities within the category of open space that is of public value (para A2). Policy OS1 of PPS 8 seeks the protection of open space and prevent its loss. As the proposal is to maintain, support and improve the existing use of Ballywooley Park as a football pitch, and sustain its future use, it is in line with strategic policy objectives. The proposed development will not encroach onto the football pitch and will not result in any loss of open space. Car parking provision is within the red line boundary of the site. The proposals will bring substantial benefits for the facility and the wider community.

Policy OS3 is also material to the consideration of the application. It stipulates proposals for outdoor recreational use in the countryside will be permitted where all criteria are met. The development is for an ancillary building which supports the main function of the site. Ancillary buildings or structures must be designed to a high standard, be of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment. In this respect the proposal is for a modest extension which will improve the existing facilities. It features a high quality design and will adopt finishes complementary to the original development. Furthermore the proposal will not create any conflict with the remaining criteria of OS3 and is considered to acceptable in this regard.

Other relevant policy is considered below.

Visual Impact

A regional strategic objective for open space, sport, and outdoor recreation in the SPPS is to 'achieve high standards of siting, design and landscaping for all new open space areas and sporting facilities.' (Paragraph 6.201) Ballywooley Park is not within a designated area of special character or scenic value. The existing clubhouse is a low

elevated building tucked into the corner of the sports ground. It is not highly visible when travelling on Crawfordsburn Road due to its modest size and being well screened by mature roadside hedging and trees – see Figure 6 below.



Figure 6 Streetview image of the existing clubhouse and football pitches from Crawfordsburn Road (taken from Google streetview).

The proposed works are for a single storey extension to the front of clubhouse to increase the size of the changing rooms, a single storey extension to the rear of the clubhouse for storage and a first-floor extension to include a new viewing gallery and balcony to enable spectators to view the football pitches. The main change to the visual appearance of the building when viewed from Crawfordsburn Road will be the first-floor extension. It will be to the far end of the building furthest from the road and closest to the pitches. The ridge height will increase from 4.9m for the existing ridge height to 7.2m for the proposed first floor extension, (an increase of 2.3m to the proposed ridge height) – see Figure 7.

The external finishes will include clay roof tiles, painted render walls with painted render plinth with white upvc windows. The balcony will be finished with a glass balustrade and stainless steel handrail.

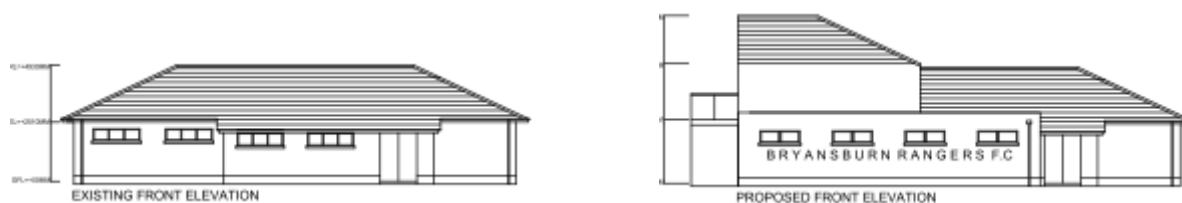


Figure 7 Existing and proposed elevations for the front of the building

The proposed improvements including the first floor extension and balcony will be visible from Crawfordsburn Road however will be read as part of the clubhouse and will not cause an unacceptable impact on the visual amenity of the area. It will still benefit from the roadside hedging and trees to provide some screening and to integrate it into the countryside beyond and the proposal does not include any changes to the roadside boundary treatment. It is considered that the proposed works will not have a detrimental impact on the visual appearance of the area.

Neighbouring Amenity



Figure 8 aerial image showing the separation distance between the clubhouse and nearest dwellings.

With regard to neighbouring amenity the proposal will not cause any unacceptable impacts to residential amenity of any neighbouring properties as there are no residential properties adjacent to the clubhouse. The closest dwellings are located on the opposite side of the road beyond the vehicular access into the sports ground at 136-144 Crawfordsburn Road, with the closest dwelling being approximately 88m away from the clubhouse. This is considered to be an acceptable separation distance so as not to be directly impacted as a result of the proposed works in terms of an unacceptable loss of light, noise or dominance, (Figure 8 above shows the clubhouse marked by a red dot and the closest dwellings marked by the red line). The Councils' Environmental Health Department was consulted regarding the proposal and has no objections.

Designated Sites and Natural Heritage

Policy NH1 of PPS 2 relates to European and Ramsar sites. Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. No such scenario was identified. The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

Policy NH 2 of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. In terms of protected and priority species, Part 2 of the Checklist was referred to and did not identify a scenario where survey information may reasonably be required. It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2.

Access, Movement and Parking

The existing vehicular access and parking are not to be amended as part of this application. The existing parking area is informal and does not display individual car parking spaces. As this proposal is for an upgrade of facilities already in use by Bryansburn Rangers FC, it is not envisaged that there will be an increase in traffic and will therefore not affect the existing parking provision. Furthermore, the facility is in a sustainable location and is accessible by a choice of transport modes, including walking, cycling and public transport. DfI Roads was not consulted.

7. Consideration of Representations

One letter of support has been received from Cllr Wesley Irvine.

The main points raised in support of the application include that the proposal will improve the facilities at the club for spectators, players, management and officials. This in turn will allow the club to grow and become more self-sustaining going forward. Bryansburn Rangers have a strong community ethos and this proposal will encourage even stronger ties between the club and the local area. It will also promote healthy and active lifestyles in the area which is in line with the Council's leisure strategy to encourage more people to become more active.

8. Conclusion

The proposal has been considered having regard to the Development Plan, SPPS, prevailing planning policies and guidance, and all the material considerations including responses from statutory and non-statutory consultees. The proposal will not cause any significant adverse impact on the character of the area nor will it have an impact on any residential property. The proposal will bring significant community benefit.

9. Recommendation

Grant Planning Permission

10. Planning Conditions

1. The development hereby permitted must be begun within five years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

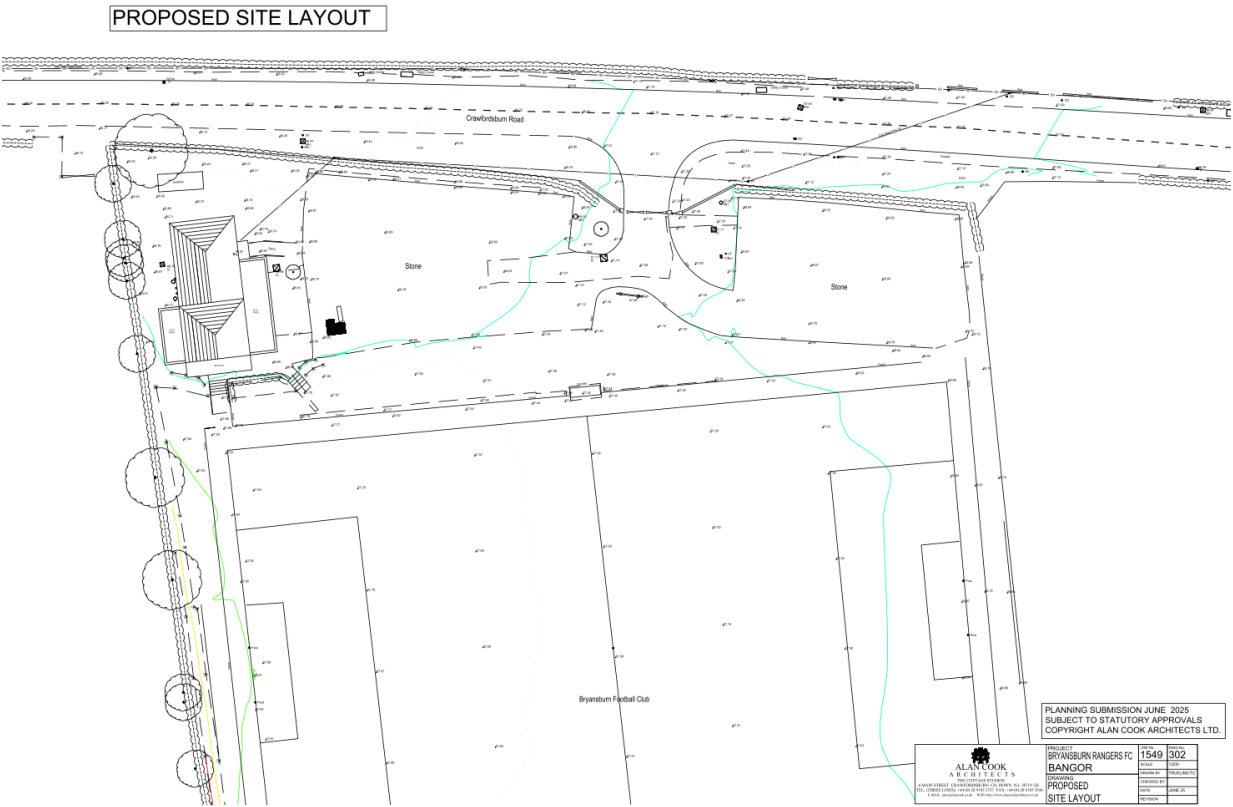
Informative

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Appendix 1 – Site Location



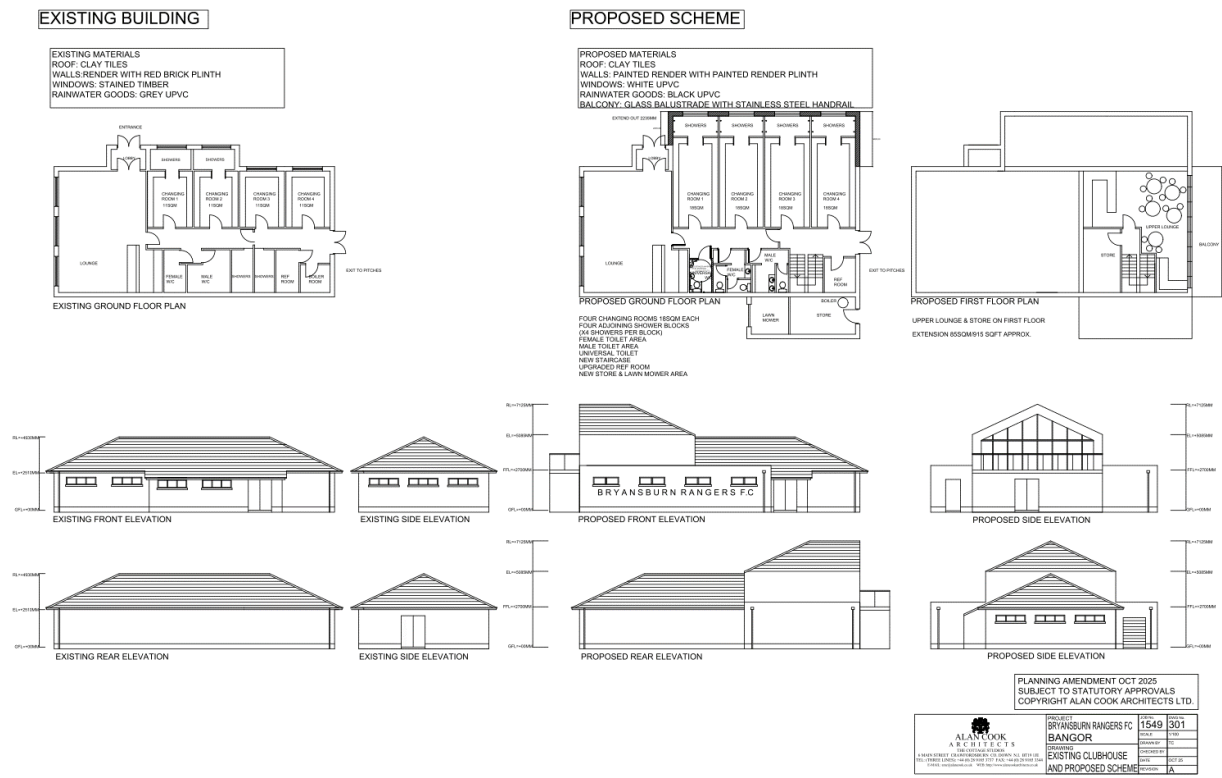
Appendix 2 – Proposed Site Layout



Appendix 3 - Existing and Proposed Site Survey



Appendix 4 - Existing and Proposed Elevations and Floor Plans



Appendix 5 – Site photos





Unclassified

227

ITEM 5**Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	04 November 2025
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Date of Report	09 October 2025
File Reference	
Legislation	The Planning (Fees) Regulations (NI) 2015
Section 75 Compliant	Yes ☐ No ☐ Other ☐ If other, please add comment below:
Subject	Draft Response to DFI Public Consultation on Review of Planning Fees
Attachments	Appendix 5a - DFI Consultation 2025 Appendix 5b - Proposed Response to DFI Consultation Appendix 5c - Item 12 of November 2023 Committee meeting

Background

This Council responded to the Department for Infrastructure's (DFI) consultation on 'The Review of the Implementation of the Planning Act (NI) 2011' in April 2021 (see Item 7 of meeting of Planning Committee 13 April 2021).

The final page of that response highlighted the need for the current fees as set by central government to be overhauled immediately to properly reflect inflation and the costs to councils and to bring us into line with other jurisdictions whereby the planning service should be cost neutral. Further, that fees should include Discharge of Conditions and Non-Material Change applications among other work which is currently non-fee attracting but which must be managed in parallel with planning application caseloads.

Review of the Implementation of the Planning Act (NI) 2011 Report (RIPA)

The RIPA was published in January 2022 and DFI considered there was merit in reviewing planning fee categories and the fees themselves to establish if they remain fit for purpose and cover the costs of processing planning application in line with the requirements of Managing Public Money.

Northern Ireland Audit Office Report on Planning in NI (Feb 2022)

Recommendation 9 emerging from the above Report was *that the Department and councils work in partnership to ensure that the planning system is financially sustainable in the longer term* (See Item 6 of Planning Committee meeting of 01 March 2022).

Addressing Financial Stability of Planning Report (Nov 2023)

The Head of Planning previously brought a report to Planning Committee (Item 12 of meeting of 07 November 2023 – copy attached) which sets out an explanation of a Discharge of Condition and a Non-Material Change. The purpose was to seek Council approval to introduce fees for these categories of work, subject to legal advice on legislative provision. Unfortunately, it was not possible to proceed in light of the lack of legislative provision, and the legal advice was that to try and introduce then could lead to challenge.

DFI Public Consultation on Review of Planning Fees

As part of the second phase of the Northern Ireland Planning Improvement Plan, DFI, in conjunction with local councils, has been scoping the challenges and opportunities around increasing levels of cost recovery to support the longer-term financial sustainability of the planning system, in response to the NIAO recommendation.

As such, it has now published the attached consultation which focuses initially on proposed introduction of fees for Discharge of Conditions and applications for Non Material Changes to planning approvals.

Within the consultation DFI suggests the following set charges:

Non-Material Change	Discharge of Condition
£130	£115 (to cover as many conditions as may be submitted at one time)

Members will note the detail proposed in Item 12 attached in relation to charging – set out below.

Non Material Change	Discharge of Condition
£35 (householder application)	£35 (householder application)
£200 (all other)	£100

The consultation also invites comments on other elements of Planning for which there is currently no fee attracted.

Not Applicable

229

Officers have reviewed the consultation and drafted a response as appropriate.

RECOMMENDATION

It is recommended that Council approves the attached response to the DFI Consultation on Planning Fees to be submitted by the closing date of 23 December 2025.



PUBLIC CONSULTATION

REVIEW OF PLANNING FEES

Date: October 2025



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Responding to this consultation document

How to Respond

The Department for Infrastructure would like to invite views from the public and stakeholders on potential changes to The Planning (Fees) Regulations (Northern Ireland) 2015 as set out in this document.

Comments should reflect the structure of the document as far as possible with references to question numbers and paragraph numbers where relevant.

Responses can be submitted to the Department no later than 23 December 2025 in one of the following ways:

1. Where possible online via Citizen Space:

<https://consultations2.nidirect.gov.uk/dfi-1/public-consultation-review-of-planning-fees>

2. By e-mail to:

Legislation.planning@infrastructure-ni.gov.uk

3. By post to:

Public Consultation
Review of The Planning (Fees) Regulations (NI) 2015
Regional Planning Governance and Legislation
3rd Floor, James House
2-4 Cromac Avenue
The Gasworks
Belfast
BT7 2JA

Copies in other languages and formats, (including Braille, large print etc.), can be made available on request. If it would assist you to access this document

in an alternative format or language other than English, please contact us using the e-mail or postal address below or by calling 0300 200 7830.

If you have any comments or complaints about the consultation process itself (rather than the content of this document), these should also be directed to the postal or e-mail addresses above.

Freedom of Information Act 2000 - Confidentiality of Responses

The Department may publish a summary of responses following the closing date for receipt of comments. Your response, and all other responses to this publication, may be disclosed on request and/or made available on the DfI website (redacted). The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of responses as this will give you guidance on the legal position about any information given by you in response to this publication.

The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) give the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this publication, including information about your identity, should be made public or treated as confidential. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided.
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature.

- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

The information you provide in your response, excluding personal information, may be published, or disclosed in accordance with FOIA or EIR. Any personal information you provide will be handled in accordance with the UK-GDPR and will not be published. If you want the non-personal information that you provide to be treated as confidential, please tell us why, but be aware that, under the FOIA or EIR, we cannot guarantee confidentiality.

For information regarding your personal data, please refer to the DfI Privacy Notice at www.infrastructure-ni.gov.uk/dfi-privacy.

For further details on confidentiality, the FOIA and the EIR please refer to www.ico.org.uk.

Impact Assessments

Government bodies are required to screen the impact of new policies and legislation against a wide range of criteria, including equality and human rights.

Equality Impact Assessment Screenings and an Initial Preliminary Regulatory Impact Assessment have been undertaken and are available to view or download from the Citizen Space web link or the Department's website at the link above.

The Department believes that there would be no differential impact in rural areas or on rural communities. It also considers that the proposals laid out in this document are fully compliant with the Human Rights Act 1998.

The Department welcomes views and comments on whether the conclusions contained in the above assessments are correct.

Introduction

Purpose of the consultation

- 1.1 This consultation invites views from the public and stakeholders on potential changes to The Planning (Fees) Regulations (Northern Ireland) 2015 (the Fees Regulations). These potential changes focus on the introduction of set fees for non-material changes and discharge of conditions planning applications.
- 1.2 At the time of transfer of the planning functions to local government in April 2015, fees for application types such as non-material changes and discharge of conditions were not introduced as the Department at that time took the decision that the new two-tier planning system would need sufficient time to bed in before any new fees should be introduced.
- 1.3 This resulted in councils processing applications for non-material changes and discharge of conditions without any associated fee being payable.
- 1.4 In the 2022 Review of the Implementation of the Planning Act (NI) 2011 (RIPA) report, the Department considered there is merit in reviewing planning fee categories and the fees themselves to establish if they remain fit for purpose and cover the costs of processing applications in line with the requirements of Managing Public Money (NI). Part of this review is to consider the introduction of new fee categories for applications for non-material changes and discharge conditions.

Longer Term Cost Recovery

- 2.1 As part of the second phase of the planning improvement programme the Department, in collaboration with local government, is scoping the challenges and opportunities around increasing levels of cost recovery to support the longer-term financial sustainability of the planning system. This consultation aims to further gather evidence to help inform future proposals.

Question 1: From the list below, please select the category of respondent most appropriate to you:

- Business and development interests ☐
- Resident/Community groups/Voluntary organisations ☐
- Environment and heritage groups ☐
- Political party/Elected representative ☐
- Council ☐
- Statutory consultee ☐
- Applicant ☐
- Architect/Planning consultancy/Agent ☐
- Other ☐

Please provide your organisation's name:

Non-Material Changes

- 3.1 The Planning Act (NI) 2011 (the 2011 Act) introduced a mechanism by which a council have a formal method of dealing with small changes ('non-material') to approved schemes (Section 67 and Regulation 7 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended) (the GDPO)). The introduction of the non-material change procedure under the 2011 Act replaced the otherwise informal process previously used to respond to requests for minor amendments.
- 3.2 An application for a non-material change removes the need for an entirely new planning application to be submitted where only a very small change is sought which does not materially change the nature of the approved development. Such an application, if approved, would form an amendment to the original planning permission and would be subject to the conditions and time limit of the original permission. It would not result in a new planning permission and the existing permission will continue to exist and should be read in conjunction with the non-material change decision letter.
- 3.3 There is no statutory definition of a non-material change. This is because it depends on a range of factors including the context of the overall scheme, the amendments being sought to the original permission and the site-specific circumstances, all of which can vary from one application to another.
- 3.4 Discretion rests with a council as to whether the amendments constitute a non-material change to a planning permission within the scope of the original permission.

- 3.5 Councils in the North have been processing applications for non-material changes but have not been receiving any fee for this work. This has now become a useful mechanism in the planning process to manage minor changes to approved development proposals and in the published official Northern Ireland planning statistics April 2023 – March 2024 there have been 451 non-material change applications.
- 3.6 It has been common practice in the other jurisdictions to include a fee for non-material changes within their specific fee's regulations. This has been in place in Scotland, England and Wales for a significant number of years. Fees in other UK jurisdictions range from £115 to £298, with a reduced fee for householder applications in both England and Wales.
- 3.7 The current fee in England and Scotland of £298 and £238 would be considered a high level to introduce a first-time fee for a non-material change, which is by nature an application where only a very small change is sought, which does not materially change the nature of the approved development.

Proposal

In the public interest of recovering costs in the planning system the Department proposes to amend the current Planning Fees Regulations by introducing a set fee for non-material changes applications.

The Department is proposing to introduce a set fee of £115 for non-material changes applications.

The proposal is to introduce one set fee for non-material changes which will apply to each application for non-material changes and not for each individual change within that request. This will allow an applicant to apply for a number

of non-material changes in one request and only one fee would apply. This aligns with the position in the other jurisdictions.

Question 2: Do you agree with the above proposal to introduce a set fee for non-material changes applications?

Please respond: Yes / No

Please provide additional information in support of your answer:

Question 3: Do you agree with the above proposal to set the fee level at £115 for non-material changes applications?

Please respond: Yes / No

Please provide additional information in support of your answer:

Discharge Of Conditions

- 4.1 Article 12 of the GDPO allows for an application to be made to the council or, as the case maybe, the Department for any consent, agreement or approval required by a condition imposed on a grant of planning permission (other than an application for approval of reserved matters). The relevant planning authority shall give notice to the applicant of its decision on the application within a period of 8 weeks from the date when the application was received by the authority or such a longer period as may be agreed by the applicant and the council or, as the case may be, the Department in writing.
- 4.2 Councils in the North have been processing applications for discharge of conditions but have not been receiving any fee for this work. In the published official Northern Ireland planning statistics April 2023 – March 2024 there have been 1098 discharge of conditions applications.
- 4.3 It has been common practice in the other jurisdictions to include a fee for discharge of conditions within their specific fee regulations. This has been in place in Scotland, England and Wales for a number of years. Fees in the other jurisdictions range from £115 to £298, with a reduced fee for householder applications in both England and Wales.
- 4.4 No fee has currently been prescribed under the Fees Regulations for applications associated with the discharge of planning conditions.
- 4.5 Having considered the position in the other jurisdictions the Department will consult on introducing a fee of £115 for discharge of conditions. This is broadly in line with the fee in Scotland and Wales and will align with the proposal for non-material changes.

Proposal

In the public interest of recovering costs in the planning system the Department proposes to amend the current Planning Fees Regulations by introducing a set fee for discharge of conditions applications.

The Department is proposing to introduce a set fee of £115 for discharge of conditions applications.

A single fee of £115 will apply to each request made to a council or, as the case may be, the Department, for written confirmation of compliance with a condition or conditions attached to a grant of planning permission and will not be based on the number of conditions within each request. This aligns with the position in Scotland, England and Wales.

Question 4: Do you agree with the above proposal to introduce a set fee for discharge of conditions applications?

Please respond: Yes / No

Please provide additional information in support of your answer:

Question 5: Do you agree with the above proposal to set the fee level at £115 for discharge of conditions applications?

Please respond: Yes / No

Please provide additional information in support of your answer:

Question 6: Are there any other planning application types or planning services which are not currently charged for, but which in your view should attract a fee?

Tree Preservation Order	☐
Planning Advice Notice	☐
Pre-Application Discussion	☐
Other	☐

Please provide additional information in support of your answer:

Question 7: Are there any other planning application types or planning services for which the current fee level or structure is inappropriate / insufficient?

Please respond: Yes / No

Please provide evidence in support of your answer:

Question 8: Do you agree with proposals for planning fees to continue to be adjusted annually in line with inflation?

Please respond: Yes / No

Please provide evidence in support of your answer:

Question 9: Do you agree that the Bank of England CPI is the most appropriate index measure to use?

Please respond: Yes / No

Please provide evidence in support of your answer:

Proposed Responses to Planning Consultation on Fees

No.	Question	Proposed Response
2	Do you agree with the above proposal to introduce a set fee for non-material changes	YES It is entirely appropriate to charge a fee for this work which necessitates additional work by case officers in parallel with normal application processing. Given the NMCs are usually required to address unexpected changes in circumstances or site conditions following approval – developers are seeking a swift response. Applying a charge enables the council to allocate appropriate resources to this work and recoup costs.
3	Do you agree with the above proposal to set the fee level at £115 for non-material changes	NO We would advocate such a fee for householder development NMCs, but a significantly larger fee for all others. NMC applications are time-consuming especially where need is required to ensure every change proposed has been referenced on application form, and in circumstances where previous NMCs may have been applied for before on same approvals, which have to be reviewed and considered comprehensively. We would advocate a higher fee in line with Eng/Welsh fee structure (>£250)
4	Do you agree with the above proposal to introduce a set fee for discharge of conditions	YES Such work is necessitated where agents do not appropriately frontload applications and therefore push for imposition of negative conditions requiring submission of information/data post approval. It is considered unfair to local authorities to have to process DoCs without considerable recompense given the costs and time involved in many cases. Again, such work is undertaken in parallel with work on processing of applications against statutory performance indicators, and applying a fee will again allow the Council to allocate appropriate resource.

5	Do you agree with the above proposal to set the fee level at £115 for discharge of conditions	NO Whilst this is at the lower end of the range for other jurisdictions, it is considered that a higher fee will encourage more applicants to have appropriately front-loaded applications, and thus only in very exceptional cases will discharge be required. It would be welcomed if the fee was considerably higher. £115 is particularly low in relation to the scale of proposals such conditions have been applied to. There is zero correlation between determining NMCs and DoCs – and thus the fee <u>should not be the same</u>. It is also that there should be a scale of fees depending on number of conditions submitted for discharge at one time. It is not considered appropriate to have one fee covering discharge of multiple conditions under one application as will necessitate review of multiple conditions requiring varying consultations with government bodies which inevitably will not all respond at same time, and may require further information/confirmation.
6	Are there any other planning application types or planning services which are not currently charged for, but for which in your view should attract a fee?	YES See below
	Tree Preservation Orders	YES A fee should be charged for: • Applications for consent to cut down, top, lop or uproot trees subject to a tree preservation order • Applications for consent to cut down, top, lop or uproot trees in a conservation area • Requests to consider imposition of a TPO Some councils have a much higher number of TPOs or CAs and thus a larger volume of applications for such works. Most councils only have access to one trained Tree Officer who is also considering DM consultations and requests for TPOs etc. All the above types of

		application/requests involve considerable resource both administrative and professional/technical and should be charged accordingly. Fees should also be considered in relation to drafting of Management Agreements for larger TPO sites to negate the need for continuous application for consent works. Such Agreements inevitably require the Council to consult with its appointed arboriculturalist.
	Planning Advice Notice Assume this should read 'Proposal of Application Notice'	Yes In relation to Proposal Application Notices as such applications do require senior officers to review in detail and to assure that Council responds within the period of 21 days after receiving the PAN, if it considers that additional notification and/or consultation is required. Again this is work that has to be carried out in parallel to existing management of processing.
	Pre Application Discussions	YES However, it is currently illogical to enable councils to charge for PADs where there is a reliance on detailed input from statutory consultees (dependent upon Divisional Offices in some cases). A fee could be charged for advising on the principle of development and prevailing policy requirements; however, currently statutory consultees are refusing to respond to PAD requests due to lack of resources and the need to focus resource on responding to planning applications. Legislation would be required to enforce statutory consultees to respond on PADs – if it were demonstrated that it would reduce the need for consultation at application stage, or speed up processing; however, there is no guarantee that an applicant will comply with elements of the PAD advice, and therefore work will have been wasted.
	Other	Section 54s It is considered a better approach to charging Section 54 applications is reflected in the English Fee Regs - £2,000 for Majors, £86 for householder,

		and £586 in any other case. These figures more appropriately reflect the resource required to process such applications, particularly where an original permission can be subject to numerous Section 54 permissions which all have to be considered as to the differences to original permission. Formal Pre-Submission Validation Checks Further to councils introducing their own Validation Checklists, it is considered appropriate to introduce a charge for this service (akin to Post Office formal checks on Passport submissions) which could potentially reduce validation delays and re-submissions. It would also assist in directing applicants to this service if complaints arise from validation issues, and also negate need for PAC referrals. Fees for Amendments to Applications Given the inability to prevent an applicant from submitting further amendments to a proposal under one application fee, there should be a fee introduced for each amendment made. This would deal with situations where a proposal is being proposed for Refusal, but before formal determination by the Council, amendments are submitted. This Council has example of an application in the system since 2018 with numerous amendments being made to comply with policy (each time a refusal is recommended), all being considered with no further application fee. Other It is considered that these applications below should be considered as fee attracting as resource is required to process and assess accordingly, in parallel with other fee attracting work, especially when resources normally are allocated to application work against which councils are formally assessed in terms of performance: • Applications to determine whether listed building consent is required • Applications for listed building consent
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		• Applications for planning permission to demolish a building in an Area of Townscape or Village Character • Applications to determine whether conservation area consent is required • Applications for conservation area consent There also requires to be proper clarification as to reduced/exempt fees (applicants – esp. ecclesiastical) to ensure consistent application of Fee Regs across the councils. It would be welcomed if consideration could be given as to how a fee could be attributed to objections to planning applications – akin to other jurisdictions. Often processing of applications is delayed due to volume of representations received, often which are encouraged to be submitted to trigger consideration by Planning Committee, often for innocuous proposals which could not possibly materially affect the full gambit of objectors. This could assist in reducing number of objections which are currently being submitted in order to trigger referral to Planning Committee, particularly in relation to proposals which are not considered to be the most significant or controversial. This is particularly relevant in respect of the NIAO Report (Feb 2022) given that there are significantly higher administrative demands and professional planning resource costs associated with applications being heard by Committee. And which inevitably result in delays in processing times. This could also be applied to submission of <u>enforcement complaints</u> to discourage spurious allegations – further consideration would require to be given to such introduction to ensure it would not have the adverse effect of deterring legitimate complainants.
7	Are there any other planning application types or planning services for which the current fee level or structure is inappropriate/insufficient?	Office Meetings Currently there is no charge for a meeting between Planning Officers and agents/applicants. Often considerable resources are spent preparing for meetings taking an officer away from duties of processing planning applications, and often

		repeated meetings are requested, including by MLAs/MPs to accompany applicants. It is considered appropriate to allow Councils to charge for meetings to discuss a planning application once it has been validated and is being processed (this would be a fee outside any charge for a meeting in relation to a PAD)
8	Do you agree with proposals for planning fees to continue to be adjusted annually in line with inflation?	YES However, only once existing fees since 2015 (including the four inflationary uplifts) have been reviewed to ensure that the difference between 2015 and 2025 appropriately reflects an average inflation rate of c3.54% per year. E.g. Domestic extension £415 in 2015 – applying average of 3.5% per year would equate to £581 in 2025 whereas fee is currently only £515. Given that for likes of housing developments, the current fee forms such a small percentage of the overall project cost, it is anticipated that developers would rather pay a higher application fee where it would secure a swifter decision (where it has enabled councils to attract and retain professional planners)
9	Do you agree that the Bank of England CPI is the most appropriate index measure to use?	CPI covers all expenditure within the UK by private households – it is unclear as to how it relates specifically to Planning in the context of overall development costs. Users of the planning system should meet the costs incurred by the council in processing and determining planning applications – in this respect it is appropriate that the costs to individual householders applying for applications for household improvements should be more reflective of overall inflation; however, for other types of application, fees should offset the realistic costs to council of the planning application service. It is agreed that a fee increase cap should be introduced but that fees should not change if there is deflation.

In Confidence

ITEM 12

Ards and North Down Borough Council

Report Classification	In Confidence
Exemption Reason	3. Exemption: relating to the financial or business affairs of any particular person
Council/Committee	Planning Committee
Date of Meeting	07 November 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	20 October 2023
File Reference	
Legislation	
Section 75 Compliant	Yes ☐ No ☐ Other ☐ If other, please add comment below:
Subject	Addressing financial stability of Planning
Attachments	Appendix 1 - NI Audit Office Report Appendix 2 - PAC Report

Purpose of Report

This report sets out a proposal to introduce fees for processing of applications for non-material changes to a planning approval, and for applications seeking discharge of planning conditions attached to a planning approval.

Background

Members will be aware of the previous NI Audit Office and Public Accounts Committee (PAC) Reports into the Planning System in Northern Ireland, and the subsequent Planning Improvement Programme coming out of the recommendations within those reports.

3. Exemption: relating to the financial or business affairs of any particular person

One of the areas of concern related to the financial sustainability of the planning system, with the PAC recognising that if the planning system is to deliver its key functions, it must be properly resourced and financially sustainable, and that this would require a long-term funding model. See Recommendation 11 of the PAC Report as follows:

Recommendation 11
If the planning system is to deliver its key functions, it must be properly resourced and financially sustainable. However, at local council level, the planning system has been running at an ever-increasing shortfall since the transfer of functions in 2015. The Committee believes the current funding model does not recognise the importance of the planning system, and needs to be revised. Current planning fees, set by the Department, do not reflect the needs of the system. If developers are willing to pay higher fees for a better service, then at least part of the solution to financial sustainability is obvious. The Committee cannot understand why this hasn't been progressed.
The planning system must be financially sustainable and this requires an appropriate, long-term funding model. The Committee recommends that all those involved in delivering planning work together to achieve this. In the short term the Department should take the lead on bringing forward legislation on planning fees as a matter of urgency.

The Planning (Fees) Regulations

Planning fees for planning authorities in Northern Ireland are set centrally by the Department for Infrastructure (DFI) via The Planning (Fees) Regulations (Northern Ireland) 2015. It implemented a planning fee increase in April 2023 which equated to an inflationary increase of approximately 12.3% overall across all planning fee categories. This followed the first increase implemented in June 2019 of 1.99%.

The Heads of Planning across the 11 councils have previously raised the issue of introducing fees for certain items outside of the range of applications currently included within the Fee Regulations with the Department, and was advised that it was up to individual councils to consider independently.

Belfast City Council currently charges for Pre Application Discussion advice, and the monitoring of legal agreements associated with planning applications.

Scoping Exercise re Financial Stability

As part of the ongoing Planning Improvement Programme, the Department has recently written (letter attached) to the local government authorities seeking consideration of carrying out a scoping exercise which would identify such issues as costs, staffing levels, income etc., and time spent on various activities. It is envisaged that such work will focus primarily on planning application fees.

Planning Service - Development Management Service Unit

For the benefit of Members, the Planning Service's Development Management team does not work solely on processing of planning applications, rather there is a range

3. Exemption: relating to the financial or business affairs of any particular person

of additional work carried out but for which statutory performance indicators are not set out, but which are important to the local economy regardless. This work is detailed as follows:

- a) Applications for Certificates of Lawfulness – Existing
- b) Applications for Certificates of Lawfulness – Proposed
- c) Applications for Non-Material Changes
- d) Applications for Discharge of Condition
- e) Pre Application Discussion
- f) Proposal of Application Notice (major applications)

Only items a) and b) above attract a planning fee as set out in the Planning (Fees) Regulations (NI) 2023.

Whilst this work is important, the associated processing required in connection with items a) to d) represents a diversion of resources which should be focussed on application processing to meet statutory targets and addressing facilitation of development in the borough in line with our economic objectives.

Detail on Non-Material Changes and Discharge of Conditions is attached for Members below.

Non-Material Changes

Following the grant of planning permission amendments are often required to address unexpected changes in circumstances or site conditions. The Planning Act (NI) 2011 introduced a mechanism by which a council has a formal method of dealing with small changes ('non-material') to approved schemes. An application for a non-material change removes the need for an entirely new planning application to be submitted where only a very small change is sought. Such an application, if approved, would form an amendment to the original planning permission and would be subject to the conditions and time limit of the original permission. Further detail can be read within the Department's Development Management Practice Note 25 here: <https://www.infrastructure-ni.gov.uk/publications/development-management-practice-notes>

Such applications seeking non-material changes necessitate planning officers retrieving original planning approval files and making comparisons between proposals to ascertain if the proposed changes can legitimately be considered as non-material. Often a large number of changes can be submitted under one request, and may detail fenestration changes such as increasing or decreasing number of windows, or sizes of windows, reduction in footprint size, change in materials, change to roof plane, etc.

Discharge of Conditions

The power to impose planning conditions when granting planning permission is very wide. If used appropriately, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been appropriate to refuse planning permission.

3. Exemption: relating to the financial or business affairs of any particular person

There are often conditions attached to a planning permission that require further details to be submitted and approved by the council at certain stages of the development. This process is called 'discharge of conditions'. An example of such could be submission of agreeing details of bin and cycle storage prior to the development commencing, or submission of a final Construction Environmental Management Plan, or programme of archaeological works.

Often developers wish to have a planning permission issued in advance with conditions to be discharged, rather than elongate the process by carrying out surveys/assessments, some of which can be expanded upon or exercised after the decision notice issues.

As well as forming additional administrative work in registering on the system, and relating to previous parent approval, a number of such conditions will require further consultation with statutory or non-statutory consultees to ensure that the detail submitted is sufficient to satisfy discharge. The planning officer is then required to issue a letter setting out whether or not the specific condition can be discharged.

The table below sets out the number of each non-material change applications (NMCs), and discharge of condition applications (DoCs) received since April 2017.

Year	17/18	18/19	19/20	20/21	21/22	22/23	23 (Qtr 1)	Total
Non Material Change	61	59	53	49	34	47	18	321
Discharge of Condition	11	47	45	53	57	81	24	318

A number of other jurisdictions charge for this planning work, and examples are set out below accordingly.

Jurisdiction	Charge for NMC	Charge for DoC
England	£34 (householder) £234 (all other)	£34 (householder) £116 (all other)
Wales	£35 (householder) £115 (all other)	£35 (householder) £115 (all other)
Scotland	£200	£100

There are a very few occasions in which conditions require to be discharged by the Council in relation to householder developments.

In light of the numbers of such NMCs and DoCs received since 2017, were fees to have been charged, for example at £200 and £100 respectively, the Planning Service could have recouped £96k (£64,200 + £31,800).

In light of the above, it is considered appropriate that the Council seeks to recoup some of the expenses incurred in relation to the processing time associated with this

3. Exemption: relating to the financial or business affairs of any particular person

type of work. Income could be directed toward a resource to manage this work accordingly, freeing up officers responsible for processing planning applications.

Officers are currently liaising with the Planning lawyers to understand if this charging mechanism would be lawful in the absence of any legislation providing the council with discretionary powers in this respect.

RECOMMENDATION

It is recommended that Members, subject to receipt of positive legal advice, approve the introduction of planning fees in accordance with the table below

Non Material Change	Discharge of Condition
£35 (householder application)	£35 (householder application)
£200 (all other)	£100

Unclassified

261

ITEM 6

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	04 November 2025
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Planning and Building Control
Date of Report	17 October 2025
File Reference	N/A
Legislation	Planning Act (NI) 2011
Section 75 Compliant	Yes ☐ No ☐ Other ☒ If other, please add comment below: Not applicable
Subject	Update on Planning Appeals
Attachments	Appendix 6a - PAC Decision 2024/E0044 Appendix 6b - PAC Decision 2018/E0010

Appeal Decisions

1. The following appeal was dismissed and the Enforcement Notice upheld on 3 October 2025.

PAC Ref	2024/E0044
Council Ref	LA06/2021/0144/CA
Appellant	William & Helen Wylie
Subject of Appeal	Alleged 1. unauthorised ancillary building; 2. unauthorised wooden pergola; 3. unauthorised extension of domestic curtilage which includes concrete path; 4. unauthorised building; 5. unauthorised building; 6. unauthorised shelter;

Not Applicable

	7. unauthorised laying of hardstanding laneway
Location	Land at 107 Comber Road, Newtownards

- This appeal was brought under grounds (a) [deemed planning application], (b), (c) and (e) of section 143 (3) of the Planning Act (Northern Ireland) 2011.
- **Ground (b) asserts that the breach has not occurred.**
The appellant withdrew Ground (b) at the hearing.
- **Ground (c) states that if the matters have occurred they do not constitute a breach of planning control.**
In relation to the hardcore laneway the appellant stated that as this was beyond the residential curtilage, which was established under LA06/2024/1040/CLEUD - certified the appellant's dwelling as lawful on 06/12/2024, it remained in agricultural use where he had rights and was therefore agricultural permitted development. However, the Commission did not accept this view nor that it was necessary for the purposes of agriculture. Therefore, it is not permitted, and ground (c) of appeal fails.
- **Ground (e) states that copies of the Enforcement Notice were not served properly.**
The Commissioner was not persuaded by the evidence submitted by the appellant under this ground and referred to the requirements under section 24(2)(e) of the Interpretation Act 1954, which the Council had met. The PAC did not accept the appellant's view that they had been prejudiced and considered the appeal under ground (e) failed.
- **Ground (a) states that planning permission ought to be granted.**
Firstly, the PAC found that there was not an active and established agricultural business for more than six years as required by PPS 21 Policy CTY 12.

Appellant initially submitted LA06/2022/0445/F for an extension to the residential curtilage and retention of ancillary buildings, which were to be domestic. This was subsequently withdrawn when it was to be refused. The appellant stated that since this date circumstances had changed, and buildings were now used to house chickens and approximately 40 sheep.

The PAC was not persuaded by appellant's argument that the buildings were required for the welfare of the animals, and he could be criminally prosecuted if they had to be removed – therefore it was not deemed an exception to the policy under CTY 12. Additionally, the most substantial building was only in partial use for agriculture, and the PAC concluded the appeal development was not necessary for the efficient use of the agricultural holding. As the EN development did not meet the requirements of policies CTY 1 and 12 of PPS 21 the first and second reasons for refusal were sustained.

The PAC found that under policy CTY 13 the appeal development does not integrate harmoniously with its surroundings and appears obtrusive, within

Not Applicable

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LLPA 5 (Scrabo Tower & Landform) & Strangford & Lecale AONB, with the third reason for refusal sustained.

The Commissioner considered the expansive appeal development suburbanised in form not respecting the existing pattern of development and further eroding the rural character due to build up as set out in policy CTY 14. The 4th reason for refusal was sustained.

The PAC found that given the open views possible from Comber Road, the expansive development is inappropriate in design, size and scale within the relatively flat landscape and is not sensitive to the special character of the area. The fifth reason for refusal was sustained.

Finally, the sixth reason was not sustained as information was submitted demonstrating that the appeal development would not likely harm protected species including badgers and their setts, with NIEA content.

The appellant's argument that one of the appeal buildings could not be removed in case it caused damage to a close badger sett, was not accepted by the PAC, given that the construction of the building was judged not to have damaged the badger sett with no substantial evidence presented that careful removal of the building would cause such damage.

- The PAC concluded that as the unauthorised development fails all appeal grounds the Enforcement Notice is upheld.

2. The following appeal was dismissed and the Enforcement Notice upheld on 01 October 2025:

PAC Ref	2018/E0010
Council Ref	LA06/2016/0187/CA
Appellant	Ian Walsh
Subject of Appeal	The alleged 1. Alleged unauthorised change in the use of the land from quarrying to a mixed use comprising processing and quarrying; 2. Alleged unauthorised erection of an earthbund; 3. Alleged unauthorised erection of a weightbridge; Alleged unauthorised erection of a portaloo; Alleged unauthorised erection of a portacabin; Alleged unauthorised erection of a storage container; 4. Alleged unauthorised development of an area of hardstanding; and 5. Alleged unauthorised use of an area of hardstanding for parking.
Location	Land at Fishquarter Quarry located on Coulters Hill Lane between Parsonage Road and Rubane Road, Kircubbin

Not Applicable

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- An appeal was brought on Grounds (a), (c), (d), (e), (f) and (g) as set out in Section 143 (3) of the Planning Act (Northern Ireland) 2011.
- As a background - A hearing took place on 27 September 2018 to consider the legal grounds of appeal against the Enforcement Notice only.
- The then Commissioner issued an enforcement appeal decision on 30 October 2018 which considered Grounds (c) and (d), which was then challenged by way of Judicial Review in both the High Court and the Court of Appeal. The Court of Appeal issued its judgement in December 2020, which upheld the decision of the Planning Appeals Commission.
- This left the remaining parts of the appeal to be assessed.
- Ground (a) and the deemed application – paragraphs 27 – 44 of the attached decision set out the Commission’s consideration of the elements listed as bullets in the table above. In considering that the identified elements should be approved, the Commissioner did not have to consider the remaining grounds of appeal.
- The appeal decision sets out conditions of the approval, and details of the amended Enforcement Notice.
- This brings to a close the long running enforcement case, which has been reported previously to Committee.

3. The following new appeals have been received since the last report:

PAC Ref	2025/A0073
Council Ref	LA06/2025/0228/O
Appellant	Philip Kerr
Subject of Appeal	Refusal of planning permission for a Replacement dwelling
Location	13A (approximately 500m North East of No. 13) Cunningburn Road, Newtownards

PAC Ref	2025/L0004
Council Ref	LA06/2025/0189/CLOPUD
Appellant	Alannah Savage
Subject of Appeal	Refusal of Certificate of Lawfulness regarding Proof of Commencement of works for dwelling – X/2008/0101/RM
Location	140m South of Loughdoo Road, Kircubbin

Not Applicable

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PAC Ref	2025/A0079
Council Ref	LA06/2023/1556/O
Appellant	William Gilmore
Subject of Appeal	Refusal of planning permission for a Dwelling on a Farm
Location	50m NE of 51 Kempe Stones Road, Newtownards

PAC Ref	2025/A0076
Council Ref	LA06/2025/0388/O
Appellant	Castlesaint LLP
Subject of Appeal	Refusal of planning permission for 8no. apartments with associated carparking and landscaping
Location	Land south of 1-17, NE of 2 and SE of 4 Rockfield Meadows, Carrowdore

Details of appeal decisions, new appeals and scheduled hearings can be viewed at www.pacni.gov.uk.

RECOMMENDATION

It is recommended that Council notes the report and attachments.



Enforcement Appeal Decision

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Appeal Reference:	2024/E0044
Appeal by:	Mr William Wylie
Appeal against:	An Enforcement Notice dated 17 th January 2025
Alleged breach:	Alleged unauthorised 1. extension of domestic curtilage which includes concrete path; 2. building marked C; 3. building marked D; 4. shelter marked E; 5. laying of hardstanding laneway
Location:	Land at 107 Comber Road, Newtownards
Planning Authority:	Ards and North Down Borough Council
Authority's Reference:	LA06/2021/0144/CA
Procedure:	Informal Hearing on 29 th May 2025
Decision by:	Commissioner Diane O'Neill, dated 3 rd October 2025

Grounds of Appeal

1. The appeal was brought under Grounds (a), (b), (c) and (e) as set out in Section 143(3) of the Planning Act (NI) 2011 (the Act). There is a deemed planning application by virtue of Section 145(5) of the Act which relates to the appeal development on the site. The appellant withdrew Ground (b) at the hearing.

Ground (e)-that copies of the enforcement notice were not served as required

2. Section 138(2) of the Act states that a copy of an enforcement notice must be served on the owner and on the occupier of the land to which it relates; and on any other person having an estate in the land, being an estate which, in the opinion of the council, is materially affected by the notice. Section 138(3) adds that the service of the notice must take place not more than 28 days after its date of issue; and not less than 28 days before the date specified in it as the date on which it is to take effect.
3. The first enforcement notice (EN) was served by the Council using recorded delivery on 5th December 2024 on the registered landowners Ms Heather Jane Wylie and Mr William Hamilton Wylie. A copy was also emailed to the appellant Mr Wylie and his agent using email addresses that both parties used to communicate with the Council. The Council stated that these emails did not bounce back. The appellant however contacted the Council advising that he had discovered the first EN in a hedgerow at his property on 9th January 2025, several days before it was due to come into effect. The Council subsequently withdrew the first EN on 16th January 2025 and served a second EN on 17th January 2025.
4. The second EN, subject of this appeal, was served by post from the Council's office using the normal postal service, given the alleged issues with the previous

recorded delivery service. A copy was also said to have been emailed by the Council to the appellant and his agent on 17th January 2025. Although the appellant had received the emailed withdrawal notification on 16th January 2025, he stated that he did not receive the re-served notice to this same e-mail address. The Council sent a subsequent e-mail to a different e-mail address provided by the appellant on 21st January 2025 and the appellant confirmed receipt on 23rd January 2025. His agent did receive the email on 17th January 2025 however was unwell as this time and did not return to part-time work until the week commencing 20th January 2025. The appellant stated that the EN had only been received on 23rd January 2025 which is 24 days, as opposed to the statutory time period of 28 days, before the EN took effect. With the EN to take effect on 17th February 2025, the appellant submitted his appeal on 5th February 2025.

5. The appellant stated that there is a lack of clarity on how enforcement notices ought to be served and that emails or postage is not considered sufficient. However, Section 24(1) of the Interpretation Act 1954, which is applicable in this case, states that the service of the document may be effected by prepaying, registering and posting an envelope addressed to the person on whom the document is to be served at his usual or last known place of abode and unless the contrary is proved, the document shall be deemed to have been served at the time at which such envelope would have been delivered in the ordinary course of post. Although the appellant stated at the hearing that there are issues with postal mail in his area, with him regularly receiving his neighbour's post which he hand-delivers, this does not prove that it was not served. Attaching the EN to a property, as suggested, is only where it is not practicable after reasonable enquiry to ascertain the name or address of an owner, lessee or occupier of premises on whom the document should be served (Section 24(2)(e), Interpretation Act 1954). In this instance, the name and address of the owner was known to the Council.
6. While the appellant stated that he normally uses his business email address when receiving important attachments, the Council had been in communication with the appellant confirming receipt of the first EN as recently as 14th January 2025 using the appellant's original email address. The appellant stated that he requested a copy of the first EN to be emailed to him. This is also the email address used by the appellant's agent when he is copying the appellant into electronic communication with the Council such as that dated on 11th and 26th September 2024. It was also the email address supplied by the agent in the appeal documentation. It is therefore understandable that the Council would use this email address to communicate with the appellant. No alternative email address was offered to the Council by the appellant on 14th January 2025.
7. The appellant also stated that he was prejudiced as he considered that it would have been preferable for the Council to firstly determine the ongoing planning application to regularise the development. The issuing of the EN is however at the discretion of the council where it appears to the council that there has been a breach of planning control in relation to any land in its district and that it is expedient to issue the notice, having regard to the provisions of the local development plan and to any other material considerations.
8. Based on the information presented, there has been no substantial prejudice. I am therefore satisfied that the legislative requirements are met. The appeal on ground (e) therefore fails.

Ground (c) that those matters (if they occurred) do not constitute a breach of planning control

9. The appellant argued that the laying of the hardstanding laneway did not constitute a breach of planning control as it was covered by the appellant's agricultural permitted development rights. A Certificate of Lawfulness of Existing Use or Development (LA06/2024/1040/CLEUD) certified that on 6th December 2024 the appellant's dwelling at No.107 Comber Road was lawful. The appellant considered the certificate to establish, by default, that the land outside the residential curtilage remains in agricultural use to which the appellant has agricultural rights.
10. Part 7 Class A of the Planning (General Permitted Development) Order (Northern Ireland) 2015 states that permitted development is the carrying out on agricultural land comprised in an agricultural unit of any excavation or engineering operation reasonably necessary for the purposes of agriculture within that unit. For the purposes of Class A it is stated that agricultural land has the meaning assigned to it by the Agriculture Act (NI) 1949 and agricultural unit is said to mean land which is occupied as a unit for the purposes of agriculture. Section 43 of the Agriculture Act (NI) 1949 defines agricultural land as land used for agriculture which is so used for the purposes of a trade or business but does not extend to any land used as pleasure grounds, private gardens or allotment gardens or kept or preserved mainly or exclusively for the purposes of sport or recreation. Agriculture is said to include dairy farming and livestock breeding and keeping and the use of land as grazing land where that use is ancillary to the farming of land for other agricultural purposes.
11. Whilst I appreciate that he may not wish agricultural vehicles and machinery to traverse through the domestic curtilage of No.107 Comber Road, I am not persuaded that they require a hard stoned laneway to navigate driving through a field to access the appeal buildings. The appellant has also accepted that the appeal buildings are unauthorised. The appellant alluded to issues of flooding within the host field of the stoned laneway however no substantive evidence was presented and it was disputed by the neighbouring objector who is said to have always lived at this location. The appellant indicated that he is considering purchasing a heavier more ecologically sustainable piece of machinery than a tractor and requires a stoned laneway to navigate the field. However, the appellant does not possess any such machinery at present.
12. I am therefore not persuaded that the hardstanding laneway is reasonably necessary for the purposes of agriculture. It is not permitted development. The appeal on ground (c) fails.

Ground (a) and the Deemed Planning Application

13. The main issues are whether the appeal development:
 - is acceptable in principle in the countryside
 - would visually integrate into the surrounding landscape
 - would result in a change to the rural character of the area
 - would be sympathetic to the special character of the AONB
 - would likely harm protected species

14. 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 Ards and Down Area Plan 2015 operates as the local development plan for the area where the appeal site is located as the Council has not yet adopted a Plan Strategy for the district. Within this plan the site is located within the countryside within LLPA 5 Scrabo Tower and landform. It is also within Strangford and Lecale AONB. The plan has no material policies for dealing with the development.
15. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and amongst these are Planning Policy Statement 2 Natural Heritage and Planning Policy Statement 21 Sustainable Development in the Countryside which provide the relevant policy context for the appeal development.
16. Six reasons for refusal were presented by the Council. Policy CTY 1 of PPS 21, which is the basis for the first reason for refusal, 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. A number of instances when planning permission will be granted for non-residential development are outlined. The appellant argued that the appeal development meets Policy CTY 12 agricultural and forestry development.
17. Policy CTY 12, which, together with Paragraph 6.73 of the SPPS, is the basis for the first and second reasons for refusal, states that planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise; (b) in terms of character and scale that it is appropriate to its location; (c) it visually integrates into the local landscape and additional landscaping is provided as necessary; (d) it will not have an adverse impact on the natural or built heritage; and (e) that it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution. In cases where a new building is proposed, applicants also need to provide sufficient information to confirm that 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 or forestry buildings. 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.
18. In relation to Policy CTY 12, the Council raised a number of objections to the development: that insufficient information was provided to demonstrate that the farm business has been active and established for at least 6 years; that it was not demonstrated that the building is necessary for the efficient use of the agricultural holding; that the development would not be sited beside existing farm buildings.

19. In order to determine what constitutes an active and established holding, Paragraph 6.73 of the SPPS and Paragraph 5.56 of PPS 21 refer to criteria set out in Policy CTY 10 of PPS 21. Both state that the agricultural business must be currently active and established for a minimum of 6 years. The appellant argued that the 6-year criterion cannot apply to new agricultural buildings as it is within the justification and amplification text of Policy CTY 12 as opposed to the policy headnote. However, the policy headnote of Policy CTY 12 states that the holding has to be active and established. It is also within the policy headnote of Policy CTY 10 (criterion a) that the farm business is to be currently active and established for at least 6 years. DAERA has confirmed that the business referred to on the application form has not been established for more than 6 years as the farm number was only issued on 1st February 2022. No Single Farm Payments have been claimed. The appellant stated that the appeal property was purchased on 12th February 2020, less than 5 years before the EN was issued. I therefore do not consider this to be an active and established agricultural business.
20. On 3rd May 2022 the appellant submitted a planning application (LA06/2022/0445/F) for the 'extension of dwelling curtilage and retention of ancillary buildings (retrospective)'. This application was premised on the retrospective development being domestic. The Council recommended to refusal the planning application, placing it on the delegated list on 13th November 2023, and it was subsequently withdrawn by the agent on 16th November 2023.
21. The appellant stated that circumstances have changed. A friend was said to have grazed sheep on the appeal site and afterwards gifted one of the animals to the appellant. He is now said to appreciate the enjoyment offered by farming. As a consequence, he stated that he chose to use one of the appeal buildings, originally used to accommodate gardening equipment, for housing award winning pedigree sheep. The appellant stated that there are approximately 40 sheep, with 20 lambs to be sold after the summer, 13 chickens and three alpacas on site.
22. Appeal Building C is a substantial metal corrugated shed with two roller door openings. At the time of the hearing the appellant stated that it accommodated approximately 4 lambs. At the time of my site visit approximately half of the building was also used as a store including for logs, a lawnmower, and metal sheeting. Appeal Building D is a modest wooden shed which the appellant stated is used for the chickens and to store the feed for the animals. There is also a modest open wooden shelter at location E on the accompanying EN map.
23. The appellant argued that given that the Welfare of Animals Act (Northern Ireland) was published in 2011, with the subordinate Welfare of Farmed Animals Regulations (Northern Ireland) published in 2012, after the publication of PPS 21, its authors could not have been aware of the statutory requirements for animal husbandry introduced by the legislation. The SPPS was however published after these provisions and replicates the requirements of PPS 21 in relation to this development.
24. The appellant stated that he has a pedigree flock ID, is a member of the Hampshire Down Sheep Breeders Association and is legally responsible for the wellbeing of the animals under his stewardship. The appellant referred to a satisfactory inspection being carried out by a DAERA senior veterinary officer prior to the hearing. He also stated that he has to comply with DAERA's codes of

practice for differing types of animals including sheep and laying hens. He highlighted that the codes state that any failure to meet a minimum standard for keeping farm animals including in relation to buildings, equipment and the feeding and watering of animals can be used as evidence to support a prosecution. It was therefore argued that a refusal of planning permission for the agricultural buildings could result in the appellant facing criminal prosecution under the Welfare of Animals Act (NI) 2011 and/or the Welfare of Farmed Animals Regulations (NI) 2012 if he removes the buildings to comply with the enforcement notice or criminal prosecution under the Planning (NI) Act 2011 if the buildings are kept contrary to the enforcement notice.

25. Although the appellant has now chosen to keep animals on the appeal site, this is not an active and established agricultural holding. The most substantial appeal building (Appeal Building C) is only partly used for agricultural purposes. I am not persuaded that the appeal development is necessary for the efficient use of the agricultural holding. As is apparent from the DAERA code of practices provided by the appellant, a unit should not be set up unless those responsible have the skills necessary to safeguard the welfare of every animal in their charge and can provide the appropriate form of housing if it is necessary. The appeal development also is not sited beside existing farm buildings. Consequently, the appeal development fails to meet Policy CTY 12 of PPS 21.
26. As the development does not meet the requirements of Policy CTY 12 of PPS 21 it is not one of the types of non-residential development that are acceptable in principle in the countryside. There are no overriding reasons why the development is essential and could not be located in a settlement. The development is therefore contrary to Policy CTY 1 of PPS 21. The Council's first and second reasons for refusal and the objector's concerns in relation to these matters are sustained.
27. The third reason for refusal related to the SPPS and Policy CTY 13 of PPS 21 in that the development fails to be visually integrated into the surrounding landscape and results in a prominent feature in the landscape. Although the appeal development does not obstruct views of Strangford Lough from Scrabo Country Park and despite its set back and backdrop, from the Comber Road clear views are possible of the appeal development due to the relatively flat topography of the landscape. LLPA 5 Scrabo Tower and landform, in which the appeal site is located, notes that the undeveloped flat foreground of Scrabo Hill adjoining the Comber Road is visually significant in long distance views. The appeal development does not read as a cluster of development but rather appears incongruous and expansive across the open landscape irrespective of the dove grey colouring of the substantial metal Appeal Building C. The appeal development does not integrate harmoniously with its surroundings and appears obtrusive. The suggested planting would take a considerable time to mature before it could aid the integration of the development. The third reason for refusal and the objector's concerns in relation to this matter are sustained.
28. The fourth reason for refusal related to the SPPS and Policy CTY 14 of PPS 21 in that the development does not respect the traditional pattern of settlement exhibited in the area and results in a detrimental change to further erode the rural character of the area due to a build-up of development. The settlement pattern in the local area generally consists of single detached dwellings located within modest plots with small farm holdings being located on larger plots. The

considerable development on the appeal site appears suburbanised and, taken cumulatively with the existing neighbouring development at No.109 Comber Road, results in a build up of development detrimental to the rural character of this sensitive area within Strangford and Lecale AONB and LLPA 5 Scrabo Tower and landform. Spread across the relatively flat landscape, it does not respect the disposition and visual appearance of buildings in the locality. The fourth reason for refusal and the objector's concerns in relation to this matter are sustained.

29. The site is located within the Strangford and Lecale AONB. Policy NH 6 of PPS 2 Areas of Outstanding Natural Beauty states that planning permission for new development within such an area will only be granted where it is of an appropriate design, size and scale for the locality and meets all of the identified criteria. The fifth reason for refusal stated that the development is contrary to Policy NH 6 in that its siting and scale fail to be sympathetic to the special character of the AONB in general, and of the particular locality (criterion a), and would not respect or conserve features of importance to the character, appearance or heritage of the landscape (criterion b).
30. With open views possible from the Comber Road, the expansive appeal development is inappropriate in its design, size and scale within this relatively flat landscape. It elongates development within the foreground of Scrabo Hill. The development is not sensitive to the distinctive special character of the area and the quality of the landscape nor does it respect or conserve features of importance to the character, appearance or heritage of the landscape. The fifth reason for refusal and the objector's concerns in relation to this matter are sustained.
31. Badgers and their places of refuge are protected under Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended). Prior to the hearing the Council were presented evidence from NIEA Natural Environment Division (NED) stating that the development would be likely to harm badgers, a species protected by law. As noted within an ecology survey published in February 2017 and observed at the site visit carried out by NED on 6th January 2025, Appeal Building C is located within a recommended 25m buffer area of a large well established badger sett. At the hearing the Council therefore introduced a sixth reason for refusal related to the development being contrary to Policy NH 2 Species Protected by Law of PPS 2 in that insufficient information has been submitted to demonstrate that the development would not be likely to harm protected species. The parties were given an opportunity to submit evidence in relation to this matter.
32. In evidence from the appellant's environmental and ecological consultant dated 23rd July 2025 it was stated that during his site inspection on 16th June 2025 that it was apparent that there was some badger activity within the curtilage of No.107 Comber Road. It was therefore accepted that there was very likely a main badger sett within 20m of Appeal Building C. Had NIEA NED been consulted on the development before its construction they stated that they would have requested that the position of the structure be moved to provide a minimum 25m radius buffer for the setts. The appellant's consultant however agreed with NED that it is unlikely that the direct construction of the structure had a major impact upon the badgers due to the distance from the nearest known sett entrance, land level changes and the site having a history of deep cultivation. The parties agreed that the uses of the structure, such as for light engineering or as a vehicle workshop, could cause a disturbance to the badgers due to its proximity to the sett however

the housing of animals was thought not to be an issue. The appellant's consultant commented that any future domestic use, which would involve the persistent presence of people, regular illumination at night, and potentially also loud music etc from time to time, would be of considerable concern and should be discouraged. The appellant was however agreeable to the imposition of a planning condition that Appeal Building C only be used for agricultural purposes.

33. The appellant's consultant noted that NED were not seeking the removal or relocation of Appeal Building C, which the consultant stated would entail considerable unnecessary construction-like work in close proximity to the badger sett. However, the construction work has been judged to not have damaged the badger sett. There is no substantive evidence that the careful removal of the appeal development would cause such damage.
34. As information has now been submitted which demonstrates that the development would not likely harm protected species, the sixth reason for refusal has not been sustained.
35. As the first, second, third, fourth and fifth reasons for refusal and the objector's concerns in relation to these matters have been sustained, this is determining and the appeal on ground (a) fails.

Decision

The decision is as follows:-

- The appeal on Ground (e) fails
- The appeal on Ground (c) fails
- The appeal on Ground (a) fails

The Notice is upheld.

COMMISSIONER DIANE O'NEILL

List of Documents

Planning Authority
(Ards and North Down Borough Council):-

Statement of Case PA 1
Post-hearing evidence PA 2

Appellant (Pragma Planning-agent):-

Statement of Case A1
Post-hearing evidence A 2

Third Party Objectors:-

Statement of Case OBJ 1

List of appearances

Planning Authority
(Ards and North Down Borough Council):-

Ms Clare Barker (remotely)

Appellant:-

Mr William Wylie
Mr Michael Worthington
(Pragma Planning)

Third Party Objector:-

Mr James Gilliland (No.109
Comber Road)
Mr Adrian Griffiths (friend of
Mr Gilliland)



Enforcement Appeal Decision

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Appeal Reference:	2018/E0010
Appeal by:	Mr Ian Walsh.
Appeal against:	An Enforcement Notice dated 23 April 2018.
Alleged Breaches of Planning Control:	i. Change in use of land from quarrying to mixed use comprising processing and quarrying; ii. Erection of an earth bund; iii. weighbridge; iv. a portaloo; v. a portacabin; vi. storage container; vii. development of an area of hardstanding and viii. use of an area of hardstanding for parking.
Location:	Land at Fishquarter Quarry located on Coulters Hill Lane between Parsonage Road and Rubane Road, Kircubbin, County Down, BT22 IDS
Planning Authority:	Ards and North Down Borough Council.
EN Reference:	LA06/2016/0187/CA.
Procedure:	Written representations with Commissioner's Site Visit on 15 September 2025.
Decision by:	Commissioner Mandy Jones, dated 1 October 2025.

Grounds of Appeal

1. An appeal was brought on Grounds (a), (c), (d), (e), (f) and (g) as set out in Section 143 (3) of the Planning Act (Northern Ireland) 2011. There is a deemed application by virtue of Section 145(5). A hearing took place on 27 September 2018 to consider the legal grounds of appeal only. At this hearing Ground (e) was withdrawn. Commissioner Rue issued an enforcement appeal decision on 30 October 2018 which considered Grounds (c) and (d).
2. This Enforcement Appeal decision (legal grounds only) was challenged by way of Judicial Review in both the High Court and the Court of Appeal. The Court of Appeal issued its judgement in December 2020, which upheld the decision of the Planning Appeals Commission.
3. The Commission, by letter to the parties dated 14 June 2024 confirmed that the legal proceedings had concluded and the remaining issues in the appeal to be considered were the non-legal grounds of appeal, namely Grounds (a), (f) and (g). The Enforcement appeal was to progress by way of the Written Representations procedure, and the parties were afforded the opportunity to submit Supplementary Statements of Case and rebuttals. I have no record of the oral evidence presented to Commissioner Rue at the previous hearing. This decision considers the remaining grounds of appeal.

The Enforcement Notice

4. Commissioner Rue's October 2018 decision concluded that the Enforcement Notice (EN) was to be corrected and varied as set out in paragraph 19 of his decision. It determined that:
 - The appeal on Ground (c) fails in respect of the weighbridge, the portaloo, the portacabin, the storage container and the parking use, but succeeds in respect of the alleged processing use. The references to processing are deleted from the notice.
 - The appeal on Ground (d) fails in respect of the hardstanding area but succeeds in respect of the alleged earth bund. The references to the earth bund are also deleted.
 - Paragraphs 2,3 and 4 of the notice are further corrected and varied to read as set out below. The appeals on Grounds (a), (f) and (g) will be considered against the notice as so corrected and varied.

Corrections and Variations to Enforcement Notice

Paragraphs 2, 3 and 4 of the notice were deleted and replaced with the following:

2. The Land to which this Notice relates

Land at Fishquarter Quarry located on Coulters Hill Lane between Parsonage Road and Rubane Kircubbin, Down BT22 1DS, shown edged in red on the attached map PAC 1.

3. The Matters which appear to constitute the Breach of Planning Control

- i. Unauthorised erection of a weighbridge in the approximate position indicated on the attached map PAC 2;*
- ii. Unauthorised erection of a portaloo in the approximate position indicated on the attached map PAC 2;*
- iii. Unauthorised erection of a portacabin in the approximate position indicated on the attached map PAC 2;*
- iv. Unauthorised erection of a storage container portacabin in the approximate position indicated on the attached map PAC 2;*
- v. Unauthorised development of an area of hardstanding in the approximate position indicated on the attached map PAC 2; and*
- vi. Unauthorised use of the area of hardstanding for parking.*

4. What you are required to do

- i. Remove the unauthorised weighbridge permanently and restore the land to its condition before the breach took place within 90 days;
- ii. Remove the unauthorised portaloo permanently and restore the land to its condition before the breach took place within 30 days;
- iii. Remove the unauthorised portacabin permanently and restore the land to its condition before the breach took place within 30 days;
- iv. Remove the unauthorised storage container permanently and restore the land to its condition before the breach took place within 30 days;
- v. Remove the area of hardstanding permanently and restore the land to its condition before the breach took place within 90 days;
- vi. Discontinue the use of the land within 30 days.

(now referred to as the 'Amended Enforcement Notice')

Preliminary Matters

Validity of the 1967 planning permission.

5. A particularly lengthy supplementary statement of case and rebuttal was submitted by Coulters Hill Residents Limited (CHRL) represented by Mr G Duff as an interested party (IP) (submitted April & June 2025). I note that the core arguments involve questioning the validity of the 1967 planning permission rather than the remaining grounds of appeal in relation to the Amended Enforcement Notice. In this respect, I was referred by the Council to the Judgement of the Court of Appeal and the Lord Chief Justice [2020] NICA 59, paragraphs 24 to 28 which states:
6. (24) *The power to issue an enforcement notice is cast in very wide discretionary terms. It must appear to the Council both that there has been a breach of planning control and that it is expedient to issue such a notice. Of course, the decision of the council remains subject to challenge in public law. As we pointed out to Mr Duff on several occasions during these proceedings it would have been open to him to issue proceedings seeking a declaration that the 1967 permission did not authorise the use of the land for quarrying purposes and if successful on that point seeking a mandatory order requiring the council to consider whether enforcement proceedings should be issued in relation to that quarrying use.*
7. (25) *The enforcement notice that was issued proceeded on the basis that there was an existing use for quarry purposes which was not challenged but it was contended that the processing of stone fell outside that use. That was the issue which the developer appealed pursuant to section 143 (1) of the Act and which the Planning Appeals Commission had to determine. It was on that issue that the developer succeeded.*
8. (26) *The scheme of the 2011 Act does not provide a freestanding opportunity for a person directly affected by matters which are properly subject to planning control to bring their concerns about the validity of a planning permission to the*

Planning Appeals Commission for determination. *The extensive material which Mr Duff sought to introduce by way of new evidence effectively sought to do that.*

9. (27) *As we explained to Mr Duff if he wishes to challenge the validity of the 1967 planning permission he should do so directly and may also join the Council if he contends that they failed to act because they believed in error that there was a valid planning permission for the use of the land for quarrying purposes. Such an application would require proper grounds to be lodged and appropriate notification to those affected. The applicant is not, in our view, entitled to conduct that challenge before the Planning Appeals Commission in respect of this enforcement notice.*
10. (28) *We consider that the company's complaint is in reality directed at the Council because of its failure to issue enforcement proceedings against the developer for the use of the land for quarrying purposes. That is not a matter for determination by the Planning Appeals Commission.*
11. CHRL argues to dismiss this judgment as being 'wrong' and claim that a work around exists. I concur with the Council that the final position is that the Court of Appeal decision was not the subject of an application for permission to appeal to the Supreme Court and remains good and should be followed.
12. I was told by the Council that further receipt of the CHRL's supplementary Statement of Case, they were in receipt of a 12th Pre – Action Protocol letter dated 5 May 2025 (submitted by the Council). On review of this letter, some of the points made in the Supplementary Statement of Case overlaps with the pre – action correspondence albeit the target in the pre – action correspondence is the Council as opposed to consideration by the Commission.
13. By way of background, I was told that the Council has consistently set out its position within previous enforcement reports, previous statements of case, rebuttals and at the previous hearing with Commissioner Rue regarding the quarry benefitting from planning permission. To recap, on 1 February 2017, the Council determined that the quarry, at lands known as Fishquarter Quarry, Coulters Hill, Kircubbin has the benefit of planning permission granted in 1967 by Down County Council (the 1967 permission). The quarry benefits from extant planning permission.
14. In line with the judgment of the High Court and Court of Appeal, arguments regarding the validity of the 1967 planning permission are outside the scope of this enforcement appeal and the remaining grounds. Objections in relation to the inaccuracy of plans were addressed in the 2018 decision on the legal grounds of appeal by Commissioner Rue and upheld by the High Court and the Court of Appeal and again are outside the scope of this appeal.
15. Given the Council has concluded that the 1967 permission was not a confirmation of permitted development rights, the issues raised by CHRL with regards to the impact of the Planning (General Development) Order (Northern Ireland) 2015 do not arise.

EIA Screening

16. Objectors argue that the Commission must revisit the EIA screening determination provided by the Commission to the parties to this appeal on 18 January 2019, as it is wrong because (a) it wrongly relies on valid, extant, planning permission for quarrying and (b) the determination fails to consider the cumulative significant effects arising from the cumulative development under Schedule 3 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (the EIA Regulations). It was argued that the cumulative development includes the quarry operation whether it has planning permission or not.
17. Background documents include a letter dated 14 November 2018, from the Commission to the Council seeking confirmation as to whether the Council was intending to review its EIA screening determination of 20 April 2018 carried out pursuant to Regulation 34 of the EIA Regulations prior to the service of the original enforcement notice on 23 April 2018. The trigger for this request from the Commission was Commissioner Rue's decision dated 30 October 2018 pertaining to the legal grounds of appeal. (set out above as the 'Amended Enforcement Notice').
18. I was told by the Council that the reason for revisiting the EIA screening was that given the processing activities are now permitted and do not form part of the unauthorised development, the subject of the ground (a) deemed application, the matters constituting the breach of planning control have changed and with that the lawful existing development on the site has also changed. In particular the processing activities are now permitted and lawful. These changes justified the reconsideration of the initial EIA screening determination dated 20 April 2018.
19. The Council issued a negative screening determination on 18 January 2019 which confirmed that the environmental impacts were not likely to be significant and therefore an environmental statement was not required. It was considered that the unauthorised development which form the extension does not result in any significant effects over and above those activities which benefit from planning permission. A copy of the 2019 EIA reconsideration screening was submitted which I note includes an analysis in terms of cumulation with other existing development and / or approved development and states:
20. *The extant operational quarry sets a baseline which, when the extension is added in cumulation, does not provide any increase in effects. The extension does not increase or affect the quarrying and processing uses (the primary generators of environmental impacts) but rather provides the introduction of plant and office accommodation which facilitates the efficient running of the consented business. The Council does not consider that the change or extension introduces or allows for the creation of significant environmental effects beyond those which would arise as a result of the permitted quarrying in the absence of the development covered by the ground (a) appeal.*
21. In terms of the cumulation of the impact with the impact of other existing and / or approved developments taking into consideration the above it was not considered that the impacts are such as to be so significant to warrant EIA. As

such, no likely significant environmental effects are anticipated by the Council. The unauthorised development which forms the extension does not result in any significant effects over and above those activities which benefit from planning permission.

22. It is clear to me that the cumulative effects of the development subject of the amended EN have been considered within the 2019 reconsideration EIA screening.

Breach of Habitats Regulations

23. Objectors argue that the combined existing quarry operations breach the Conservation (Natural Habitats etc) Regulations (Northern Ireland) 1995 (as amended). This is disputed by the Council who confirmed that an initial Habitats Regulation Assessment was commissioned during enforcement investigations in 2017. Within the 2019 revised EIA screening report it states that the EN lands abut and support the quarry which has the benefit of Planning Permission granted in 1967 and the quarry operations the subject of the EN and the 1967 planning permission has been assessed within this revised screening report.
24. It notes that the site does not have any particular environmental or landscape designations and sits within agricultural land which is not recorded as being of Best Agricultural Value. The elements comprised within the deemed proposal do not involve the extraction of materials from the adjacent quarry and they are not considered to have any significant impact on the landscape, as the area does not benefit from any nature conservation designation or scientific value.
25. The area contains no areas of statutory nature conservation and there are no such sites within the immediate vicinity of the proposal. The site is located around 1km to the east of Strangford Lough which is a European Designated Site. Strangford Lough is also designated as a Ramsar site, a Special Area of Conservation (SAC), a Special Protection Area (SPA) and an Area of Special Scientific Interest – Strangford Lough Part 1 (ASSI).
26. It continues that with regard to the separate Habitats Regulation Assessment process ‘ A shadow HRA has been completed by Shared Environmental Services and found no likely significant impacts on the conservation features of Strangford Lough as result of a hydrological link from the site’. As the competent authority responsible for the HRA under the Habitats Regulations, I accept and adopt these conclusions. Any objections grounded under Regulation 50 of the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (as amended) are unwarranted.

Ground (a) and the deemed application.

27. The deemed application is defined by the alleged breaches of planning control as described in paragraph 3 of the EN (corrected and varied, ‘the Amended Enforcement Notice’). The deemed application is for the following: a weighbridge, portaloo, portacabin, storage container, hardstanding and the use of an area of

hardstanding for parking. No deemed reasons for refusal were advanced by the Council.

28. Section 145 (4) of the Planning Act (Northern Ireland) 2011 requires the Commission in dealing with a deemed application to have regard to the local development plan (LDP), so far as material to the subject matter of the EN, 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.
29. The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the area in which the deemed appeal site is located. The appeal site is located in the countryside and is within an Area of Constraint on Minerals Development. With regard to environmental designations, the site is located 1036m from Strangford Lough which is a European Designated Site. Strangford Lough is designated as a RAMSAR, a Special Area of Conservation SAC, a Special Protection Area SPA and an Area of Special Scientific Interest – Strangford Lough Part 1 ASSI.
30. Overarching regional policy is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS). It sets out transitional arrangements which will operate until a local authority has adopted a Plan Strategy (PS) for the whole area. No PS has been adopted for this Council area. The Minerals policies suite within A Planning Strategy for Rural Northern Ireland (PSRNI) applies.
31. Regarding Minerals, paragraph 6.148 of the SPPS states that minerals, including valuable minerals, are an important natural resource and their responsible exploitation is supported by Government. The minerals industry makes an essential contribution to the economy and to our quality of life, providing primary minerals for construction, such as sand, gravel and crushed rock, and other uses, and is also a valued provider of jobs and employment, particularly in rural areas.
32. Paragraph 6.150 states that while minerals development delivers significant economic benefits, there are also a number of challenges arising from this form of development which fall to be addressed through the planning system. The effects of specific proposals can have significant adverse impacts on the environment and on the amenity and well being of people living in proximity to operational sites.
33. Paragraph 6.152 of the SPPS states that the regional strategic objectives for minerals development are to :
 - Facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment;
 - Minimise the impacts of minerals development on local communities, landscape quality, built and natural heritage, and the water environment; and
 - Secure the sustainable and safe restoration, including the appropriate re – use of mineral sites, at the earliest opportunity.

34. Policy MIN 3 within PSRNI states that areas required to be protected from minerals development will be identified as Areas of Constraint on Mineral Development and there will be a presumption against the granting of planning permission for the extraction and / or processing of minerals. The enforcement appeal site is identified in the ADAP as an Area of Constraint on Minerals Development, however the Council considers that this is not for a new quarry use for the extraction and / or processing of materials and the cited breaches are for ancillary development in connection with a quarry use which benefits from planning permission.
35. Policy MIN 6 within PSRNI regarding safety and amenity of occupants of development in close proximity to mineral workings states that the potential for conflict will be reduced by requiring a degree of separation between mineral workings and developments where mineral operations involve blasting. It goes on to say that permission will not normally be granted for mineral workings and other developments to be in close proximity where potential sources of nuisance are judged to be incompatible with the standards of amenity acceptable to the Department and other relevant authorities.
36. The former Down County Council granted planning permission for Henry Gilmore for use of land for quarrying purposes at Fishquarter, Kircubbin in accordance with plans submitted on 20 April 1967. No conditions were attached. A hand drawn location plan and site plan give effect to this permission. The Council provided overlays (appendix 9 of July 2024 SoC) of the approved 1967 site plan and the amended EN appeal site. This appears to show that the extent of the 1967 permission does not extend into the area where the unauthorised development cited within the EN is located. In reference to this, I note Commissioner Rue's decision states at paragraph 33, *'the larger – scale plan, although hand drawn with no scale specified, identifies the application site with tolerable precision and fulfils the requirement for a site plan. It is notable that no part of the site depicted on that plan overlaps with the area hatched blue on PAC 1.'*
37. The unauthorised development subject of the amended EN is located directly adjacent to the existing quarry with a vehicular access point at Rubane Road and one from Coulters Hill. The quarry is surrounded by undulating agricultural land. The Council carried out an updated survey on 8 July 2024, and a survey map was submitted (appendix 10 of July 2024 SoC). The Council and the appellant confirmed that the portaloo structure has been removed from the site and should not form part of the ground (a) appeal. This was confirmed on the ground at my site visit. This element can be deleted from the amended EN. I noted that a new blockwork structure is on the site, however it does not form part of the appeal as it was not in situ at the time the EN was served. In response to CHRL concerns, the Council confirmed that any alleged unauthorised development pertaining to the site post dating the service of the EN will continue to be investigated by the Council in the normal way and this EN will not be withdrawn.
38. The Council did not consider that the elements of the deemed application fall within the 1967 permission and as such amount to unlawful operational development and a related unlawful parking use in the case of the hardstanding. As the 1967 permission does not cover this portion of the EN site (hatched blue

area), the Council were of the opinion that the development is not permitted development under Part 17, Class A of the Planning (General Permitted Development) Order (Northern Ireland) 2015. (Development ancillary to mining operations). This was undisputed.

39. By way of background, the Council confirmed that the authorised quarry at Fishquarter is the subject of on-going investigations with Ards and Down Environmental Health Department in relation to dust and noise. A statutory nuisance was confirmed in relation to noise and an Abatement Notice was served on 16 April 2018 under the Clean Neighbourhoods and Environment Act (NI) 2011 (Section 65). It was confirmed that this matter is ongoing and actively being pursued. Whilst a statutory nuisance has been identified in relation to the existing quarry, the Council consider that this is not as a result of the breach elements cited within paragraph 3 of the amended Enforcement Notice. As the breach elements cited are located between 110m - 150m from any neighbouring residential properties, the Council consider that they do not cause any adverse impact on the safety or amenity of any occupants of adjacent residential properties.
40. The first element is the weighbridge, which sits at ground level and enables the product to be weighed and priced for sale. I would concur with the Council and appellant that given its low profile, it cannot be seen from any critical viewpoints outside the quarry and does not impact on the amenity of neighbours by virtue of noise or dust given that it is located over 150m away from the closest residential property.
41. The third and fourth elements are the portacabin and storage container. These are both adjacent to the weighbridge and provide office space and storage of various mechanical machinery including a small generator. I concur with the Council and the appellant that as these are located over 150m away from the closest residential property they do not have any impact on residential amenity and cannot be seen from any critical viewpoints outside the quarry, given their small scale, intervening distances, topography and intervening vegetation.
42. The fifth and sixth elements include the area of hardstanding (shown cross hatched on PAC 2) and its use for parking. This hardcored area allows lorries to drive onto the weighbridge and complete turning manoeuvres and the parking of vehicles in connection with the authorised quarry. The Council stated that from 58 site inspections, the parking use has always been at a low scale with no more than one or two cars parked at any one time. This is demonstrated by submitted photographs within the Council's SoC. At my site visit, I observed one car parked within the hardstanding area. It was confirmed that this hardcored area has not been altered since it was laid in 2016 and is approximately 110m from the closest residential property. I would agree with the Council and appellant that the hardstanding and use for parking do not cause any adverse impacts to any adjoining properties.
43. The Council also assessed the cumulative impact of the breaches within paragraph 3 of the Amended Enforcement Notice. It was concluded there are no critical views, beyond the EN appeal site from either Coulter's Hill or Rubane Road given intervening distances, topography and existing vegetation. I agree

with the Council's analysis that the breach elements do not cause any injury to amenity either individually or cumulatively. I would concur that the cited elements are subservient to the overall operational development as permitted and consider that there will be no material difference in planning terms of interests of acknowledged importance.

44. In conclusion, I consider that the deemed proposal including the weighbridge, portacabin, storage container, area of hardstanding and use of hardstanding for car parking are acceptable and the appeal on ground (a) succeeds. As I have concluded that the breach elements should be approved, I do not have to consider the remaining grounds of appeal. (ground (f) and ground (g)).

45. In their statement of case the Council suggested five conditions. A condition is necessary for the removal of the elements within the area hatched blue on PAC 2 on cessation of the approved quarrying operations to facilitate restoration of the site. A landscaping scheme is necessary for the portion of the EN site hatched blue on PAC 1 & 2 in the interests of character and appearance of the area. In the interests of neighbouring residential amenity, a condition is necessary to ensure that the area hatched blue is not used for any other quarrying activities. The suggested working hours condition is at odds with the working hours within the Court Order 2017 No.42455 issued by the High Court in NI Chancery Division at para (i) which ordered the appellant not to conduct quarrying operations outside normal working hours defined as 7am – 7 pm Monday to Friday and 7am – 2 pm on Saturday to ensure that the noise created by the operations do not exceed 55 d BA LA_{eq} 1 hour outside the site boundaries. As such, the suggested condition is unnecessary.

Decision

The corrected and varied 2018 EN (the Amended Enforcement Notice), is further varied as follows:

Paragraph 3 (ii) and paragraph 4 (ii) are deleted.

- **The appeal on ground (a) succeeds and planning permission is granted subject to the conditions below.**

The Amended Enforcement Notice, as so varied, is quashed.

This approval is based on PAC 1 & PAC 2, submitted by the Council at the hearing on 27 September 2018, copies of which are appended to this decision.

Conditions

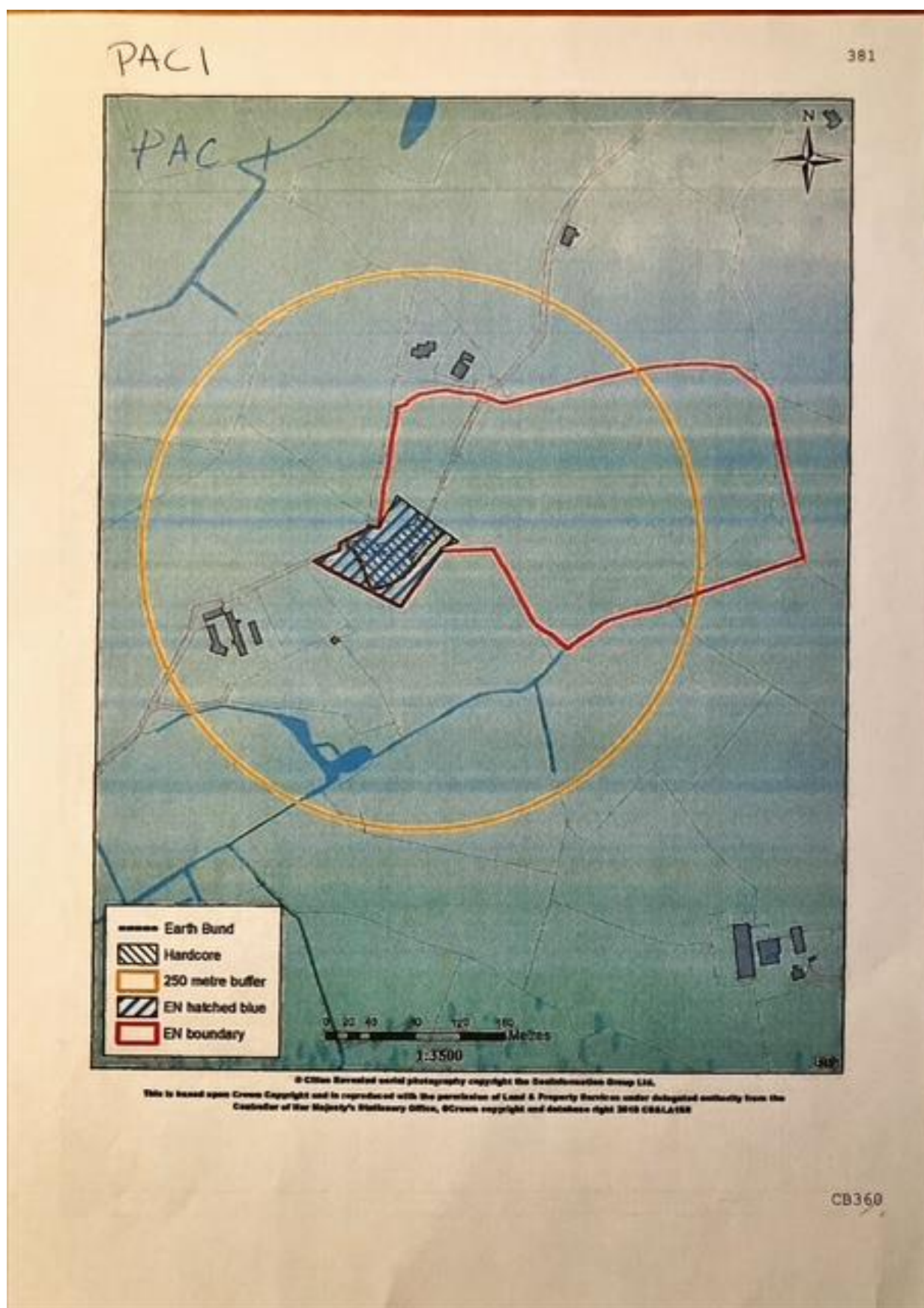
1. Within 6 months of the cessation of the approved quarry operations, all ancillary structures and hard standing within the area hatched blue on PAC 2 shall be permanently removed from the site and the land shall be restored to its previous condition.
2. Within 3 months of this approval, a landscaping scheme shall be submitted to and approved by the Council for the area hatched blue on PAC 2. The scheme shall include details of fences, trees, hedgerows and other planting to be retained; details of any new boundary treatments; details of the hard surface treatment which shall be permeable or drained to a permeable area; a planting specification to include (species, size, position and methods of planting); and a programme of implementation through a Landscape Management Plan.
3. The approved works in condition 2 shall be carried out in the next planting season unless agreed in writing by the Council. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location species and size, details of which shall have been first submitted to and approved in writing by the Council.
4. No winning or working of minerals or material stockpiles shall be stored in the area hatched blue on PAC 1 and PAC 2.

COMMISSIONER MANDY JONES

2018/E00101

List of Documents

Planning Authority:	'A'	Statement of Case with appendices (August 2018)
	'A1'	Supplementary Statement of Case with appendices (June 2024)
	'A2'	Rebuttal Statement (July 2024)
	'A3'	Rebuttal of Supplementary Statement of Case from Mr G Duff; Interested Party (IP) for Coulters Hill Residents Limited (CHRL) (May 2025)
	'A4'	Second Rebuttal of Rebuttal from Mr G Duff; Interested Party (IP) for Coulters Hill Residents Limited (CHRL) (August 2025)
Appellant:	'B'	Statement of Case with appendices (2018)
	'B1'	Supplementary Statement of Case (June 2024)
	'B2'	Rebuttal Statement (July 2024)
	'B3'	Rebuttal of Supplementary Statement of Case from Mr G Duff; Interested Party (IP) for Coulters Hill Residents Limited (CHRL) (May 2025)
Third Parties:	'C'	Submission on behalf of Coulter's Hill Residents Limited (2018)
	'C1'	Supplementary Statement of Case from Mr G Duff; Interested Party (IP) for Coulters Hill Residents Limited (CHRL) (April 2025)
	'C2'	Rebuttal from Mr G Duff; Interested Party (IP) for Coulters Hill Residents Limited (CHRL) (June 2025)





Regional Planning Policy & Casework



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21 October 2025

Dear Chief Executives

REVISIONS TO THE REGIONAL POLICY FRAMEWORK FOR THE TWO-TIER PLANNING SYSTEM

The purpose of this communication is to highlight the importance of considering the SPPS, and any revisions to it, during plan-making and decision-taking processes.

Revisions to the regional policy framework for the two-tier planning system, including the Regional Development Strategy (RDS) and the SPPS are to be expected in response to changing circumstances, including Executive and/or Ministerial priorities. Any changes to the regional planning policy framework will be progressed in accordance with policy development best practice guidance and the Department's Statement of Community Involvement (2024). There was extensive engagement with stakeholders, including local government, during the formulation of SPPS (published September 2015) and with respect to the on-going review of it, on the subject of renewable and low carbon energy. The SPPS was published following Executive

Committee agreement to it, and any future revised SPPS also requires referral to the Executive Committee prior to its publication.

Having recently secured Executive agreement to revised regional planning policy on renewable and low carbon energy, the Department intends to publish an update to the SPPS, as soon as possible, once all necessary next steps have been completed.

Prior to introduction of the revised SPPS this correspondence is intended to serve as a helpful reminder of the respective roles the Department and councils perform in supporting the effective and efficient operation of our two-tier planning system and meeting the legislative requirement to *'take account of'* the regional policy framework in which planning authorities operate.

The role of the Department

The Department's statutory role and oversight powers are set out in the Planning (NI) Act 2011 and include areas such as responsibility for the formulation and coordination of regional planning policy, and its role in the adoption of local development plans (LDPs) prepared by councils. Under the provisions of the Act the Department must *'formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development'*. This includes the coordination of LDP policies prepared by Councils. Section 1 of the Act requires the Department to ensure that *'any such policy'* is in general conformity with the RDS. Furthermore, the Department must exercise its functions under subsection 1 with the objective of furthering sustainable development and promoting or improving well-being.

Section 2 of the Act requires plan documents to be submitted to Dfl for it to cause an Independent Examination; requires Dfl to consider the recommendations of the appointed commissioner/person in relation to tests of Soundness and, legislates that adoption of a development plan document can only take place in accordance with a direction issued by Dfl.

The role of councils

When plan making, councils must *'take account of'* the RDS - and *'any policy or advice contained in guidance issued by the Department'* and *'such other matters as the Department may prescribe, or in a particular case, direct'*.

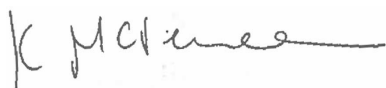
Properly and faithfully taking account of the SPPS overall, including any revision to it is, therefore, essential to support the achievement of regional planning objectives; the wider commitments and priorities of the Infrastructure Minister and Executive, and to ensure the delivery of a cohesive planning framework across the Region

The SPPS, including an amendment to it, is also a material consideration which must be taken into account in decision-taking, recognising that the relevance and weight of all material considerations is a matter for the relevant planning authority.

Whilst the specific approach will depend on local circumstances, the council should ensure that all officers and elected members fully understand the wider context for their work for the Region and the importance of taking account of the RDS and SPPS in the delivery of their local planning functions.

For your information, the Department intends to prepare a new Development Plan Practice Note on this issue in due course but in the meantime, I would be grateful if this correspondence and the Q&A at Annex A is brought to the attention of all your elected members and relevant officials, including Heads of Planning.

Yours sincerely



Kathryn McFerran
Director
Regional Planning Policy & Casework

cc: Heads of Planning
Planning Appeals Commission

ANNEX A**Q&A:**

Councils are at various stages in the preparation of their Local Development Plans (LDPs), however policy making is a continuous process and changes to regional policy are normal in response to changing circumstances and Executive priorities.

When new or revised regional policy is published it is important that council LDP teams respond appropriately. The purpose of this Q&A is to provide advice and guidance to councils on the implications of new or updated regional policy for LDPs.

What are the implications of new or revised regional planning policy for Local Development Plan Documents prepared by councils?

Policy contained in the SPPS is a material consideration in making decisions on planning applications and in preparing LDPs.

When preparing or revising development plan documents (Plan Strategy or Local Policies Plan) councils must 'take account of' SPPS policy. LDPs are important documents to address local planning issues and to ensure the response to higher-level government priorities and objectives is co-ordinated.

Legislation requires that a council must carry out annual monitoring of an adopted LDP and must review its contents every 5 years¹. A council may however prepare a revision of a development plan document at any time. A council must also prepare a revision if, following a review, it thinks that the development plan document should be revised. The Department may also direct councils to revise a development plan document.

However, changes in circumstances including new material considerations such as publication of new or revised regional policy may trigger the need for an earlier review and subsequent revision where appropriate. It is important to note that policy in adopted plan documents should not automatically be considered to require revision because it was made prior to the publication of new or revised regional policy. In these circumstances councils must demonstrate their LDP policies continue to 'take account of' regional policy. This is why it is important that councils assess the implications of new or revised policy for their plan policies.

¹ At the five-year review stage development plan documents may need to be revised in response to the findings of the review report.

What does it mean ‘to take account of’ regional planning policy in LDPs?

When preparing draft policies or reviewing policies in an adopted LDP, the legislative requirement to “take account of” the RDS and “any policy or advice in guidance issued by the Department”, such as the SPPS will depend on the individual circumstances of the case and the evidential context gathered by the council in support of their local policy approach.

Councils should meaningfully engage with the contents of regional policy, demonstrate its aims and objectives are understood, and show how the policies of their plan fit with those aims and objectives. Councils shall then prepare policies that respond to the needs of their area in ways that complement and support regional policy and therefore contribute to the achievement of wider regional goals and strategic objectives.

What is a good practice approach to Local Development Plans when new or revised regional planning policy is published?

The requirement to take account of new or revised regional policy is an ongoing obligation on councils and is dependent on the stage of LDP preparation.

- For those councils who are working towards publication of a draft, a development plan document must take account of new/updated regional policy in preparing the draft plan document.
- For those councils which have published a draft document, and those with an adopted plan document (Plan Strategy) in place, it is good practice to undertake a written assessment of the implications of the new or updated regional policy for draft or adopted policies.

The assessment should demonstrate the council has an awareness of the new or revised policy and understands its aims and objectives. It should identify significant differences or conflicts which the new or revised regional policy may introduce with draft plan policies or the policies of an adopted plan document. It should also consider whether policy approaches may need to be revised in response to the new regional policy. The SPPS must be read and applied as a whole. Ultimately it is the responsibility of councils themselves to weigh these matters and provide evidenced justification for policy approaches tailored in response to evidence of local circumstances. In some situations, departures from regional policy may be justified in response to local circumstances.

Any assessment carried out by the council should consider how the new or revised regional policy may influence the weight given to policies in the adopted plan document when making decisions.

Where the assessment concludes that LDP policy continues to take account of regional policy then due weight may continue to be given to the LDP policies in making planning decisions in accordance with Section 6(4) and Section 45(1) of the 2011 Act.

If the council's assessment concludes that LDP policy, no longer takes account of regional policy then due weight should also be attached to those policies in accordance with Section 6(4) and Section 45(1) of the 2011 Act. Correspondingly it would be expected that greater weight would be given to the new or revised regional policy position as a material consideration. If this is the position following assessment, a council will need to consider taking forward a revision to the development plan document under Section 14 of the 2011 Act.

In either situation, it will be for the council to document and justify the rationale and to do so in a transparent and reasoned way. It would therefore be good practice for the assessment to be made available on the council's website.

How does the Department's oversight role relate and complement the Local Development Plan Process for councils?

While the duty on councils is to 'take account of' the RDS - and other policy and guidance issued by the Department – to understand what that means in practical terms it is helpful to consider the duty in the context of the wider Planning Act 2011 and, in particular, the oversight role for Dfl established in Sections 1 and 2.

Section 1 places a duty on the Department to 'formulate and coordinate policy for the orderly and consistent development of land and the planning of that development' and requires the Department to ensure that 'any such policy' is in general conformity with the RDS. As the coordination duty relates to the planning of development it therefore extends to the coordination of LDP policies prepared by councils. The Department must also exercise its functions under subsection 1 with the objective of furthering sustainable development and promoting or improving well-being.

Section 2 is also important because it legislates the oversight role for the Department. Most notably it requires plan documents to be submitted to Dfl for it to cause an IE; requires Dfl to consider the recommendations of the appointed commissioner in relation to Soundness and, most significantly, legislates that adoption of a development plan document can only take place in accordance with a direction issued by Dfl.

While the requirement on councils to 'take account of' regional policy differs from the duty on the Department to secure 'general conformity' with the RDS the two obligations are nevertheless compatible. This is because general conformity does not require complete alignment and still permits councils to take account of regional policy by tailoring it to local circumstances. In undertaking its role in oversight and adoption the Department will be guided, at all times, by its Section 1 duties.