

Agenda

Agenda

 [Agenda PC 03.03.2026.pdf](#)

Page 1

1. Apologies

.2 Declarations of interest

3. Matters arising from the Planning Committee minutes of 03 February 2026 (Attached copies to be ratified at Council 25.02.26))

 [260203 Minutes PC.pdf](#)

Not included

 [260203 Minutes PC PM.pdf](#)

Page 3

4. Planning Applications (Reports attached)

4.1. LA06/2021/1476/F (WITHDRAWN)

4.2. LA06/2024/0104/F

New football stadium for Ards Football Club with capacity of 2000 spectators. Works include two new spectator stands accommodating supporters, matchday facilities, admin office, function and ancillary spaces. New car parking, vehicular entrances to Portaferry Road, hardstanding, new artificial pitch with floodlighting and boundary treatments.

100m East of Newtownards Airport, 61 Portaferry Road, Newtownards

 [Item 4.2 - LA06-2024-0104-F.pdf](#)

Page 52

 [ITEM 4.2 - LA06-2024-0104-F - Addendum - Ards Football Club.pdf](#)

Page 97

4.3. LA06/2024/0945/F

Single storey detached dwelling and associated entrance

Site immediately SE of No. 1 Craigantlet Road, Newtownards

 *Item 4.3 - LA06-2024-0945-F.pdf*

Page 99

Reports for Consideration

5. NIW Closed Catchments (report attached)

 *Item 5 - NIW Closed Catchments.pdf*

Page 121

 *Item 5a - NIW Letter to K Armstrong MLA.pdf*

Page 125

 *Item 5b - Wastewater System Capacity Information.pdf*

Page 127

 *Item 5c - NIW Presentation to Corporate Services Feb 2025.pdf*

Page 132

6. Workshop on Renewables (report attached)

 *Item 6 - DFI Renewables Workshop.pdf*

Page 145

 *Item 6a - DFI Letter.pdf*

Page 147

Reports for Approval

7. Planning and Building Control Service Unit Plan 2026-2027 (report attached)

 *Item 7 - Planning and Building Control Service Unit Plan 2026-27.pdf*

Page 149

 *Item 7a - Planning and Building Control Service Unit Plan 26-27.pdf*

Page 152

Reports for Noting

8. Planning Appeals Update (report attached)

 *Item 8 - Planning Appeals Update.pdf*

Page 173

 *Item 8a - Decision 2025-A0023.pdf*

Page 177

 *Item 8b - Decision 2025-E0006.pdf*

Page 187

9. Confirmation of Listing (report attached)

 *Item 9 - Confirmation of Listing.pdf*

Page 192

 **Item 9a - Signed Schedule.PDF** **Page 194**

 **Item 9b - Listing Map.PDF** **Page 197**

10. Second Review of the Implementation of the Planning Act (NI) 2011 (report attached)

 **Item 10 - Second Review of the Implementation of the Planning Act (NI) 2011.pdf** **Page 198**

 **Item 10a - Report on First Review Jan 2022.pdf** **Page 201**

 **Item 10b - Chief Planner letter to Heads of Planning -22.01.26.pdf** **Page 290**

 **Item 10c - Chief Planner to Chair of Heads of Planning - 04-02-26.pdf** **Page 292**

ARDS AND NORTH DOWN BOROUGH COUNCIL

February 2026

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 03 March 2026** 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 03 February 2026 (Copy attached)
- 4. Planning Applications (Reports attached)

4.1	LA06/2021/1476/F	WITHDRAWN
4.2	LA06/2024/0104/F	New football stadium for Ards Football Club with capacity of 2000 spectators. Works include two new spectator stands accommodating supporters, matchday facilities, admin office, function and ancillary spaces. New car parking, vehicular entrances to Portaferry Road, hardstanding, new artificial pitch with floodlighting and boundary treatments. 100m East of Newtownards Airport, 61 Portaferry Road, Newtownards
4.3	LA06/2024/0945/F	Single storey detached dwelling and associated entrance

		Site immediately SE of No. 1 Craigantlet Road, Newtownards
--	--	---

Reports for Consideration

- 5. NIW Closed Catchments (report attached)
- 6. Workshop on Renewables (report attached)

Reports for Approval

- 7. Planning and Building Control Service Unit Plan 2026-2027 (report attached)

Reports for Noting

- 8. Planning Appeals Update (report attached)
- 9. Confirmation of Listing (report attached)
- 10. Second Review of the Implementation of the Planning Act (NI) 2011 (report 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 9.1

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 3 February 2026 at 7.00 pm.

PRESENT:

In the Chair: Councillor McClean

Aldermen: Graham McAlpine (Zoom) McDowell
McIlveen Smith

Councillors: Cathcart Harbinson (9.16 pm) Hennessy Kendall (Zoom) Kerr
McCollum McKee (Zoom) Morgan Smart Wray

Officers: Director of Place and Prosperity (B Dorrian), Head of Planning and Building Control (A McCullough), Principal Planner (G Kerr), Senior Planners (J Hanna & A Todd) and Democratic Services Officer (R King)

1. APOLOGIES

Apologies for lateness had been received from Councillor Harbinson.

2. DECLARATIONS OF INTEREST

The following declarations of interest were recorded:

Alderman Graham, Alderman McIlveen, Councillor Cathcart and Councillor Kerr – Item 4.5 - LA06/2023/2221/F

Councillor Cathcart – Item 4.2 - LA06/2023/1563/A

3. MATTERS ARISING FROM THE PLANNING COMMITTEE MINUTES OF 02 DECEMBER 2025

PREVIOUSLY CIRCULATED:- Copy of the above.

AGREED on the proposal of Alderman Graham, seconded by Councillor Wray, that the minutes be noted.

4. PLANNING APPLICATIONS**ORDER OF BUSINESS**

In order to facilitate the attendance of external speakers, the Chair advised that Item 4.4 would be brought forward to follow Item 4.1.

4.1 LA06/2024/0952/F – DEMOLITION OF EXISTING DWELLING AND ERECTION OF 2 NO. 3-BED AND 4 NO. 2-BED APARTMENTS
(Appendix I - VII)

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 2No. 3 bed and 4No. 2 bed apartments

Site Location: 115 Station Road, Craigavad

Recommendation: Grant Planning Permission

The Head of Planning and Building Control (A McCullough) outlined the details of the planning application.

At its meeting of 07 October 2025, officers had presented the application for demolition of the existing dwelling at 115 Station Road and its replacement by 6no. apartments.

Members were reminded of the location, close to the end of the private road. Officers had recommended the grant of planning permission, that recommendation being based on the previous extant approval for 4no. apartments on site as allowed on appeal by the Planning Appeals Commission.

The Committee was shown an image of the existing dwelling on site, whilst a further slide displayed the ortho image of the site and a photograph showing the end of the asserted PRow (Public Right of Way) where it met the boundary of the site.

A further image showed the front elevation of the proposed block housing six apartments.

Members were advised that the floor plan remained basically the same as that approved under appeal, with a 0.75m increase in the height of the proposed building, increase in parking, slight reduction in open space provision, whereby there was still provision of c114m² in the form of small communal area to the rear and private balconies – considered to meet the requirements of Creating Places and also cognisant of the location adjacent to the coastal path.

There were a number of issues raised at the Planning Committee meeting of October 2025 which had necessitated a further addendum to clarify a number of assertions made.

In respect of the previous PAC decision, it was clarified that it was a material consideration but the weight to be attributed to it was a matter of planning judgement. A copy of the PAC decision was forwarded to each Member further to the 07 October meeting, and a copy of the minutes at which the appeal decision was notified to Committee was appended to the report.

In respect of the amount of open space to be attributed to a development of this size, the officer highlighted an error in the Addendum at paragraph 22 whereby it was stated that 81.4m² had been proposed.

It was clarified that the total proposed was 114m² made up of 58m² provided as a communal area to the rear of the building, in addition to each apartment having its own private balcony, which was accepted within the guidance document, Creating Places, as being appropriate for apartments. This figure was well above the minimum space requirement suggested of 10m² per apartment.

In relation to the arrangement of the site in the context of the asserted Public Right of Way, the images within the Addendum clearly set out the location whereby the RoW left Station Road and continued to the front of the property along the shore. Those images, alongside the Swept Analysis, clearly demonstrated that there would be no likely reversing of vehicles onto the Public Right of Way, and there was appropriate room for manoeuvring around the site accordingly. The submitted Shorefront section also assisted in highlighting for Members where pedestrians could step aside from vehicles on the road.

A Mindful to Refuse resolution was passed, as proposed by Cllr McCollum and seconded by Alderman Graham, with reasons for refusal to be submitted to Planning officials for review and refinement into appropriately worded reasons.

As noted in the Addendum, a Mindful to Refuse resolution was not a final decision on the application. It allowed Members to reflect on all the information provided and then to exercise its consideration of the planning balance.

A document was submitted setting out the rationale for considering that the application should be refused. That had been circulated to all Members and was appended to the Addendum accordingly. Despite additional concerns raised on the evening of October's meeting, the reasons had been distilled down into density, development not in keeping with the established residential area, and precedent. A final slide set out the proposed reasons for refusal based on the rationale submitted. The matter now rested with Members accordingly.

The Chair invited questions from Members for clarification.

Councillor McCollum referred to 'pull in' areas along the right of way and asked if those were private or publicly owned. The officer advised that they were private and Councillor McCollum argued that they could be closed off by the owners at any time which she understood would prevent motorists being able to give way to oncoming vehicles as well as restricting pedestrian access along the route.

While the officer accepted that, she pointed to grass areas at the front where it provided room to step aside. Councillor McCollum noted those areas were also privately owned and owners could withdraw public access at any time.

Attending to speak against the application, Ms Emma McBurney was permitted to give an address lasting up to three minutes.

Ms McBurney advised that she was speaking on behalf of local residents and made the following points:

- The reasons for refusal before Members reflected the Committee's resolution of October 2025.
- The Planning Department had confirmed that the Committee was not bound by the previous PAC decision and was entitled, as a matter of law, to distinguish that development from the proposal now under consideration.
- The applicant's repeated claim of a genuine fallback position was disagreed with, as the fallback related to four units rather than six.
- The increased intensity of use and the associated requirement for additional car-parking spaces would have resulted in the loss of private amenity space, further urbanising the land use in a manner akin to a city-centre apartment development.
- The applicant's comparison with a town-centre apartment scheme demonstrated this point.
Residents' complaint was twofold in that the development was substandard and contrary to creating-places guidance, and it would have resulted in unsafe access arrangements, including the potential for reversing vehicles onto the public right of way abutting the PAC site boundary.
- Access to the public road was taken from the boundary of the application site along a 350-metre public right of way with no footpaths, used daily by hundreds of walkers, cyclists and children.
- The introduction of additional traffic would have been unsafe and would have prejudiced users of the right of way, which was a material planning consideration.
- Reference was made to the applicant's 'Access and Manoeuvring Clarification' document.
- On behalf of residents, Marrac Design had submitted a rebuttal which demonstrated that the clarification document was fatally flawed.
- The submission failed to acknowledge that four dwellings - two existing and two beyond the application site - held an unfettered right of way over the application site.
- The applicant's claim that only vans could deliver below the railway bridge was disputed as incorrect.
- A further submission entitled 'Shore Front Layout' was referenced, noting that it related to private land outside the application boundary and formed no part of the proposal before the Council.
- The applicant had a right of way to pass over Station Road — the road surface - which fronted the shore.

- The right of way was confined to the road and not to the private bell mouths or the areas of the front garden alleged to be verges for the frontage dwellings.
- The claim of a new road being built was inaccurate.
- The recent submissions carried little or no weight, and the residents' rebuttal highlighted fundamental issues with the application.
- A respectful request was made that the Committee proceed with its 'minded to refuse' recommendation.

As there were no questions, Ms McBurney returned to the public gallery.

Speaking in support of the application, Mr James Morley was permitted to address the Committee for up to three minutes, and he made the following points:

- The refusal reasons centred on two matters: the increase in density and the slight increase in height.
- The correct starting point for assessing the proposal was the already approved scheme, and an increase in density, in itself, was not a reason for refusal.
- The relevant test was the visual and physical impact, and there was no significant change in appearance when compared with what had previously been approved.
- The site had sufficient parking and amenity space for the proposal, and the increase in density should therefore have been regarded as acceptable.
- The height increase was insignificant, and when viewed in context it did not result in any greater visual impact.
- The planning arguments relating to density, design and townscape character had already been extensively argued by the Council and settled by the Planning Appeals Commission.
- Public resources should not have been wasted on repeatedly reassessing the same issues between the same parties on substantially the same basis.
- The Committee was required to undertake a full weighing and balancing exercise, and detailed viewpoints were set out in the supplementary notes.
- Planning reports should have been read as a whole and not analysed in the manner of statutes or contracts.
- Part of the weighing and balancing was the fallback position and the PAC decision, both of which were considerations that should have carried significant weight.
- The proposal related to the same site, same building and same principle of development, with only a slight height increase and a change in density.
- The height increase was sought solely to protect the property and future residents from coastal flooding, and this consideration should have outweighed any minimal visual impact.
- The change in density - from four to six units - did not materially alter the visual appearance of the already approved scheme.
- This was an increase in density without town cramming.
- It was an increase to an already approved building which correctly aligned with the policy being used to support a refusal.

- The site could easily have accommodated the increase, and the Committee was challenged to identify where the harm was.

As there were no questions from the Committee, Mr Morley returned to the public gallery.

Councillor McCollum proposed, seconded by Alderman Graham, that the Council refuse planning permission.

Councillor McCollum spoke to her proposal, expressing the following views:

- Both the applicant and objectors had been given a fair opportunity to present their submissions and new material.
- The refusal reasons she had put forward were robust, precise and well linked to planning policy and legally defensible.
- While a departure from the Planning Department's recommendation, the planning considerations she had based her proposal on were sound, fair and reasonable.
- While respectful of the PAC approval for the previous application, she argued that this was not binding, nor was it the only material consideration and the Committee was required to attach weight which it felt appropriate.

Councillor McCollum went on to refer to the document which outlined her refusal reasons, and she confirmed that they were as stated. She provided a brief overview of her main points as follows:

- The application conflicted with Policy LC1 of the Addendum because its housing density was far higher than the established area.
- The existing neighbourhood density was five dwellings per hectare, and the accepted fallback position was 40 dwellings per hectare. The current proposal for 64 dwellings per hectare represented a further 50% increase.
- Combined with the increased building height, she considered the impact harmful and unacceptable.
- The proposal did not respect the established character, form or environmental quality of the area and the site formed part of a distinct and valued coastal area.
- Departing from SPPS par 6.137 required exceptional circumstances which Councillor McCollum argued had not been demonstrated and the PAC also found no basis for treating this as an exceptional case.
- The scheme would set an unacceptable precedent which could lead to 'creeping consent' – small approvals that gradually justified more intensive and harmful development.
- There were other patterns of this in the Borough including an example referenced by the applicant on Seafront Road.

The seconder, Alderman Graham, noted the increased density and the site would access a public right of way on the coastal path, a road that was not under control of public authorities. He remained concerned that the additional traffic would compromise safety and confirmed that his previous objections still stood.

Alderman McIlveen was unable to support the proposal to refuse planning permission, he had not supported it previously and had not heard anything that had altered that view.

He felt that the weight of the PAC decision was a key one in this particular case and there was already a precedent there for a development of this size and scale – suggesting that, externally, the build form was similar to what already existed in the area. He recognised road safety concerns were debated previously and while not a fan of the development, ultimately the decision needed to be taken on existing policy and the PAC decision.

Alderman Smith took a similar view remaining unconvinced of the reasoning to refuse. He was content that the issues with open space and car parking had been resolved and noted that only a minor increase in the building height, feeling that visual impact was negligible. He estimated that the traffic increase would only be 10% which he felt was not significant. Given all evidence before the Committee, he believed it was difficult to refuse planning permission.

On being put to the meeting, with 8 voting FOR, 6 voting AGAINST, 1 ABSTAINING and 1 ABSENT, the proposal was CARRIED.

The voting was as follows:

FOR (8)	AGAINST (6)	ABSTAINED (1)	ABSENT (1)
Aldermen	Aldermen	Aldermen	Aldermen
Graham	McDowell		
McAlpine	McIlveen		
	Smith		
Councillors	Councillor	Councillors	Councillor
Cathcart	Hennessy	McClellan	Harbinson
Kendall	Morgan		
Kerr	Wray		
McCollum			
McKee			
Smart			

RESOLVED, on the proposal of Councillor McCollum, seconded by Alderman Graham, with 8 voting FOR, 6 voting AGAINST, 1 ABSTAINED and 1 ABSENT, that the Council refuses planning permission.

4.4 LA06/2024/0771/F – CHANGE OF USE FROM AGRICULTURAL BUILDING, COMMERCIAL STORE AND WORKSHOP TO DWELLING WITH EXTENSION AND RELOCATION OF THE ACCESS
(Appendix X)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Ards Peninsula

Committee Interest: Called in by a Member of the Planning Committee.

Proposal: Change of use from agricultural building, commercial store and workshop to dwelling with extension and relocation of the access.

Site Location: 60m to the SE of 31A Loughries Road, Newtownards

Recommendation: Refuse Planning Permission

The Planning Officer (A Todd) outlined the details of the planning application. It had been recommended for refusal and had been called in by Alderman McIlveen to determine whether the building was considered to be appropriate for conversion under Policy CTY4 of PPS 21 and the SPPS and to ensure consistency with previous decisions of this type taken by the Committee.

The site was located at the junction of Loughries Road and Drumawhey Road and was occupied by a single storey building last used for agricultural and storage purposes. Site boundaries to the road were undefined at the corner of the junction however mature hedgerows defined the remainder of the road frontage boundaries as well as a hedgerow along the rear western boundary.

The existing building was a mix of stone and block construction with render finish and an asymmetric corrugated metal roof. There were two large openings comprising corrugated metal doors, one to the front and one to the side along with smaller door and window openings on the front elevation of the building which had been blocked up.

Members were shown the plan and elevations of the existing building. Internally, the building was split into two separate areas. The front section appeared to comprise of the remains of an older building of stone construction and the rear section was a later addition.

It was proposed to remove the rear section of the existing building, retain the front section and add a new rear return.

The proposed dwelling was small in scale and of a traditional linear form with finishes of stone, render and slate.

As the application was for the change of use and conversion of a building to a dwelling in the countryside, it had been assessed against the SPPS and policies CTY1 and CTY4 of PPS21. While policy CTY 4 'Conversion and Reuse of Existing Buildings', stated that planning permission would be granted for the sympathetic conversion of a suitable building for a variety of uses including a dwelling, paragraph 6.73 of the SPPS introduced a further requirement that the building must be of local importance and cited examples such as former school houses, churches and older traditional barns and outbuildings. The SPPS was clear in paragraph 1.12 that any conflict between the SPPS and PPS 21 was to be resolved in favour of the SPPS.

While the SPPS did not define 'locally important', the examples given were suggestive of buildings that generally had some local architectural merit or historic interest. In the consideration of appeals, the PAC had consistently taken the view

that the SPPS required the building in question to be of some merit and importance to its local setting making it worthy of retention and to warrant it being of 'special character or interest'.

A series of historical maps of the site confirmed that a building had occupied the site since the early 1800s and that it appeared to be in the same location as the older section of the current building on site. While the Planning Department did not dispute the historical evidence of a building on the site, characteristics of any traditional vernacular merit of a building that may have once existed on the site had long gone.

As outlined in a further image, there appeared to be the remains of traditional stone walls within the front section of the building along with blocked up door and window openings however, what little remained of any vernacular building had been so extensively altered that it no longer exhibited any vernacular or architectural features of merit which would be considered worthy of retention. The roof of the original building had been removed along with the upper sections of the original gable walls, and a large extension and asymmetrical corrugated metal roof had been added.

Further images showed the original building on the site dating back to the 1800s was an L-shaped building which would have marked the corner of the junction of the two roads. As could be seen on the present-day aerial image, the rear portion of this original building no longer existed and the extension built to the north-west elevation, had doubled the depth of the original building.

Proposals for conversion considered under the SPPS and Policy CTY4 had to be considered based on the condition and merits of the current building on the site, not based on a building that may have once occupied the site in the past. The current building exhibited no vernacular features of any worth and despite the building being known as Barn End in the past by one local resident, there was no evidence of any particular historic interest or use associated with the building.

In terms of its general suitability for conversion and re-use, the building was of a considerable age however no structural survey or other evidence had accompanied the application to demonstrate that the building was structurally suitable for adaption. In the front section of the building, the rear wall was higher than the front wall which would not have been an original feature of a vernacular building and it had therefore been significantly increased in height to accommodate the new roof.

In the submitted Design and Access Statement, the agent raised two conversion proposals which were allowed at appeal, that he considered to be similar to the current proposal, one at 65 Rathmore Road, Dunadry, and one adjacent to 11 Killyvolgan Road, Ballywalter. Both of these buildings were substantial vernacular two storey barns with original intact walls, roofs and window and door openings. In both appeals, the Commissioners considered the buildings to be good examples of traditional vernacular barns. The buildings were found to be in good repair and considered to be good examples of non-listed vernacular architecture. The Planning Department did not consider that the heavily altered building at Loughries Road was comparable to these examples of traditional purpose-built barns.

A further slide showed some examples of other proposals for conversion which were dismissed at appeal. These buildings were more comparable to the current building

under consideration and were not considered by the PAC to be locally important. In these appeal decisions, the Commissioners determined that the policy did not state that all older vernacular buildings were necessarily locally important and despite age and stone construction of the buildings in question, they were found to display no noteworthy architectural features or merit. These buildings had similar characteristics to the current building under consideration and on this basis the Planning Department was content that its assessment and policy interpretation was consistent and in line with the PAC's approach.

In his call-in request, Alderman McIlveen had also asked that Members ensured consistency of approach with previous decisions of this type taken by the Committee. While each individual planning application should be considered on its own merits, it was also important that planning policy and guidance was applied consistently. There had been four examples of previous similar proposals considered by Committee in recent years, summarised as follows:

The first July 2019, was for the conversion of an outbuilding to tourist accommodation at 50 Thornyhill Road, Killinchy. Committee agreed with the officer's recommendation to refuse on the grounds that this building was not considered to be locally important given its lack of any architectural or historic features of merit.

The second application considered by Committee in June 2023, was for the conversion of a barn to a dwelling at 29 Newtownards Road, Comber. Committee agreed with the officer's recommendation to approve on the grounds that the building was considered to be of local importance. Factors which were considered to contribute to its local importance included construction of local Scrabo Stone and Bangor Blue slates, the building's association with the prominent period property at No. 29, the historic use of the building as housing for local farm workers and the various attractive vernacular features such as the irregular window openings.

The third application considered by Committee in March 2023 was for change of use from a garage to a holiday let. This was recommended for refusal by officers as it was not considered to be a locally important building however Committee overturned the recommendation and approved the application giving determining weight to the tourist use and on the basis that the works carried out to the building made it appear locally important as it was a noticeable feature when travelling along the Portaferry Road.

The last application considered by Committee in September 2025 was for conversion of ancillary accommodation to a dwelling. Committee agreed with the officer's recommendation to refuse on the basis that the building was of modern construction exhibiting no architectural or historic merit and therefore it was not considered to be locally important.

In summary, the Planning Department did not consider that the building in question was of local importance as required by the SPPS. The original building had been heavily altered and extended, and no vernacular or architectural features of any worth remained, nor was there evidence of any historic use or interest associated with the building. The Planning Department was content that the consideration of the application and the interpretation of policy was consistent with the approach taken by

the PAC and on this basis, it was recommended that planning permission was refused.

The Chair invited questions from Members for clarification.

Alderman McIlveen, recalling the minutes of another application at Moneyreagh Road, had noted a recurring theme concerning what was considered to be locally important by the Committee, specifically sites that were on or visible from the road. He put this to the officer who explained that visibility was not necessarily a test but could be a factor.

Alderman McIlveen argued that in examples where the Committee had gone against officer recommendations, the cases had involved sites that were prominent and visible. He had noted that the case on Moneyreagh Road was modern in construction but clearly on the road. He recalled a previous discussion where his colleague had focused on local significance, particularly the presence on the road as the main point of an argument. In this case he felt that the building marked a road corner and was quite prominent locally.

The officer responded that while prominence could be a factor, policy also required architectural merit or historic interest.

Alderman McIlveen asked if officers accepted that part of this building was used as a pre-existing cottage and the officer, while unsure if that was its original use, pointed to evidence of traditional stone walls.

In a further query, Alderman McIlveen recalled one of the presentation slides relating to the restoration of a cottage and believed that the windows and the chimney flue pointed to former residential use. He also understood from reviewing the application, that there was presence of stonework under the render. He asked if the applicant intended to remove the newer elements of the building in order to retain the old stonework, feeling that the thrust of the application was to bring the old building back to life.

The officer stated that appeared to be what was being proposed but there was no submission of a structural survey to support the plans.

Councillor Wray acknowledged the officer's expertise in interpreting plans and policies and accepted that this type of application was new to him. He referred to evidence that the building had existed since 1833 and was known as The Barn End. He argued that the building's physical presence alongside the road made it well known locally, despite not everyone being aware of its full history. He asked how officers had determined that the building had no local interest.

The officer responded that the decision was based on evidence presented with the application and there was no evidence of historic use presented other than one local resident had said it was known as The Barn End. Weight also had to be given to PAC decisions which did not allow the conversion of every old building but only those that had particular merit, vernacular worth or special character.

Mr Stephen Dickson was in attendance to speak in support of the application and made the following points:

- The building, known locally as ‘The Barn End’ and confirmed by an 86-year-old local resident and others, was clearly an undesirable building, visually prominent in any direction, in a commanding roadside position at a corner and junction.
- The building was not derelict.
- The owner’s health in later years did not permit keeping livestock, but the established agricultural, workshop, storage, building-materials and commercial use was evident.
- The established use could have been continued or intensified with auto repairs, a joinery workshop or small manufacturing, etc., with little control.
- Potentially, the building could have been replaced with a new, potentially undesirable purpose-built commercial shed, subject to approval.
- The vegetation and render to the façade had been removed to visibly show the character and architecture of the existing vernacular building / original cottage.
- Internally and externally, the cottage window and door opening positions and surrounds were still intact. The original fireplace position and chimney were evident centrally on the original gable to the Loughries Road.
- The exposure of the stonework had highlighted the aesthetic quality of the stone walling as an exceptional feature worthy of retention and context, conferring a local historical significance on the building.
- Policies set out provisions for sympathetic conversion, with adaptation, if necessary, of a locally important building (such as former schoolhouses, churches and older traditional barns and outbuildings) as a single dwelling where this would secure its upkeep and retention.
- It did not define “locally important,” but examples given were suggestive of buildings that generally had some local architectural merit or, as in this case, historic interest.
- Public views of the building were not a policy requirement; however, “locally important” surely implied that the building must be a focal point or landmark.
- Historic mapping confirmed the building’s vernacular status from the 1840s.
- The building had been altered over the years to meet the needs of the original vernacular dwelling and later the current established use.
- These alterations could not take away the fact that the ethos of the formal vernacular architecture had only been masked, with the historical detailing still evident, shown by the exposed stonework, internal fireplace, flue, sills, windows and door openings.
- The chimneys had been removed, but the gable peaks were only reduced by approximately 50%, as detailed on drawing “03A Existing Sheds.”
- The proposal would visually integrate into the site and surrounding area and would provide a dwelling acceptable in design and appropriate to the local area.
- The COR stated: ‘With all things considered it is my planning judgment that the proposed extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building.’
- Also: ‘On balance, due to the roadside location and the open views of the site, together with the criteria of the policy CTY14, the design of the proposal is

acceptable. The conversion to dwelling will not exacerbate the prominence of this building in the local landscape.'

- The appeals referenced were relevant support to the application, as they both importantly suggested that works to the buildings could be accepted to restore their character, maintaining them as historical rural vernacular buildings.
- The scheme would secure the retention and improvement of a rural building of merit, as well as the removal of the unremarkable part of the existing structure, enhancing this rural property. The scheme would therefore constitute an ecological and environmental improvement in this locality.
- Numerous vernacular barns, etc., had been approved by the council for change of use in farmyards, etc., in areas where they were not in public viewpoints. These had been deemed to be buildings meeting the requirements of "locally important" on virtually their age alone.
- Given its historic value and prominent location, it must have been a material consideration that "The Barn End" was "locally important."
- It was ironic that policies allowed for an additional dwelling in the countryside adjacent on the ownership, but planners considered conversion and enhancement of the existing building inappropriate.
- Approval or refusal depended on whether members considered this to be a 'locally important building' and appropriate development for this site and locality.

The Chair invited questions from Members and Councillor Cathcart sought clarification on the stonework and if the applicant would be agreeable to have its use included in a condition, should planning approval be granted.

Mr Dickson confirmed the intention was to develop with exposed stonework, noting that the existing building incorporated large stones throughout the elevation, unlike more economical buildings where stone size typically reduced higher up. He confirmed that the applicant intended to retain the main cottage structure and the proposal included reuse of the chimney and fireplace. Mr Dickson indicated that the applicant would be happy for such a condition to be placed on an approval.

Alderman Graham questioned if it would be feasible to retain such a significant element of the old stonework and queried the previous structure of the roof, if it had originally been an apex roof with slates. Mr Dickson believed that assumption was correct, pointing to more recent agricultural use as the reason for the existing sloped tin roof. He believed that that it would be feasible to retain the original stonework.

Councillor Hennessy asked if it was known if the building was structurally feasible and if a survey report had been produced. Mr Dickson explained there had only been a visual survey but reported that there were no major cracks and the walls had survived due to the roof and maintenance and use as an agricultural workshop. He explained that the render was difficult to remove at the front and that was done as part of the investigation during the application.

Referring to the proposals, Councillor Morgan noted there was very little stone wall and a lot of concrete blocks. She asked what proportion of the development would feature the stonework.

Mr Dickson referred to the image of the existing footprint which was the outside walls of the old cottage. In addition to that footprint the applicant was adding a back return and a front porch. He pointed to the existing front door and windows and front elevation of the proposal

As there were no further questions, Mr Dickson returned to the public gallery.

The Chair invited questions to the officer and Councillor McCollum noted the cost and complexity of renovating an old stone building and asked what would happen if the project later proved unviable. She wondered if it would be essential for the original stone to be re-used, or whether the applicant could simply build a basic bungalow instead.

The officer advised that specific walls could be conditioned, and a structural survey would be required. The applicant would be required to retain the existing structure as an alternative structure would be considered a replacement.

Alderman McIlveen proposed, seconded by Councillor Wray, that the Council grant planning permission.

Alderman McIlveen felt that the proposal was sympathetic to the countryside and would be consistent with the Committee's previous approach - noting that the building was prominent from the road. It was important for the Council to look at how it could protect its built heritage and not allow a building to go to 'rack and ruin' but protect it for future generations. It was important for it to be conditioned appropriately, and he was content for that to be delegated to officers.

Councillor Wray agreed with that approach in terms of conditioning along with the importance of protecting built heritage at what he felt was a locally important building in terms of the policy. He felt it would both enhance what was there now and the type of building that could have been constructed.

Councillor Cathcart felt it was a difficult balance but accepted the argument that the building was unappealing in its current condition and would benefit from the conversion. He felt it important that the condition to retain the stone walls be included and he sought reassurance on that.

The Head of Planning and Building Control had concerns on how such a condition could be applied and warned that this could be problematic in terms of enforcement if the conversion proved unviable. The condition could also potentially place the applicant in a position they did not wish to be in.

Councillor McCollum wondered if a deferral to allow for the submission of a structural survey would be more appropriate and the officer advised this fell under a deferral for further information and was an option open to the Committee.

Councillor Morgan agreed that a structural survey should be the minimum requirement though she struggled to support the proposal to grant planning permission, suspecting that it would not be viable to retain the stonework while also raising concerns about a lack of information to suggest the building was of local importance. She also felt the proposed conversion, whilst attractive, was not sympathetic to the barn.

Councillor Hennessy was supportive of conversions of vernacular buildings, but he returned to the policy reasons for refusal and agreed that the building was not considered locally important, or of any architectural merit with no vernacular features.

The Chair asked the officer for guidance on the protocol for a deferral to allow submission of a structural survey and the officer referred to protocol that allowed deferrals for clarification, additional information or a site visit. She also pointed out that since 5th January 2026, the Council's Validation Checklist, as approved by Committee, required submission of a structural survey before an application could even be validated.

Alderman McIlveen had appreciated the concerns raised by the officer and did not want to place a burden on the officers or the applicant in terms of dealing with the matter and he hoped that the Committee could at least agree in principle with the development and the retention of built heritage. He wondered if the Committee would be 'minded to approve' the application in that regard which he felt would provide comfort for the applicant before a financial commitment to attain a structural survey report.

The officer referred to procedural guidance and explained complexities in proceeding with a 'minded to approve' agreement. Alderman McIlveen was content to withdraw his original proposal and proposed the following:

That the application is deferred to allow for the submission of a structural survey.

Councillor Wray agreed to second the proposal.

Alderman Graham was sympathetic to the application and queried if the onus was on the architect to satisfy the requirements in terms of structure, noting the design could be amended to retain the stonewalls in such a way that they were not load bearing. He queried the next steps of the process if the Committee was to agree to the deferral.

Referring to the formal definition, the officer advised that the survey was a comprehensive report on the condition and construction of a property and would be required to support applications for the conversion of a rural building to demonstrate that it was capable of conversion without major or complete reconstruction. This was the responsibility of the applicant to obtain an appraisal of the structural stability of the building, identifying clearly any rebuilding works and to include a schedule of works necessary to carry out the conversion.

On being put to the meeting with 10 voting FOR, 4 voting AGAINST, 1 ABSTAINING and 1 ABSENT, the proposal was declared CARRIED.

The voting was as follows:

FOR (10)	AGAINST (4)	ABSTAINED (1)	ABSENT (1)
Aldermen	Aldermen	Aldermen	Aldermen
Graham	McDowell		
McAlpine			
McIlveen			

Smith

Councillor

Cathcart

Kendall

Kerr

McCollum

Smart

Wray

Councillor

Hennesy

McKee

Morgan

Councillor

McClellan

Councillor

Harbinson

RESOLVED, on the proposal of Alderman McIlveen, seconded by Councillor Wray, with 10 voting FOR, 4 voting AGAINST, 1 ABSTAINED and 1 ABSENT, that the application is deferred to allow for the submission of a structural survey.

(Councillor Cathcart left the meeting having declared an interest in Item 4.2 - 8.24 pm)

4.2 LA06/2023/1563/A – REPLACEMENT OF TWO-SIDED FIXED PRISMATIC SIGN WITH ELECTRONIC MESSAGE DISPLAY PANELS (RETROSPECTIVE)

(Appendix VIII)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Ards Peninsula

Committee Interest: Call-in by a Member of the Planning Committee

Proposal: Replacement of two-sided fixed prismatic sign with electronic message display panels (retrospective).

Site Location: Cardy Gospel Hall, 1 Cardy Road East, Greyabbey

Recommendation: Refuse Consent

The Principal Planner (G Kerr) outlined the planning application. It was before Members due to a call-in from the delegated list by Councillor Cathcart in the week beginning 24 November 2025, to determine whether the sign did or did not cause demonstrable harm to the amenity and character of the rural area in line with PPS 17, Control of Outdoor Advertisements, Policy AD1.

It was noted that there were both letters of objection and support in relation to the proposal. Environmental Health, DFI Roads and the Biodiversity officer had been consulted and had no objections. Members were also advised that there was a history of enforcement at the site, with the submission of applications as a result of investigations. The recommendation was to refuse advertising consent. Using a Google image, the officer explained that the site was located in the countryside, approximately 1.8km north-west of the settlement of Greyabbey, which was the closest settlement shown by the Ards and Down Area Plan. The site lay within a rural setting with a dispersed pattern of settlement, including dwellings in the vicinity.

Members were shown the previously approved signage to assist in understanding cumulative impact. The officer highlighted that this retrospective application had been considered alongside another retrospective planning application for signage, LA06/2023/1562/A, which related to the replacement of gable signage with an illuminated sign. Both electronic signs were located within the curtilage of the church, separated by a distance of approximately 41m, with both visible from Cardy Road. The application for the gable of the church had been granted consent. However, the officer advised that if the unauthorised sign under consideration were to be granted consent, its illuminated nature and close proximity to the approved sign would result in a negative cumulative impact within the countryside setting. When viewed together, particularly at night when illuminated, the signs would not be sympathetic to the rural setting.

Images of the site and surrounding area were shown to provide context. Turning to planning policy, the officer advised that the provisions of PPS17: Control of Outdoor Advertisements were material to the assessment. Policy AD1 stated that consent would be given for the display of an advertisement where it respected amenity when assessed in the context of the general characteristics of the locality, and where it did not prejudice public safety. In assessing the impact of a sign on amenity, Policy AD1 required consideration of several matters, which were outlined on the slide. The amplification text stated that care must be taken to ensure that an advertisement would not detract from the place where it was to be displayed or its surroundings, and that it was particularly important to prevent clutter and adequately control signs involving illumination. Amenity, in relation to advertisements, was understood to mean the effect upon the appearance of the building or immediate neighbourhood where it was displayed, or its impact over long-distance views. Further images of the site and the sign were shown. The officer explained that the unauthorised free-standing sign was located adjacent to the public road at the vehicular access to Cardy Gospel Hall. Members were shown the dimensions of the sign, which was a two-sided fixed prismatic sign with a two-sided static electronic message display, panel-mounted on galvanised support poles, measuring 2m wide and 2m high.

Images of the original sign were shown, and the officer advised that the sign under consideration had replaced the original free-standing sign in the same position and of similar dimensions; therefore, it was considered replacement signage. It was considered reasonable that during daylight hours, when the electronic sign was not illuminated, it had no significantly greater visual impact than the original sign and did not harm the character or appearance of the area.

However, when functioning and illuminated, the sign had a significantly different appearance to the original sign. Members were shown an image of the sign illuminated.

The officer advised that the sign was visible from both approaches along Cardy Road East: from approximately 185m away on approach from the east, and from approximately 160m away on approach from the west, although it was partially screened from the west at certain points by the existing roadside church hall.

In relation to illumination, Members were advised that guidance in Annex A, relating to pole-mounted signs, stated that the height, size and levels of illumination of such signs may result in visual intrusion within the locality. They could be extremely dominant over long distances and detract not only from the character and appearance of the area in which they were sited but also from the area from which they were viewed. In addition, where proposed close to residential properties, they could be detrimental to the amenities enjoyed by local residents. One of the stated design guidelines also advised that they should not be sited adjacent to, and wherever possible should not directly face, residential properties.

Images of nearby residential properties were shown. In terms of residential amenity, the officer advised that the sign was highly visible from five existing dwellings located on the opposite side of the road from the church: Nos. 2a, 2b, 2c, 4 and 10 Cardy Road East. Given the distances ranging from 35.6m to 135.3m away from the sign, it was considered that the separation distances were sufficient to ensure that the lighting of the sign would not impact on the residential amenity of these properties to an unacceptable degree. However, it was noted that this issue had been a main theme of objections raised by neighbouring properties.

The officer then referred to paragraph 4.8 of PPS17, which stated that the amenity of the countryside was particularly important and that there was a need to protect its unique qualities from the negative effects of advertising. The only advertisements likely to be acceptable in the countryside were those proposed on site and which related to existing or approved commercial enterprises. These should be small in scale and should not detract from the quality and character of the local landscape.

It was considered that the advertising structure did not meet the guidance within the policy. The two electronic screens measured 2m x 1m and over 2m in height, both of which would be illuminated to display electronic messages. The illuminated electronic function of the sign was not acceptable in a rural setting. The sign was commercial in appearance, more characteristic of signage found in an urban setting, particularly at commercial premises. It was uncharacteristic of the countryside setting and would cause detrimental harm to the visual amenity of the immediate area. Supporters of the illuminated sign had mainly referred to the ability to update on church events, rather than the principle of the sign itself. Other issues raised by objectors included concerns relating to road safety and bat activity.

In conclusion, the officer advised that, taking all factors into consideration, the illumination within the countryside setting was not acceptable, adversely impacted upon the rural character of the area, and refusal of consent was recommended.

The Chair invited questions from Members for clarification.

Alderman McIlveen appreciated that the sign was of similar dimensions to the previous wooden structure and noted that, interestingly, DFI Roads usually objected to such applications but had not done so in this case.

The officer had been surprised that DFI had not objected and referred to the location being on a slightly curved section of road – she was concerned that it would be distracting for motorists.

Alderman McIlveen noted that objections had focused largely on bat activity rather than visual impact of the sign and the officer confirmed that they had also related to appearance. She confirmed that the Council's biodiversity officer had raised no concerns over bat activity.

In a further query, Alderman McIlveen asked whether the level of lighting could be controlled so that it would not be as bright, or whether such a condition could have been attached.

The officer advised that, as the matter had arisen from enforcement action, the Planning Department had to consider what was already in place. While the upcoming speaker had suggested conditions, the officer added that conditions could not be recommended. A new application could be considered but this would also require consultation with Environmental Health and DFI Roads.

Alderman McIlveen asked if Environmental Health had been consulted in this case and the officer explained that it had recommended conditions being attached with regard to lighting but again, conditions were not being applied due to this being retrospective and arising from enforcement. Officers would be willing to consider a new application however with changes to the sign and lux levels.

Given it had not objected in this case, Alderman McIlveen questioned why Environmental Health would need to be consulted again as part of a new application.

It was explained that the sign was unauthorised and the application was being assessed on the existing lighting levels. The officer acknowledged that this was a church in the countryside and that signage was necessary, and for balance, the other retrospective sign on the gable end had been granted consent with conditions on timing and lighting levels.

Alderman McIlveen noted that the other sign was also retrospective and subject to enforcement action but had been granted consent with conditions.

The Chair asked if the only way for mitigations to take effect would be through submission of a new application and if such mitigations would overcome the Planning Department's objections in principle. The officer confirmed that the Planning Department would be willing to consider a new application and clarified that while the other sign had been acceptable, this one differed due to the size of the illuminated sign and amenity impact. There were concerns about the intensity of the light at night.

The officer added that if a new application was submitted with a different size and lux level, the application could be considered afresh. The Chair noted the Committee would then be able to make its own judgement and decide what conditions it felt appropriate.

Councillor McCollum expressed concern at the level of illumination and its location on the bend in the road and was shocked that DFI had not made any objection regarding safety. She asked what options were available to the Committee and

whether it was procedurally possible to grant planning consent with conditions attached that evening.

The Head of Planning and Building Control reiterated that the sign was unauthorised and explained the difficulties this presented the Planning Department in terms of making amendments on the spot. It was also unknown if it was technically feasible for the applicant to meet the suggested conditions in terms of controlling timings and lighting levels of the sign.

In terms of procedure, she referred to the relevant protocol and advised that Members could add, amend and remove conditions to an approval if they overturned.

The Chair introduced Mr Thomas Bell and Mr Brian Ambrose who were in attendance to speak in support of the application. They made the following points:

- The Council had already confirmed that the principle of a sign at this location was acceptable, leaving illumination and its potential impact on rural character as the only remaining issue.
- The issue had to be considered in the context of the site's existing character, which was highly relevant regardless of whether the sign was illuminated.
- The site was:
 - (i) bounded by urban form including a boundary wall, railings, road and path;
 - (ii) located within and adjacent to a large car park with floodlighting;
 - (iii) within and backed by church buildings, all of which had lighting;
 - (iv) surrounded on all sides — north, south, east and west — by residential development, all of which had lighting; and
 - (v) since late last year, overlooked by a 2.7m x 1.2m illuminated sign on the gable of the church hall, which had longer critical viewpoints into the rural area due to its elevated position.
- This illuminated baseline context would have remained even if the current proposal were refused.
- All consultees had raised no objections.
- This was significant, particularly as DfL Roads - responsible for road safety and assessing visual distraction - and Environmental Health - responsible for residential amenity and light impact - had had no concerns.
- The expert consultees' professional assessments, which were visually based, indicated no issues with character or amenity.
- The proposed illumination level complied with the Institution of Lighting Professionals Report No. 5 on nighttime luminance for illuminated advertisements.
- In the spirit of compromise, the applicant was willing to accept conditions requiring a reduction in brightness from the recommended 300 candelas to 200 candelas, noting that 300 candelas was the level recently approved for the church hall gable sign; and automatic switch-off of the sign at 10 pm each day.
- The scheme provided an important community service.

- The Council had suggested that the Church could communicate events through traditional means such as social media and that the sign was not essential.
- The Church did not accept this, as many elderly members did not use social media regularly and the sign was an essential tool for sharing real-time or short-notice information.
- Third-party objections were acknowledged, but there had also been significant support for the proposal.
- When scrutinised, none of the objections were determining.
- The proposal was policy compliant, supported by consultees, and provided a key information service for both the congregation and the wider community.
- Reference was made to Section 55, noting that the Council had the ability to grant permission with conditions, including retrospective conditions, as had occurred in other cases.
- Two existing signs required replacement due to age, and the Gospel Hall had believed they were permitted to replace them, although it had become clear that this was not the case.
- The sign on the gable end had been approved, but the sign at the roadside served the public rather than church members.
- WhatsApp and social media were the usual means of communication with the congregation.
- An event had been cancelled the previous week due to a storm, and the digital sign had provided the necessary flexibility to communicate that message quickly.
- The church wished to work in harmony with the local community and was willing to accept the conditions proposed.
- Clarified that the church was located on the straight part of the road and not on a bend.

The Chair invited questions from Members and Councillor Wray asked the speakers if it was technically possible to change brightness levels and timings of operation and if any form of engagement had taken place with those residents who had objected.

Mr Bell advised that the supplier of the sign had confirmed that the technology could be controlled both in terms of lighting levels and timing and there was no reason for the sign to be in operation after 10pm. Mr Ambrose had not engaged with objectors as there had been no proposal but he indicated a willingness to do so, pointing to previous community engagement over an unrelated matter.

Alderman McIlveen noted the suggested reduction in brightness and wondered how that would impact on the sign in terms of visibility and its purpose.

Mr Bell advised that the applicant had engaged with the supplier of the sign and they had advised that 300 candelas would be acceptable but when pressed – in the spirit of compromise – had confirmed that it would still work adequately as a messenger service if reduced by 100 candelas.

Alderman McIlveen asked for proposed timings of operation and Mr Ambrose felt 9am to 10pm would be appropriate.

The Chair noted that DFI Roads recommended conditions in these situations that images on signs should be static. Mr Bell responded that there were no objections to that, advising that it was a messenger service and not commercial in nature. It was about providing information to elderly and mother and toddler groups, for example.

As there were no further questions, Mr Bell and Mr Ambrose returned to the public gallery.

For clarification, the officer advised that typical conditions attached to any advertising consent related to the drawing of the structure, that the sign must remain static with no moving images, and that timings would also be conditioned.

While accepting the condition of static images, Alderman Graham felt there was no need to place a condition on timing because late at night and early in the morning most people would have their curtains drawn anyway.

Alderman Graham proposed, seconded by Alderman McIlveen, that the Council grant advertising consent.

The proposer noted that illuminated signs were now more common in commercial premises and increasingly in church premises. He was content to make the proposal and for officers to include all relevant conditions. He clarified to the Chair that the applicant's suggested conditions would be included - illuminated from 9am to no later than 10pm, and that the candela level would be reduced from 300 to 200.

The seconder, Alderman McIlveen, agreed with that approach and felt the conditions offered by the applicant had been generous which would help community relations. He felt that the hall was located in a semi-rural area rather than open countryside, and having checked the map, he noted that it was situated on a straight section of road rather than a bend. This, along with DFI Roads having no objection, had eased his road safety concerns. Therefore, he believed that with the conditions proposed, the sign would not be detrimental in terms of locality and amenity.

Councillor Morgan opposed the proposal, arguing that consultees had not supported it, only raised no objections. She accepted the Planning Department's concerns about the impact on rural character and warned of setting a precedent. She added that the hall already had one illuminated sign, which she considered adequate.

On being put to the meeting, with 9 voting FOR, 4 voting AGAINST, 1 ABSTAINING and 2 ABSENT, the proposal was declared CARRIED.

FOR (9)
Aldermen
Graham
McIlveen
Smith

AGAINST (4)
Aldermen
McAlpine
McDowell

ABSTAINED (1)
Aldermen

ABSENT (2)
Aldermen

Councillors

Councillor

Councillor

Councillor

Hennessy
Kerr
McClellan
McCollum
Smart
Wray

Kendall
Morgan

McKee

Cathcart
Harbinson

RESOLVED, on the proposal of Alderman Graham, seconded by Alderman McIlveen, with 9 voting FOR, 4 voting AGAINST, 1 ABSTAINING and 2 ABSENT, that the Council grant advertising consent, subject to the conditions outlined.

RECESS

The meeting went into recess at 9.01 pm and resumed at 9.16 pm.

(Councillor Cathcart and Councillor Harbinson entered the meeting – 9.16 pm)

4.3 LA06/2025/0790/F – SINGLE STOREY DWELLING WITH SHARED ACCESS

(Appendix IX)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Comber

Committee Interest: Call-in by a member of the Planning Committee

Proposal: Single storey disabled accommodation with shared driveway access with 31a Ballygowan Road

Site Location: Site directly north of 31a Ballygowan Road, Comber, BT23 5PG

Recommendation: Refuse Planning Permission

The Principal Planner (G Kerr) outlined the planning application. It was before Members due to a call-in by Alderman McIlveen in the week beginning 8 December 2025, to consider whether the site was located within the inner cluster of the two clusters identified in 2019/A0024 and accepted in LA06/2023/2450/F, and to assess whether it met the criteria set out in Policy CTY2a of PPS21.

It was noted that there were no third-party representations in respect of the application and consultees were content. The recommendation was to refuse planning permission.

Members were shown the PAC-identified cluster for context. The Officer explained that the site was located at the outer edge of a cluster identified by the PAC under appeal reference 2019/A0024, and that this had been a material consideration in the assessment. It was accepted that the site was located within a cluster. Turning to planning history, the Officer highlighted that since the PAC case in 2019 there had been a considerable number of approvals granted within the cluster, as illustrated on the slide.

The Officer then referred to the location of the application site, explaining that it was situated to the north of the dwelling at 31a Ballygowan Road, outside the settlement

limit of Comber, in the countryside. Slides showing the site and its wider surroundings were presented to provide context.

Members were shown the proposed design of the dwelling. The Officer advised that the dwelling was single-storey in height, with a ridge approximately 5.5m above finished floor level. The sloping nature of the site would assist integration. The walls were proposed to be finished in white render, with a flat-roofed rear return finished in stone cladding. The proposed site plan indicated that all boundaries would be suitably defined, with additional planting to reduce the visual impact of the proposal.

Turning to Policy CTY2a, the Officer reminded Members that as the site was located within the countryside as set out in the local area plan, the main policy consideration was PPS21, which dealt with development in the countryside. As the site had been deemed to be a cluster by the Planning Appeals Commission (PAC), the relevant policy was CTY2a, which stated that planning permission would be granted for a dwelling at an existing cluster of development provided six criteria were met. These criteria were shown on the slide.

The Officer advised that the proposal complied with five out of the six listed criteria. It was considered to fail the criterion requiring the identified site to provide a suitable degree of enclosure and to be bounded on at least two sides with other development in the cluster.

Members were shown the site layout. The Officer explained that there was no development to the immediate north, east or west of the application site. The dwelling at 31a bounded the site to the south, and although there was extant permission for a dwelling to the direct east (LA06/2023/2450/F), no works had commenced on that dwelling at the time of the site visits.

PAC decisions regarding CTY2a had also been taken into account in the overall assessment.

In summary, the Officer stated that it had been accepted by the PAC that there was a cluster of development at this location, and it was evident from the extent of development that further development had been enabled as a result of this finding. However, despite the existence of a cluster within the countryside, each application had to be assessed on its own merits in line with policy, the main one being CTY2a of PPS21. The policy was clear in stating that all six criteria had to be complied with, and more recent PAC findings appeared to support this view.

The Officer advised that not fully complying with the policy would result in further erosion of this area within the countryside, and it was important that all six criteria listed under the policy were met. Refusal of planning permission was therefore recommended.

The Chair invited questions for clarification to the officer.

Alderman McIlveen queried the location of the application site, stating that it appeared to be within the boundaries of the cluster. The officer accepted that it was part of the cluster but referred to clustering policy, which required the application site to be bounded. She pointed to the open countryside on the opposite side of the road

and compared the site with other areas within the cluster to show examples where there was a clear sense of development providing enclosure.

Alderman McIlveen considered there to be an inner cluster and an outer cluster, identifying the waste recycling centre and the cemetery as the two boundary developments. He asked how it was determined what could be included within an inner cluster when an outer cluster existed. The officer accepted that the site was within a cluster but referred to the single refusal reason: that the site was not bounded on at least two sides. Policy required all six criteria to be met, and more recent PAC decisions supported that interpretation.

Alderman McIlveen queried one of the approval sites shown on the map and asked whether the funeral church had been built yet. The officer undertook to clarify this but explained that the cluster test was a visual one, advising of some approvals in the area where development had not yet occurred. She referred to another site where construction was underway but noted that it did not bound the application site while another development - a dwelling under construction - did not directly enclose the site because a driveway lay between the two sites, and it was also located around the corner.

Councillor Morgan asked whether the road was deemed to be a boundary feature of the cluster and the officer explained that the road did not provide a sense of enclosure under the policy because the land opposite the road was open countryside.

Councillor Morgan then asked whether trees or a hedge could be regarded as an enclosure. These were not specified in the policy but determined through a visual test and a matter of judgement. The officer referred to the relevant policy, CTY2A, which stipulated that enclosure must be present on at least two sides, and that the road was not accepted as an enclosure.

The Chair invited Ms Una Somerville forward, who was speaking in support of the application, She made the following points:

- The application should have been considered for adjournment, and a refusal would have been contrary to the PAC ruling on the cluster.
- The Council should have obtained legal advice on the previous legal opinion issued by William Orbinson KC in 2023, as there had been no change in circumstances since that time.
- There had been no statutory or other objections, and all policy matters were satisfied with the exception of one criterion relating to enclosure.
- The Planning Department's assessment was disagreed with, and the position maintained that the site was enclosed.
- The planning history of the location was of central importance, with reference made to PAC appeal 2019/A0024, which had confirmed the existence of both an inner and outer cluster in this location, and the application site lay within this well-established cluster.
- The site was therefore in a central location as defined by the PAC decision.

- Reference was made to the approval of application LA06/2022/1204/F, located east of No. 31, where the case officer had stated that the site “lies within the road that encloses the cluster which leads off the access to the Recycling Centre running up to the Cemetery.”
- Enclosure was not limited to high hedges or visual tests alone, and the primary road was a significant piece of infrastructure already accepted by the Council as an enclosing feature.
- There was a backdrop to the site with the existing garage and surrounding vegetation, and the road and the garage were considered two elements that complied with the relevant policy.
- Previous approvals to the west and east should have been taken into account.
- The case officer’s comments in the approval of application LA06/2022/1204/F were of key relevance, highlighting the assessment that “the site provides a suitable degree of enclosure, rounding off the cluster... with an existing dwelling to the west along with implemented, approved, and applied-for dwellings.”
- Previous approvals had been considered by the Council as a means for determination on enclosure, and this was the correct interpretation and should have been applied in this case.
- Approval LA06/2022/1204/F, currently under construction to the south-east of the application site, also contributed to enclosure on approach.
- The application site was wedged between two approved sites, both of which had been fully acknowledged by the Planning Department as lying within the cluster.
- The land to the west had been described as disused; however, it was a site with planning permission for a single dwelling.
- Work had started over the previous weekend on that site, and this approval should have been taken into account.
- The approved dwelling to the east was under construction up to roof level, and these approvals had been discounted without justification.
- The approval to the east had stated that the site was contained in the cluster and would visually read as part of the overall cluster.
- The Planning Department was not applying the policy properly, and the site was enclosed on four sides — two by approved developments and two by extant features.
- The proposed dwelling was modest, well-designed, integrated, and designed for disabled access.
- A contradiction existed in the assessment: the proposal had been considered acceptable under integration but not under enclosure, despite the case officer stating that no significant additional boundary vegetation was required. If it was integrated, why did the site also need to be enclosed.

The Chair invited questions to be put to the speaker and Alderman Smith asked Ms Somerville for clarification on the location of other existing application sites. Ms Somerville responded that there was development to the right, which was under construction and had reached roof level; to the rear there was a two-storey dwelling; and to the left there was an approved site. She argued that the road formed the fourth side of that enclosure.

As there were no further questions, Ms Sommerville returned to the public gallery.

Councillor McCollum noted the speaker's claim that the Council had accepted the road as an enclosing feature in other applications within that area. She asked if that related specifically to development on the other side of the road. The officer referred to an application to the left of the application site and referred to the PAC's findings which deemed it to be totally enclosed by the graveyard, adjacent house and hard standing to the south. That differed in that it was bound on at least two sides.

Councillor McCollum queried the speaker's claim that CTY2A did not need to be met in its entirety. The officer explained that the PAC findings were a material consideration and she referred to a recent decision on 26 January 2023 where not all criteria had been met, and the site was not bounded on at least two sides with other development in the cluster. She referred to two other dismissals where applications had not met the policy in its entirety.

The officer added that the two cases referred to by Ms Sommerville dated back to 2017 and 2018 and were older examples. PAC findings evolved and officers looked at PAC decisions that were up to date.

Councillor McCollum queried the policy aims and the reported comments in relation to its thrust towards consolidating development and the officer clarified that the cluster policy within PPS21 required all criteria to be met and it was believed this failed to satisfy one specific criteria in relation to enclosure.

In a final point, Councillor McCollum queried the surrounding approvals and the officer explained she had visited the site earlier in the day and had observed a van parked on the site but there was no evidence of development. There was a dwelling being constructed at the curve which did not directly enclose the site due to the access lane. The officer confirmed that there were no approvals on the opposite side of the road where there was open countryside.

Alderman McIlveen had reviewed another application (LA06/2022/12040/F) to check how the Committee had treated the issue around roads in terms of enclosures and boundaries. Previous documentation for that had described the road 'enclosing' a cluster of buildings, implying that there was a clear limit defining the cluster's boundary.

He contrasted that with other cases where clusters were less clearly defined and referred to PAC decisions noting that clusters should have an identifiable boundary. In this case the road appeared to fulfil that requirement.

He also referred to another section of that report which made reference to CTY2a's requirement for suitable degree of enclosure and that the site be bounded on two sides. The report stated that the site was bounded by the road, supporting the view that road formed part of the necessary enclosure. He noted the policy referred to development rather than buildings and asked for the officer's opinion on whether the road could satisfy that policy.

PC.03.02.2026

30

The officer advised that each application must be assessed on its own merit. While acknowledging the presence of a road in the example provided, she believed that the context in that earlier application differed as there was a greater sense of existing development to the north and a clearer feeling of enclosure on the site. This was due in part to the proximity of the recycling centre which contributed to a more developed character that was not present in the application before Members.

Alderman McIlveen felt that if the Committee could accept that the road formed the boundary of the cluster, providing the necessary enclosure and being considered as a development, then it would meet the policy test.

The officer felt that while the wider cluster was shown by a dashed line it did not mean that every site within it would automatically meet the policy requirements. The designation simply recognised the broader extent of the cluster and recent permissions had reflected PAC findings as a material consideration. Recent PAC decisions had applied the six CTY2A criteria strictly and the current application had been assessed in line with that approach.

Alderman McAlpine wondered whether this was a question of sequencing of development, noting prior approvals in the area that had not yet commenced. She asked whether, had all of those developments been built, a sense of enclosure would have existed. She referred to land to the left of the site, which appeared to have a hardstanding but remained undeveloped, and questioned whether that would have contributed to enclosure.

The officer advised that it was a matter of policy interpretation and that the aim was to provide a balanced assessment. She noted that the surrounding land had not yet been developed, and this formed part of the visual test. She explained that while the gable wall of the garage created a boundary to the south, the land to the north remained open countryside. She stated that she had visited the site herself and felt the case officer recommendation was correct decision.

Councillor Cathcart asked if the road was adopted or a private road and the officer understood it was private.

Alderman McIlveen proposed, seconded by Councillor Morgan, that the Council grant planning permission.

Alderman McIlveen felt that it had been accepted that five out of the six criteria were met, and that the key question for the Committee was whether, in relation to the sixth criterion, the site was sufficiently enclosed. He felt that, for the sake of consistency, and taking into account the existing buildings and the road as an enclosing or bounding feature of the cluster, he was content to make a proposal to grant planning permission.

Councillor Morgan appreciated that officers had been thorough and understood the position they had taken, but she felt that the road did form a boundary. She believed the Council would be safe in accepting the road as a boundary and that a small house on the site would not cause any harm.

Alderman McIlveen indicated to the Chair that he would be happy to grant delegated authority for officers to attach appropriate conditions.

Unable to support the proposal, Councillor Hennessy accepted the officers' report and their findings that the proposal did not meet all six criteria. He accepted the professional opinion that the site was not enclosed and was, in fact, completely open.

Alderman Graham felt that if the proposed development had been on the north side of the road, the situation would have been different. However, he believed that the road itself constituted a form of development and created a defining line. He felt the cluster was an unusual set of circumstances and did not consider the road to be a heavily used through-route. He believed the proposal would not have a detrimental effect for anyone looking into the cluster. While the site looked out over open countryside, he felt this was a matter of judgement, but on balance he considered the proposal to be just about acceptable.

On being put to the meeting, with 9 voting FOR, 6 voting AGAINST, 1 ABSTAINING and 0 ABSENT, the proposal was declared CARRIED.

FOR (9)	AGAINST (6)	ABSTAINED (1)	ABSENT (0)
Aldermen	Aldermen	Aldermen	Aldermen
Graham	McDowell		
McIlveen	McAlpine		
Smith			
Councillors	Councillor	Councillor	Councillor
Cathcart	Hennessy	McClean	
Harbinson	Kendall		
Kerr	McKee		
Morgan	McCollum		
Smart			
Wray			

RESOLVED, on the proposal of Alderman McIlveen, seconded by Councillor Morgan, with 9 voting FOR, 6 voting AGAINST, 1 ABSTAINED and 0 ABSENT, that the Council grant planning permission, subject to conditions.

(Alderman Graham, Alderman McIlveen, Councillor Cathcart and Councillor Kerr withdrew from the meeting having declared an interest in Item 4.5 – 10.08 pm)

4.5 LA06/2023/2221/F – FARM SHOP INCLUDING 1NO. CONTAINER AND LEAN TO BUILDING, 1NO. PORTACABIN, HARDSTANDING AND PARKING AREA (RETROSPECTIVE). NEW ACCESS TO SERVE BOTH FARM TRAFFIC AND FARM SHOP TRAFFIC WITH THE EXISTING ACCESS TO BE CLOSED UP (PROPOSED)
(Appendix XI)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Ards Peninsula

Committee Interest: Application by a member of the Planning Committee

Proposal: Farm shop including 1No. container and lean to building, 1No. portacabin, hardstanding and parking area (retrospective). New access to serve both farm traffic and farm shop traffic with the existing access to be closed up (proposed).

Site Location: 60m south-east of 26 Inishargy Road, Kircubbin, Newtownards

Recommendation: Grant Planning Permission

The Planning Officer (J Hanna) outlined the planning application which sought planning permission for a farm shop, including one container with a lean-to building, one portacabin, hardstanding and a parking area, together with a new access to serve both farm traffic and farm shop traffic, with the existing access to be closed up. The application was before the Planning Committee as it had been made by a member of the Committee. No objections had been received in relation to the application, and consultees were content and had raised no objections.

Members were shown the site location. The Officer explained that the site was situated on the northern side of Inishargy Road and was located outside any designated settlement limit as per the Ards and Down Area Plan 2015. The wider surrounding area was rural in character and lay within the Strangford and Lecale Area of Outstanding Natural Beauty.

Aerial imagery was presented to illustrate the site, identified by a star. The Officer advised that the site included one container with a lean-to addition currently operating as a farm shop known as Farm Gate Fruit and Veg. A small portacabin on the site was used for storage purposes. An area of hardstanding for parking and turning was also in place. The site occupied a roadside position and shared an access onto the road with the access serving the applicant's farmhouse and farm buildings at 26 Inishargy Road. Lands to the north and west of the site were associated with the farm, including the farmhouse and buildings.

The site layout was shown. While much of the development was already in place, a new access was proposed alongside a small parking area. The nearest receptors were approximately 46m to the south at No. 13 Inishargy Road. Given the intervening boundaries and separation distances, it was considered that there would not be a significant adverse effect on amenity.

Floorplans and elevations were presented, showing the arrangement of the retail area and storage on site. This aspect of the development was retrospective, as shown in the accompanying photographs.

Turning to policy, the Officer advised that the SPPS and Policy CTY11 (Farm Diversification) of PPS21 were material. Overall, the proposal was considered to comply with CTY11, as it had been demonstrated through the provision of a Farm Business ID that a farm business was active and had been established for more than six years. The scale and character of the proposal were considered appropriate to its location and would not have an adverse impact on natural or built heritage or nearby

residential dwellings. The Officer noted that the proposal was for a farm shop, a form of retail use. Under paragraph 6.286 of the SPPS, retailing was to be directed to town centres and inappropriate retail facilities in the countryside must be resisted. However, the SPPS also stated that, as a general exception, some retail facilities may be appropriate outside settlement limits, including farm shopping. In this respect, the proposal was considered to comply with policy, and conditions were recommended to restrict the nature of goods sold on site.

Members were shown justification for the new buildings. Under CTY11, proposals were intended to reuse or adapt existing farm buildings; however, new buildings could be allowed where no suitable existing buildings were available. The Officer advised that the existing buildings on the farm holding were in use and essential for the farm enterprise, and there were no other suitable buildings for adaptation or reuse. As such, the new buildings were considered to meet the policy test.

The proposed access arrangements were then outlined. The existing access was substandard and was to be closed up, with the new access serving both the farm and farm shop traffic. DfI Roads had been consulted and had raised no objections. The proposed site layout plan showed that the parking area could accommodate five cars in the main parking area, together with two parking spaces at the closed-up access. This was considered acceptable for the proposed development.

Members were shown views of the existing access to be closed up, and the Officer advised that the proposed new access represented a betterment to the existing situation. Further views along Inishargy Road demonstrated that the development was well screened from both eastern and western approaches. It was considered to integrate within the landscape and would not have an adverse effect on rural character, in accordance with CTY13 and CTY14.

In summary, the Officer advised that the Planning Department was satisfied that the proposal met the relevant planning policy requirements contained within the SPPS and PPS21. The development would not adversely affect any designated features, nor would it adversely impact residential amenity or access. On this basis, approval of planning permission was recommended.

Speaking in support of the application, Mr Stephen Dickson made the following points:

- The applicant was a 35-year-old part-time farmer who ran a farm shop in the rural area of Inishargy near Kircubbin.
- His father had grown potatoes and vegetables for sale locally for many years in the area, and a generation later this had been revived.
- With the trying time and difficulties brought about with Covid, he had set up a small stall with an honesty box for payment at the end of his lane which, with the demand and popularity, had very quickly developed into a regular manned outdoor fruit and vegetable stall.
- This business had become a popular rural community hub with all types of people coming to shop, meet and socialise, enabling him to raise awareness, funds and support for the numerous local charities that he supported.

- With time and customer product requests, this had developed into the current onsite facility to accommodate and adhere to Environmental Health and Health & Safety requirements.
- His passion had been about seasonal fresh local produce, fresh fruit and vegetables, as well as a range of special breed meats, home bakery produce and locally grown plants.
- He had been particularly proud to be able to provide his own rare breed “farm to fork” Dexter meats.
- Potatoes and basic vegetables had still been available daily in the form of the honesty box, and the shop had been open Wednesdays 10 to 6, Fridays 12 to 6 and all day on Saturdays.
- This application aligned with PPS21, CTY 11 on farm diversification, as the proposal ran alongside existing agricultural operations.
- Policies supported such projects if managed in conjunction with farm activities.
- DAERA had confirmed that the farm business was currently established and active.
- The applicant would manage this proposal in conjunction with the existing farm businesses, supplementing the farm business improvement and developing financially.
- The development consisted of small, low-set buildings appropriate for the rural landscape, positioned away from the road and visually linked to the farm.
- Existing buildings could not be repurposed due to their use for livestock and health and safety concerns; hence, a new building and siting was justified.
- This was a very small farm which had had no capital investment or improvement for a considerable number of years; therefore, there had been no suitable or vacant buildings on the farm as they were all used for the existing farm enterprise.
- Being a small farm, there had been development of the special breeds in the development of his Dexter cattle herd, rare breed sheep and special breed poultry, all of which had been highly placed and had won awards at local agricultural shows and events.
- Farm biodiversity security, Environmental Health and Health & Safety requirements and extremely high levels of cross-contamination control were difficult to maintain in farming.
- This was a small but busy working farm, with numerous farm machinery operating and moving through the farmyard where all farm buildings were situated.
- On Health & Safety grounds it would have been difficult to allow members of the public access to the main farm buildings to use a shop, so this site had been considered an acceptable alternative.
- This diversification proposal was of a scale and nature appropriate for this location and was capable of satisfactory integration into the rural landscape.
- Overall, adherence to policies, the scale, nature and integration of the proposal made it a suitable development within policy guidelines, demonstrating its acceptability.

As there were no questions, the speaker returned to the public gallery and the Chair sought a proposal.

RESOLVED, on the proposal of Alderman Smith, seconded by Councillor McCollum, that the recommendation be adopted, that Council grants planning permission.

(Alderman Graham, Alderman McIlveen, Councillor Cathcart and Councillor Kerr returned to the meeting – 10.19 pm)

4.6 LA06/2025/0789/S54 – GREENWAY FOR APPROXIMATELY 3KM ALONG A TRAFFIC-FREE ROUTE FROM BELVEDERE ROAD, NEWTOWNARDS

(Appendix XII)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Newtownards

Committee Interest: Application by Ards and North Down Borough Council

Proposal: Variation of Condition 13 of previously approved application

LA06/2020/0940/F for a greenway for approximately 3km along a traffic-free route from Belvedere Road, Newtownards turning NE following the former railway track in the most part to the Somme Heritage Centre. A section of the former railway track between Victoria Road and Belvedere Road is also included. Widening of existing footways, new 3m wide paths, pedestrian crossings, fencing, ancillary car parking, a shared-use bridge and associated site, access and other ancillary works.

From: Bridge: No other development hereby permitted shall be commenced operational until the road works indicated on Drawing No 27A bearing the date stamp 27/07/2021 have been fully completed in accordance with the approved plans.

To: Bridge: No other development hereby permitted shall be operational until the road works indicated on drawing 60572431-SHT10-LD-3105 have been fully completed in accordance with the approved plans.

Site Location: From Belvedere Road, Newtownards to the Somme Heritage Centre, 233 Bangor Road, Newtownards

Recommendation: Grant Planning Permission

The Planning Officer (J Hanna) outlined the planning application. It fell under Section 54 seeking the variation of Condition 13 of previously approved application LA06/2020/0940/F for a greenway of approximately 3km along a traffic-free route from Belvedere Road, Newtownards, turning northeast and following the former railway track for the most part to the Somme Heritage Centre. A section of the former railway track between Victoria Road and Belvedere Road was also included, along with widening of existing footways, new 3m-wide paths, pedestrian crossings, fencing, ancillary car parking, a shared-use bridge and associated site, access and ancillary works.

The officer explained that the condition was proposed to change from:

“Bridge: No other development hereby permitted shall be commenced operational until the road works indicated on Drawing No. 27A bearing the date stamp 27/07/2021 have been fully completed in accordance with the approved plans.”
to:

“Bridge: No other development hereby permitted shall be operational until the road works indicated on drawing 60572431-SHT10-LD-3105 have been fully completed in accordance with the approved plans.”

The application was before the Planning Committee as it had been made by the Council. One letter of support had been received, and consultees were content with no objections raised.

Members were shown the site location. The officer advised that the scheme formed part of the overall greenway connecting Newtownards and Bangor. A car parking area was proposed adjacent to the south of properties at 237 and 284 Bangor Road, and a shared-use bridge would cross the dual carriageway to facilitate access to the Somme Heritage Centre and Whitespots Country Park.

Site photographs were presented. Condition 13 specifically related to the car parking areas located adjacent to the bridge. Construction work had already commenced on site, with the bridge in place and the area for the car park cleared in preparation for construction.

Further context was provided through the site layout. The Officer explained that recently approved application LA06/2024/0532/F provided a new access to the Ark Farm. The area highlighted in yellow on the slide indicated this access, which lay over an area originally designated for parking provision. The variation of the condition would allow this new access to be built and would enable the works on site to become operational at a later date in compliance with the revised condition.

Members were shown the originally approved layout. The officer noted that the parking area to be supplanted by the Ark Farm access had formed part of a scheme that included a high number of car parking spaces, exceeding the standards required by the Parking Standards document. This higher number had been justified because, at peak times, a significant number of vehicles had been observed parking along Bangor Road, largely due to visitors to the adjacent Ark Open Farm. The greenway car park had therefore been seen as a means to alleviate on-street parking pressure. However, the subsequent Ark Open Farm approval would significantly reduce this pressure by providing a new on-site car park with 102 spaces (including five disabled spaces), cycle parking and a bus lay-by.

The proposed new layout was shown. The officer advised that the changes did not conflict with the SPPS or PPS3. Although there was a reduction in the number of parking spaces, the number provided remained in excess of the four spaces required by the parking standards.

Members were also shown the proposed changes to landscaping. Areas no longer included within the car park would be seeded with grass, which was considered to improve visual amenity and lessen the impact of the works.

In summary, the officer advised that the Planning Department was satisfied that the variation of the condition met relevant planning policy requirements. The development would not adversely affect any designated features, nor would it adversely impact residential amenity or access. On this basis, approval of planning permission was recommended.

The Chair invited questions from Members for clarification.

Councillor McKee felt that the proposal would make a more attractive environment for residents and visitors, rather than having additional car parking that might not be used. He asked if there was any indication of when the previously approved Ark Farm redevelopment might begin, given that it was closely linked with this scheme. His concern was that the reduced parking resulting from this application could result in unsafe parking on the dual carriageway.

The officer was unaware of when the Ark Farm redevelopment was due to commence but he confirmed that land had been successfully transferred to the organisation which meant that it now owned the relevant part of the site. He explained the importance of the Council proceeding with this application, as it could no longer complete the access works originally conditioned as the land was no longer in its ownership. The condition meant that the Greenway could not become operational until those works were carried out and the Council therefore wished to future-proof its development.

There were no further questions so the Chair sought a proposal.

RESOLVED, on the proposal of Councillor Smart, seconded by Councillor Morgan, that the recommendation be adopted, that the Council grants planning permission.

4.7 LA06/2025/0914/F – ERECTION OF ART INSTALLATION WITH ASSOCIATED LIGHTING AND SITE WORKS WITHIN PROPOSED PUBLIC REALM ASSOCIATED WITH QUEEN'S PARADE REDEVELOPMENT (APPROVAL LA06/2024/0559/F)
(Appendix XIII)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Bangor Central

Committee Interest: Application by Ards and North Down Borough Council

Proposal: Erection of art installation with associated lighting and site works within proposed public realm associated with Queen's Parade redevelopment (planning permission reference LA06/2024/0559/F)

Site Location: Approx. 46m northwest of 12 Queen's Parade, Marine Gardens, Queen's Parade, Bangor

Recommendation: Grant Planning Permission

The Principal Planner (G Kerr) outlined the planning application, advising that no third-party comments had been received in relation to the proposal and all consultees were content. The recommendation was to grant planning permission.

For context, the Officer explained that, as detailed in the case officer report in March 2024, the Council had obtained funding from the Department for Communities and had commissioned a trio of public art installations for Bangor Waterfront to be designed by artist Colin Davidson. The trio of sculptures, named Eclipse, had as its centrepiece a bronze sculpture of hands (referred to as The Dove), which was the subject of this application and was proposed to be located in a central position within the new Marine Gardens Public Realm. The Council had outlined that the sculptures were intended to symbolise peace, resilience and Bangor's journey of renewal, celebrating grace and community and honouring Bangor's coastal heritage. The Officer advised that, should Members agree with the recommendation, installation was planned for Autumn 2026.

Members were reminded of the location through previous presentations regarding Queen's Parade, situated within the settlement of Bangor and within the proposed Bangor Central ATC as designated under dBMAP. The wider surrounding area comprised a mixture of uses, including retail and commercial uses along Queen's Parade, with residential uses further away along Mount Pleasant and Seacliff Road. The Officer noted that work had commenced on the Marine Gardens public realm scheme, which would consist of lawns, benches and pathways and would surround the proposed location of the structure.

Members were advised that the proposed location lay within a number of designations and policies. The Urban Waterfront Area identified in Draft BMAP focused on Bangor Marina and its surroundings and identified the area as offering potential for the development of a vibrant and attractive waterfront in association with tourism and recreation.

Turning to the proposal, the Officer explained that it consisted of two 6m-tall bronze hand sculptures, one 10m-tall lighting column, a 1.2m information panel and associated works to paving. The structure would be the largest bronze sculpture on the island of Ireland. The proposed lighting column would be set to the south of the sculptures and would project a shadow in the shape of a dove on the paving to the north. The information panel was proposed to be finished in white polished concrete with a galvanised steel panel on top, positioned to the southwest of the sculptures. Slides were shown illustrating the detail and arrangement of the installations.

Given the scale of the structure, the officer advised that it would be prominent and visible from a number of viewpoints. This was intentional in order to create a focal point of interest within the Marine Gardens redevelopment scheme and beyond. The proposed lighting column associated with the sculpture would not have any greater visual impact than typical streetlighting.

The design statement submitted with the application detailed that the intention was for the hand sculpture to be viewed alongside the other two sculptures—a swan and a crab—which were subject to separate planning applications and located elsewhere along the waterfront, allowing visitors to explore the area. The information panel

would contain a QR code linking to a website providing information on the artworks and the history of the area.

In conclusion, the officer advised that, given the considerations detailed in the case officer report and summarised in the presentation, the recommendation was to grant planning permission.

The Chair invited questions from Members to the officer for clarification.

Alderman McIlveen queried if any other permissions were in place for additional lighting on what was a main thoroughfare. He felt the image of the proposed sculpture appeared to be dark and raised concerns around safety.

The Head of Planning and Building Control advised that all existing street lighting for Queen's Parade would remain in place, and the Principal Planner added that Environmental Health, DFI Rivers, HED and Shared Environmental Service had been consulted. She advised that it had not been necessary to consult with DFI Roads, given that the area was pedestrianised.

Councillor McCollum asked whether additional landscaping proposals included further lighting, and the officer suggested that the upcoming speaker might be able to clarify this.

Speaking in support of the application, Mr Nick Salt addressed the Committee, making the following points:

- He welcomed the Planning Department's recommendation to approve the application before the committee, as part of the wider enhancements to Bangor.
- 'The Dove' artwork proposal formed a focal point for the wider Marine Gardens regeneration project, which was now under construction.
- The lights to create the shadows would be column mounted. The height of the light fittings and distance from the Hands was critical to delivering the shadow as intended. For the Dove, this required a mounting height of 10m above surface level, positioned 10m from the Hands. The light fittings would have colours that combined to produce a white-light beam, with splashes of coloured light then hitting the ground around the sculpture.
- As part of the overall composition, the lighting column was proposed to have a tapering curved form, located to the east of the main path (out of direct line of sight of the Hands). The column would be steel, painted dark grey, which assisted in it having a low visual profile, avoiding drawing attention to itself relative to the Hands and the shadows.
- The beam angle and light distribution of the projectors was critical to the installation as the light and shadow formed an integral part of the artwork itself. This also ensured that the light was pointed to where it should be and did not result in excessive light spill or glare outside the area.
- There were no objections from any consultees including Historic Environment Division, and no public objections.
- Finally, the proposal fully accorded with all relevant planning policies.

The Chair invited questions from Members and Alderman Graham and Councillor Harbinson raised queries regarding the timings of the lighting for the sculpture. Mr Salt advised that the lights would automatically come on at dusk and go off in the morning, explaining that the system was operated by a sensor, although manual control was also possible.

As there were no further questions, Mr Salt returned to the public gallery.

Alderman Smith proposed, seconded by Councillor McCollum, that the recommendation be adopted.

Councillor McCollum remarked that the Council was delighted to see the proposal reach this stage, noting that the sculptures were generating great excitement. The sculptures would be an iconic piece of heritage for Bangor, providing a focal point for visitors and a legacy for the city.

Councillor Cathcart pointed out that the Committee was simply granting planning permission and that this was not part of a wider discussion on the sculptures value for money and hoped that, once on the ground, he would like the sculptures. He recognised that the proposal represented another encouraging step forward in the wider regeneration of Bangor.

RESOLVED, on the proposal of Alderman Smith, seconded by Councillor McCollum, that the recommendation be adopted, that the Council grant planning permission.

4.8 LA06/2025/0913/F – ERECTION OF ART INSTALLATION WITH ASSOCIATED LIGHTING AND SITE WORKS WITHIN PROPOSED PUBLIC REALM ASSOCIATED WITH QUEEN'S PARADE REDEVELOPMENT (APPROVAL LA06/2024/0559/F)
(Appendix XIV)

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Bangor Central

Committee Interest: Application by Ards and North Down Borough Council

Proposal: Erection of art installation with associated lighting and site works within proposed public realm associated with Queen's Parade redevelopment (planning permission reference LA06/2024/0559/F)

Site Location: Public open space approximately 10m East of 1-6 Mount Pleasant, Bangor

Recommendation: Grant Planning Permission

The Principal Planner (G Kerr) outlined the planning application, advising that planning application LA06/2025/0913/F was for a public art installation with associated lighting and site works. As this was the second of three installations, and the first had been detailed in the previous presentation, the Officer did not reiterate the detail of the area, plan designations or wider context, as these remained the same as previously presented.

It was noted that five objections from four addresses had been received, with any material issues raised fully addressed in the Case Officer Report. All consultees were content.

Members were shown the site location. The Officer explained that the proposal was located approximately 10m east of the easternmost boundaries of dwellings at 1–6 Mount Pleasant, within the settlement of Bangor, in an area of public open space. The installation was proposed to be positioned within a circular portion of the open space to the west of the path leading around Bangor Marina. The site sat at a lower ground level than Queen's Parade, with steps leading up to the road. It had boundary vegetation and was largely out of view when walking along the Marina.

The wider area comprised a mixture of uses, including an open-air church directly northwest of the site and dwellings further west along Mount Pleasant, over 40m away and at a higher level than the application site.

Slides showing the site and wider area were presented.

Turning to the proposal, the officer advised that it included a "Swan Sculpture" consisting of two bronze hands, a lighting column, an information panel, paving alterations and a screen wall with an exposed aggregate finish.

The proposed sculptures would be approximately 2.8m in height at their highest point, set in the centre of the site. The screen wall, positioned to the west of the sculptures, would be 3m in height and finished with an anti-graffiti application, which would be conditioned.

The 4.5m lighting column would be set to the east, with lighting operating only during night-time hours, controlled via daylight and a timer, with programmable Wi-Fi sensors and controls. The information panel, 1.4m in height, would be located at the northeastern corner of the site. When light was cast upon the hand sculptures, it would form a swan-shaped shadow on the screen wall.

The officer advised that this proposal formed part of a series of initiatives intended to contribute to the overall improvement of this area of Bangor seafront. As the proposal met planning policy and raised no concerns from consultees, the recommendation was to grant planning permission.

Attending to speak in support of the application, Mr Salt invited any questions from the Committee but there were no indications so he returned to the public gallery and the Chair requested a proposal.

RESOLVED, on the proposal of Alderman Smith, seconded by Councillor McCollum, that the recommendation be adopted, that Council grants planning permission.

**5. REQUEST FOR NOMINATIONS TO NILGA'S PLANNING
LEARNING AND ENGAGEMENT PROGRAMME**
(Appendix XV)

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity detailing that the NILGA Executive Committee had written to Council Planning Committee Chairs to advise of DFI and NILGA developing an enhanced and coordinated approach to planning learning, engagement and continuous improvement for councillors, building on the Planning Improvement Programme.

Details of the proposed approach were set out in the attached letter, and the request was for nomination of up to two Members from Planning Committee to participate in a Task and Finish Advisory Group of councillors drawn from across all councils. The NILGA Executive was seeking details of nominations by 28 February.

RECOMMENDED that Council nominates up to two members of Planning Committee to the Task Force as detailed in the attached letter.

Proposed by Councillor McKee, seconded by Councillor Smart, that Councillor Kendall be appointed to the Task Force.

Proposed by Councillor Harbinson, seconded by Councillor Hennessy, that Councillor McCollum be appointed to the Task Force.

AGREED TO RECOMMEND, that Councillor Kendall and Councillor McCollum be appointed to the Task Force.

6. PLANNING APPEALS UPDATE
(Appendix XVI – XVIII)

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity detailed as follows:

Appeal Decisions

1. The following appeal was dismissed on 05 December 2025.

PAC Ref	2024/A0098
Council Ref	LA06/2021/0490/O
Appellant	Paul McGouran
Subject of Appeal	Refusal of planning permission for: Proposed farm dwelling and domestic garage
Location	50m NW of 100 Carrickmannon Road, Ballygowan

The Council refused the application via the delegated list on 29 August 2024 for the following reasons:

- i. The proposal was contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there were no overriding reasons why this development was essential in this rural location and could not be located within a settlement.

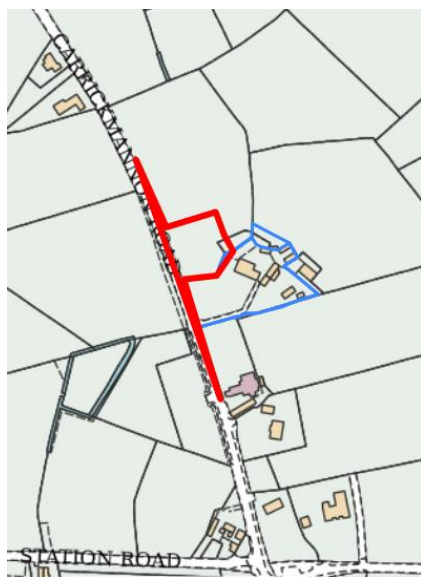
- ii. The proposal was contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal if permitted, would have resulted in an extension of ribbon development along Carrickmannon Road.
- iii. The proposal was contrary to the Strategic Planning Policy Statement for Northern Ireland and criteria (a), (b) and (c) of Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would, if permitted result in a prominent feature in the landscape, the site was unable to provide a suitable degree of enclosure for the building to integrate into the landscape and it would rely primarily on the use of new landscaping for integration.
- iv. The proposal was contrary to the Strategic Planning Policy Statement for Northern Ireland and criteria (a), (b) and (d) of Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would if permitted be unduly prominent in the landscape, would result in a detrimental change to the rural character of the countryside and create a suburban style build-up of development when viewed with existing and approved buildings and would extend a ribbon of development along Carrickmannon Road.

Whilst the proposal fulfilled all the policy criteria for a dwelling on a farm under Policy CTY 10 of PPS 21, it was found to fall foul of Policy CTY 8 which stated that planning permission would be refused for a building which created or added to a ribbon of development. The policy allowed for a gap site, however, no case was advanced that the exception was engaged.

It was accepted that there was a substantial and continuously built-up frontage at this location for the purposes of the policy; however, 3no. roadside trees were to be felled at the request of the PSNI in the interests of pedestrian and road safety, and their removal would create a visual linkage on the ground between the appeal site and the qualifying buildings in the frontage, thus adding to an existing ribbon of development.

Lack of enclosure for the proposed site, contrary to Policy CTY 13 on Integration, and removal of c32m of existing roadside hedge, was also fatal to the proposal. The proposal also failed under Policy CTY 14 on Rural Character given that the proposal would result in a suburban style build-up of development when viewed with existing buildings and extend a ribbon of development along Carrickmannon Road.

All four of the Council's reasons for refusal were sustained.



50NW of 100 Carrickmannon Road, Ballygowan

2. The following appeal was dismissed on 15 January 2026.

PAC Ref	2025/A0073
Council Ref	LA06/2025/0228/O
Appellant	Phillip Kerr
Subject of Appeal	Refusal of planning permission for: Replacement Dwelling
Location	13A (Approx 500m NE of No. 13) Cunningburn Road, Newtownards

The Council refused the application via the delegated list on 04 June 2025 for the following reasons:

- i. The proposal was contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that there are no overriding reasons why this development was essential in this rural location and could not be located within a settlement.
- ii. The proposal was contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 3 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that it had not been demonstrated that the building was ever used as a dwelling, the building did not exhibit the essential characteristics of a dwelling.

Whilst the Commissioner found that historical maps showed something present on the site at the time of the 1860 valuation, even if the in-situ building were the same building, given the limited level of detail the Commissioner found this evidence of itself to be inconclusive and of little assistance in demonstrating that the building to be replaced exhibited the essential characteristics of a dwelling. If there were internal dwelling characteristics such as walls and a fireplace or chimney they had now been removed; and even if the building had been used as a dwelling in the past,

those essential characteristics could no longer be observed. As such the building to be replaced did not exhibit the essential characteristics of a dwelling as required by Policy CTY 3 of PPS 21, and therefore the Council's reasons for refusal were sustained.

3. The following appeal was dismissed on 16 January 2026.

PAC Ref	2024/A0139
Council Ref	LA06/2024/0676/F
Appellant	Robert Anderson
Subject of Appeal	Refusal of planning permission for: Extension to residential curtilage and erection of single storey detached ancillary residential accommodation
Location	55 Woburn Road, Millisle

The Council refused the application on 04 December 2024 via the delegated list for the following reasons:

- i. The proposal was contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21 'Sustainable Development in the Countryside' in that there were no overriding reasons why the development was essential in this rural location.
- ii. The proposal was contrary to Policy EXT 1 of the Addendum to Planning Policy Statement 7 'Residential Extensions and Alterations' in that the proposal, if permitted, would result in development that was not considered to be subordinate ancillary accommodation demonstrating dependency on the main residential dwelling as it could practically and viably operate on its own as a separate dwelling.

An application for Outline Planning Permission had previously been submitted in 2023 in the same location as the appeal proposal but was subsequently withdrawn.

The appeal proposal for a 94.5m² single storey building, consisting of a hallway, kitchen/living area, two bedrooms, and a shower/wet room, was proposed as being required to provide ancillary residential accommodation for an immediate family member with ongoing health issues, whereby providing a degree of independence whilst allowing immediate family to meet their future care needs.

The J&A to the policy was explicit that 'ancillary' residential accommodation was within the existing curtilage of the host dwelling and planning unit – in this case the Commissioner noted a considerable separation from the host dwelling outside of the established residential curtilage

Given that it was a self-contained unit physically removed from the host dwelling with a generous kitchen/living area and two bedrooms with separate W/C, the Commissioner judged that the appeal building could quite easily operate as a completely separate planning unit with no need to share facilities.

The appellant asserted reasons as to why an extension to the host dwelling was not practicable, but the Commissioner, in the absence of any structural/ground survey analysis, was not persuaded that an extension could be provided or conversion of the stables or outbuildings undertaken.

Notwithstanding that the appeal proposal satisfied the criteria in Policy EXT 1 of APPS 7, given that a separate unit of accommodation was being proposed rather than attached to the host dwelling as advocated by the J&A of Policy EXT 1 of APPS 7, the J&A went on to state that such a separate dwelling would not be acceptable unless it would be granted planning permission in its own right.

Both of the Council's reasons for refusal were sustained.

New Appeals

4. The following appeal was lodged on 04 January 2026:

PAC Ref	2025/A0112
Council Ref	LA06/2025/0549/F
Appellant	J McNinch
Subject of Appeal	Refusal of planning permission for: Replacement Dwelling (retrospective)
Location	14 Ballyvester Road, Donaghadee

5. The following appeal was lodged on 02 January 2026:

PAC Ref	2025/E0064
Council Ref	LA06/2021/0360/CA
Appellant	Peter Kelly
Subject of Appeal	Appeal against Enforcement Notice – alleged unauthorised agricultural shed and area of hardstanding
Location	Land adjacent to the rear boundary of 2A Ballyblack Road, Portaferry

6. The following appeal was lodged on 16 December 2025:

PAC Ref	2025/A0109
Council Ref	LA06/2022/0262/F
Appellant	Ronald Shields
Subject of Appeal	Refusal of planning permission for: Retention of private amenity/shelter building made from sustainable recycled materials, wildlife hide, timber footbridge and associate landscaping and planting
Location	Land approx 200m South-East of 110 Kempe Stones Road, Newtownards with existing access to Greengraves Road

7. The following appeal was lodged on 05 December 2025:

PAC Ref	2025/A0104
Council Ref	LA06/2022/0708/O
Appellant	W J Law Bespoke LLP
Subject of Appeal	Refusal of planning permission for: Erection of 5No. detached dwellings with associated landscaping, internal road layout and access provision
Location	Lands to the south and adjoining No. 90 Crawfordsburn Road and to the west of No's 71, 83, 85, 87, 89, 91 and 97 Crawfordsburn Road, Newtownards

8. The following appeal was lodged on 02 December 2025

PAC Ref	2025/A0103
Council Ref	LA06/2023/2012/F
Appellant	Peter Thompson
Subject of Appeal	Refusal of planning permission Dwelling - change of house type from approval W/2011/0015/RM (Retrospective)
Location	Land between 3 and 4 Sheridan Grove, Helen's Bay

9. The following appeal was lodged on 18 November 2025:

PAC Ref	2025/A0095
Council Ref	LA06/2025/0326/O
Appellant	Hugh Torney
Subject of Appeal	Refusal of planning permission 2 No. infill dwellings & garages, access and associated site works
Location	Between 18 & 22 Upper Ballygelagh Road, Kirkistown

Appeals Withdrawn

10. The following appeal was withdrawn on 16 December 2025:

PAC Ref	2025/E0046
Council Ref	LA06/2022/0262/F
Appellant	Ronald Shields
Subject of Appeal	Appeal against Enforcement Notice re alleged: 1. Unauthorised erection of outbuildings being used for recreational purposes; 2. Unauthorised provision of pathway and hardstanding area with fixed picnic tables, barbecue area and playframes; 3. Unauthorised pergola/outbuilding being used as a nature hide with associated jetty area; 4. Unauthorised laying of hardcore in areas; 5. Unauthorised erection of two bridge structures;

	6. Unauthorised erection of fixed picnic tables
Location	Land approx 200m South-East of 110 Kempe Stones Road, Newtownards

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

RECOMMENDED that Council notes the report and attachments.

Proposed by Councillor Smart, seconded by Councillor Kerr, that the recommendation be adopted.

Alderman McIlveen sought the officer's view on whether there was anything within the PAC update reports that the Council should be challenging, or if the opinions presented were just being accepted.

The Head of Planning and Building Control accepted the point, acknowledging that significant weight was placed on PAC decisions. She noted that, as confirmed by legal advice, that PAC decisions carried material weight, but emphasised that it was for Members to determine what weight to attribute to it in the circumstances of each case.

Alderman McIlveen felt it would be helpful that in future reports, officers advise Members of any matters that they were unhappy with.

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

7. SPPS EDITION 2 AND DRAFT PLAN STRATEGY (Appendix XIX – XX)

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity detailing that on 11 December 2025 the Minister for Infrastructure published a policy revision to the Strategic Planning Policy Statement for NI ("the SPPS"), marking the conclusion of a focused review of the former SPPS (2015) on the subject of renewable and low carbon energy.

The new policy, agreed by the Executive Committee, was contained in the SPPS, Edition 2, and set out at pages 86-91. Consequently, the former subject policy titled "Renewable Energy" ceased to have effect from the date of this publication and the SPPS (2015) was now revoked. All other policy provisions within the former SPPS were unchanged, except for some technical changes, such as amendments to the contents page, paragraph numbers, and factual clarifications, where relevant.

Planning Policy Statement (PPS) 18: Renewable Energy (August 2009) was now cancelled and its provisions ceased to have effect however, the guidance contained in Best Practice Guidance to PPS 18 - Renewable Energy would continue to have effect (where relevant) unless and until such guidance was updated, revised or replaced by new Departmental guidance on this planning issue.

The provisions of the SPPS, Edition 2, took immediate effect and had to be taken into account in the preparation of Local Development Plans and were also a material consideration to all decisions on individual planning applications and appeals.

The SPPS, Edition 2 could be accessed following this link:

<https://www.infrastructure-ni.gov.uk/publications/strategic-planning-policy-statement>

DFI Advice / Guidance

In a letter to Council Chief Executives dated 21 October 2025 (reported to Planning Committee 04/11/25 and reattached to this report), DFI (Regional Planning Policy and Casework) highlighted to councils the importance of considering the SPPS, and any forthcoming revisions to it, during plan-making and decision-taking.

The letter also noted the Department's intention to prepare a new Development Plan Practice Note on the issue of the role of the Department and of councils in respect of taking account of the regional planning policy framework; however, attached at Annex A to the letter was 'advice and guidance' to councils on the implications of new or updated regional policy for Local Development Plans.

'Good Practice Advice' for when new or revised regional planning policy was published refers, in the situation where a council had published its draft Plan Strategy, to the council undertaking a written assessment of the implications of the new or updated regional policy for draft policies (in ANDBC's case).

The assessment should demonstrate the council had an awareness of the new or revised policy and understands its aims and objectives. It should have identified significant differences or conflicts which the new or revised regional policy might introduce with draft plan policies. It should have also considered whether policy approaches might need to be revised in response to the new regional policy.

Action Undertaken

The LDP team had undertaken a comparison of its policy on Renewable Energy with the revised regional policy in the SPPS Edition 2, as set out in Table 1, attached. It was concluded that the draft Plan Strategy (dPS) continued to take account of the regional strategic approach to renewable and low-carbon energy, cognisant of the opportunity for the Council to consider minor changes through the plan-making process, further to the completion of the public consultation (including counter-representation stage) and the analysis of all representations received.

It would be the intention to consult upon all initial proposed minor changes at the same time. This would include a consideration of whether changes or addenda were necessary to any supporting reports (e.g. Sustainability Assessment) as part of the iterative process of plan-making. A further period of consultation would be held on any proposed changes and advertised in line with legislation.

Detail had been included on the LDP pages of the Council's website for public information accordingly.

RECOMMENDED that Council notes this report and attachments.

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

8. QUARTERLY UPDATE ON TREE PRESERVATION ORDERS AND WORKS REQUESTS

PREVIOUSLY CIRCULATED:- Report from the Director of Place and Prosperity detailing that this report represented the quarterly update to Planning Committee regarding detail relating to Tree Preservation Orders served and applications for consent to carry out works to protected trees. This update provided information from 13 August 2025 (date of previous report) to 16 January 2026.

The table attached set out the figures from the date of the last report to Committee.

RECOMMENDED that Council notes the content of this report.

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

EXCLUSION OF PUBLIC/PRESS

AGREED, on the proposal of Alderman Graham, seconded by Councillor Kerr, that the public/press be excluded during the discussion of the undernoted item of confidential business.

9. QUARTERLY UPDATE ON ENFORCEMENT MATTERS (Appendix XXI)

****IN CONFIDENCE****

NOT FOR PUBLICATION

SCHEDULE 6 - Exemption: 6a. statutory provision

This report is presented in confidence to Members under Part 1 of Schedule 6 of the Local Government (Northern Ireland) Act 2014, Exemption 6a – Information which reveals that the council proposes to give under any statutory provision a notice by virtue of which requirements are imposed on a person. It relates to the status of current Planning Enforcement cases or Summons in respect of proposed actions.

It provides updates for Members in respect of the status of live enforcement notices, court proceedings and proposed summons action.

RE-ADMITTANCE OF PUBLIC/PRESS

AGREED, on the proposal of Councillor Wray, seconded by Councillor Morgan, that the public/press be re-admitted to the meeting.

PC.03.02.2026

51

CHAIRMAN'S REMARKS

The Chair advised that, due to the Easter period, the date of the April committee meeting would be brought forward to Tuesday 31 March. It was preferred to hold the meeting before the public holiday period to allow sufficient time between the April and May meetings. Members indicated agreement to that.

TERMINATION OF MEETING

The meeting terminated at 10.54pm.

Development Management Case Officer Report  Ards and North Down Borough Council																										
Reference:	LA06/2024/0104/F	DEA: Newtownards																								
Proposal:	New football stadium for Ards Football Club with capacity of 2000 spectators. Works include two new spectator stands accommodating supporters, matchday facilities, admin office, function and ancillary spaces. New car parking, vehicular entrances to Portaferry Road, hardstanding, new artificial pitch with floodlighting and boundary treatments.																									
Location:	100m East of Newtownards Airport, 61 Portaferry Road, Newtownards.																									
Applicant:	Ards Football Club																									
Date valid:	09/02/2024	EIA Screening Required: Yes																								
Date last advertised:	22/02/2024	Date last neighbour notified: 09/02/2024																								
Letters of Support: 0	Letters of Objection: 1	Petitions: 0																								
Consultations – synopsis of responses: <table border="1"> <tr> <td>DFI Rivers</td> <td>No Objection</td> </tr> <tr> <td>DFI Roads</td> <td>No Objection subject to conditions</td> </tr> <tr> <td>NIE</td> <td>No Objection</td> </tr> <tr> <td>Environmental Health</td> <td>No Objection subject to conditions</td> </tr> <tr> <td>NI Water</td> <td>Negative Condition</td> </tr> <tr> <td>SES</td> <td>No Objection subject to conditions</td> </tr> <tr> <td>NIEA WMU</td> <td>Negative Condition</td> </tr> <tr> <td>NIEA Regulation Unit</td> <td>No Objection subject to conditions</td> </tr> <tr> <td>NIEA NED</td> <td>No Objection subject to conditions</td> </tr> <tr> <td>NIEA Marine and Fisheries Division</td> <td>Reference made to concern re impact on Strangford Lough Regional Seascape Character Area</td> </tr> <tr> <td>Historic Environment Division HMU</td> <td>No Objection subject to conditions</td> </tr> <tr> <td>Ulster Flying Club</td> <td>No Objection</td> </tr> </table>			DFI Rivers	No Objection	DFI Roads	No Objection subject to conditions	NIE	No Objection	Environmental Health	No Objection subject to conditions	NI Water	Negative Condition	SES	No Objection subject to conditions	NIEA WMU	Negative Condition	NIEA Regulation Unit	No Objection subject to conditions	NIEA NED	No Objection subject to conditions	NIEA Marine and Fisheries Division	Reference made to concern re impact on Strangford Lough Regional Seascape Character Area	Historic Environment Division HMU	No Objection subject to conditions	Ulster Flying Club	No Objection
DFI Rivers	No Objection																									
DFI Roads	No Objection subject to conditions																									
NIE	No Objection																									
Environmental Health	No Objection subject to conditions																									
NI Water	Negative Condition																									
SES	No Objection subject to conditions																									
NIEA WMU	Negative Condition																									
NIEA Regulation Unit	No Objection subject to conditions																									
NIEA NED	No Objection subject to conditions																									
NIEA Marine and Fisheries Division	Reference made to concern re impact on Strangford Lough Regional Seascape Character Area																									
Historic Environment Division HMU	No Objection subject to conditions																									
Ulster Flying Club	No Objection																									
Summary of main issues considered: • Principle of development • Design, visual impact and impact on the landscape character, seascape character and appearance of the area																										

- Impact on residential amenity
- Flood risk and drainage
- Access, road safety and parking
- Impact on existing Open Space
- Impact on water and sewerage infrastructure
- Impact on Historic Monuments
- Impact on Natural Heritage assets

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 application site is located within the settlement limit of Newtownards on lands to the southwest of the Portaferry Road. The site is directly north of the floodgates and opposite the eastern end of Londonderry Park. The site is identified as Existing Amenity Open Space and Recreation within the Ards and Down Area Plan 2015.

The site is approximately 2.18 hectares and largely consists of overgrown scrub land. The topography is relatively flat, with some gentle undulations. Access to the site is from the Portaferry Road. This road is lined with mature vegetation including intermittently spaced trees set back from the road verge.

To the south of the site is a wastewater pumping station, accessed from Portaferry Road, and to the south and west is further scrub land which forms part of the wider designated area of existing open space. Ards Airfield is located to the north and northwest of the site. Further to the northwest, beyond Ards Airfield, are two football grounds, a nursing home and Castlebawn Retail Park which consists of a number of large retail units.

A section of the recently opened Greenway traverses the site, connecting the Strangford Lough coastal walk to the Portaferry Road. A new timber fence and planting are located adjacent this path. To the north of the site is the eastern end of the Council's Londonderry Park sports complex, consisting of grass pitches and walkways.

2. Site Location Plan



Figure 1 – Site Location Plan



Figure 2 – Aerial View of Site and Surroundings

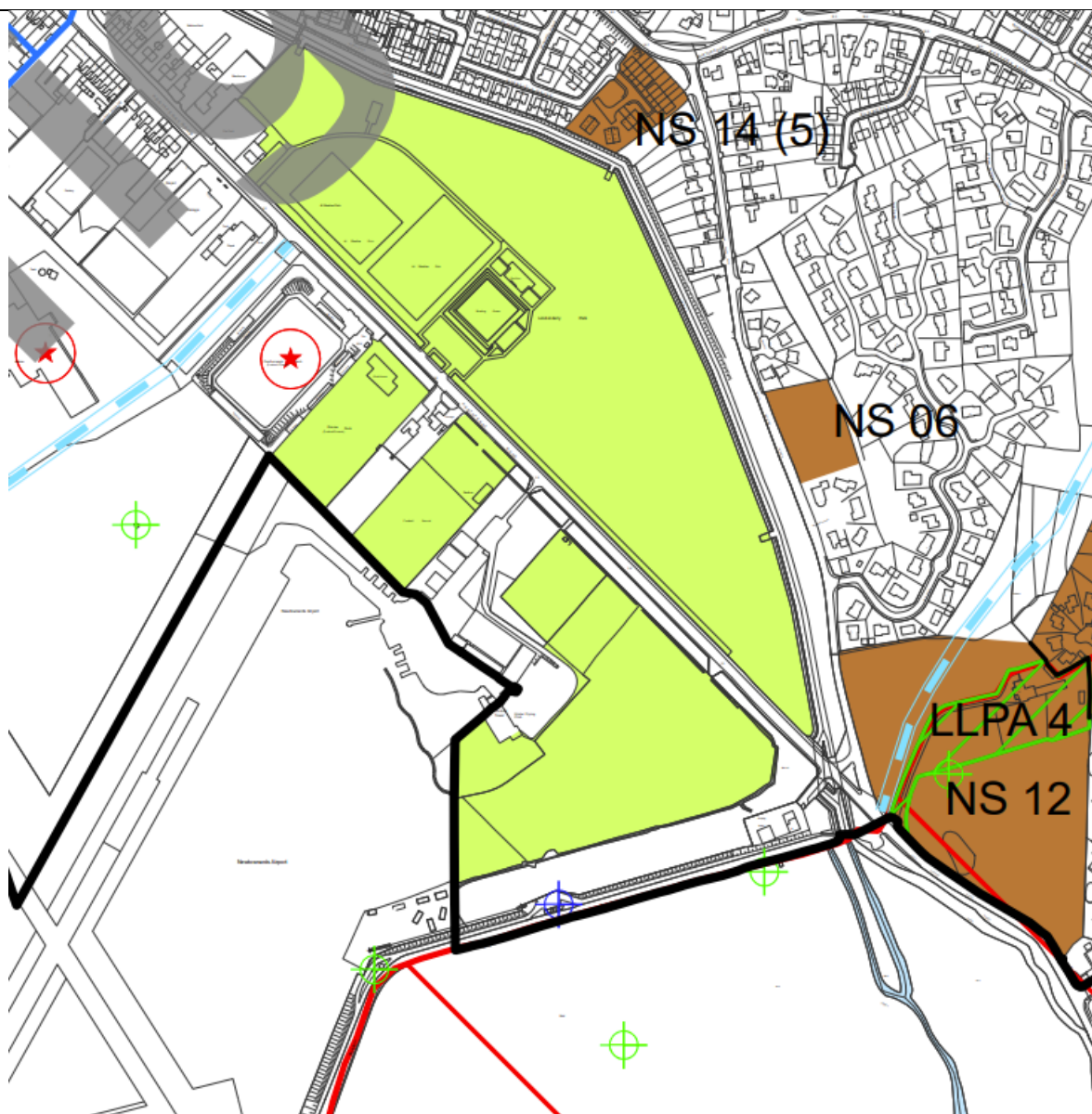


Figure 3 – Ards and Down Area Plan 2015

3. Planning History

Site

X/2001/1301/F – Proposed football Stadium including new covered seated terrace with support accommodation and facilities, new standing terrace, relocation and erecting of an existing seated terrace, a football pitch and car parking – Permission Granted 15th November 2002.

X/2003/0483/F – Proposed football stadium with covered seating and standing terraces. Football clubhouse. 10 no. 5-a-side training pitches with support

accommodation. Leisure club & sports & injury clinic. 50 bedroom hotel. Conference and banqueting facilities, restaurant and social club. – Permission Granted 7th July 2003.

LA06/2019/0544/F – Proposed 1.26km Greenway linking the flood wall at the South of Ulster Flying Club to Georges Street Newtownards via Portaferry Road and Londonderry Park. To incorporate new 3m wide asphalt paths, widening of existing paths, a puffin-controlled crossing, a bridge at the entrance to Londonderry Park, fencing and associated site and access works. – Permission Granted 20th September 2021.

LA06/2022/0499/PAN – Proposed redevelopment of lands to provide new football stadium for Ards Football Club with a capacity of 2,000 spectators. Works to include 2 No. spectator stands accommodating supporters, matchday facilities, admin office, function and ancillary space. Wider site works to include new carparking, vehicular entrances to Portaferry Road, hardstanding, floodlighting and boundary treatments. – Proposal of Application Notice (PAN) deemed acceptable 8th June 2022.

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
- The Strategic Planning Policy Statement for Northern Ireland (SPPS) Edition 2
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 13: Transportation and Land Use
- Planning Policy Statement 15 (Revised): Planning and Flood Risk

Planning Guidance:

- Living Places
- DCAN 15 – Vehicular Access Standards
- Parking Standards

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

As the proposal constitutes major development as set out in The Planning (Development Management) Regulations (Northern Ireland) 2015 (the DM Regs), it was subject to pre-application community consultation prior to submission of the planning application.

In accordance with Section 28 of the Planning Act 2011 (the Act), a Planning Application Community Consultation (PACC) Report was submitted with the application. The PACC 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.

The PACC states a number of responses were received and these came from those attending the public consultation event, which was held on 9th June 2022 at the existing Ards FC Sports Club, 24A Regent Street, Newtownards.

The PACC Report, details the issues raised by those attending the public consultation event. These matters primarily related to potential increases in traffic and parking demand, impacts on flora and fauna, and litter management on matchdays, rather than objections to the overall principle of development.

Having reviewed the PACC Report, I am satisfied that the PACC was meaningful and in accordance with statutory requirements and current best practice.

Design and Access Statement

As the proposal constitutes major development, a Design and Access Statement (DAS) has been submitted.

The DAS explains the design principles and concepts that have been applied to the proposed development and how issues relating to the access of the development have been considered. It details how the design approach was informed by a review of the site, its context, the surrounding environment, and potential constraints. The DAS sets out the Applicant's key design principles which can be summarised as follows for informational purposes:

- Provision of a modern, fit for purpose, grandstand building incorporating spectator terracing and all indoor accommodation, such as matchday player and officials' facilities, training and changing areas, toilet and shower provision, club administration areas, a boardroom, and hospitality facilities. The proposal also includes a new covered spectator stand for visiting supporters, incorporating spectator welfare facilities;
- Provision of a high-quality artificial playing field complete with floodlighting;
- Provision of facilities designed to meet the requirements of Safety at Sports Grounds legislation;
- Provision of facilities to meet NI Premiership League standards, as set out in the IFA Joint Ground Criteria;
- Provision of a high quality and appropriately sized car park for matchday and non-matchday car parking, to be shared with the Council;
- Built form and massing appropriate to the site's location and context;
- Measures to minimise overlooking of surrounding properties;
- Application of BREEAM design assessment criteria to deliver a sustainable and energy efficient sporting facility;
- Alleviation of existing parking pressures in the area through the provision of large car parking area;

- The design seeks to achieve Secured by Design approval for security, safety and deterrence of anti-social behaviour;
- The proposed buildings feature a material pallet which compliments the character and appearance of the surrounding area;
- The layout has been designed to respect the natural topography of the site and reduce any cut/fill requirements.
- The height of proposed spectator stands has been designed to ensure no overbearing impact on nearby properties.
- Inclusive design measures have been adopted to provide access for those with physical and/or sensory impairments.
- The site benefits from good transport links, with a bus stop adjacent to the site.
- The site's proximity to the Greenway also provides good cycling and walking links.

It should be noted that these matters represent the Applicant's stated intentions and do not constitute the Planning Service's assessment. The acceptability of the proposal, including the matters outlined above, will be considered in detail against the relevant planning policies and material considerations later in this report.

Environmental Impact Assessment (EIA)

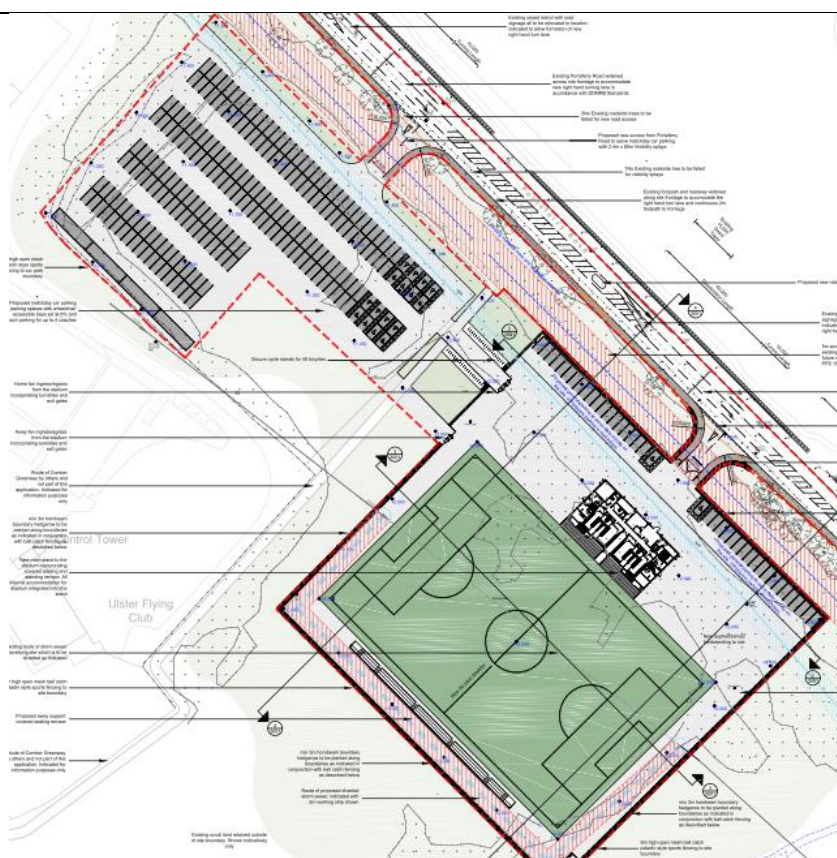
Following receipt of the application, a screening determination was carried out under Regulation 12(1) of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 to assess whether the proposal constitutes EIA development. The proposal falls within Category 10(b) – Urban Development Project of Schedule 2 of those Regulations. The Planning Service determined that the proposal was not EIA development and as such an Environmental Statement was not required.

Description of Proposed Development

The application seeks full planning permission for a new football stadium for Ards Football Club, with a capacity of 2000 spectators.

Supporting information states that Ards Football Club aspires to compete in the Northern Ireland Football League (NIFL) Premiership and that the stadium has been designed to comply with the standards required to compete at this level.

The proposed site layout plan is shown below.



The proposal includes two new spectator stands. The Main Stand will have a maximum height of approximately 10.6m and will provide 380 seats, with a covered terrace accommodating a further 360 spectators. The Away Stand will have a maximum height of approximately 4.2m provide 460 seats. The remaining 800 spectators will be accommodated within uncovered standing areas located around the perimeter of the pitch.

The Main Stand has been designed to incorporate essential matchday and operational facilities. At ground floor level, this includes changing rooms, offices, a first aid room, toilets and storage areas. The first floor accommodates a boardroom, kitchen, control room and a function room.

A 3G synthetic pitch is proposed, this includes an upper layer of rubber granulate. 6m high paladin style sports fencing is proposed around the perimeter of the ground, and a Hornbeam hedge will be planted along the boundaries. Four 24m floodlighting masts (reduced in height from originally proposed 27m) will be installed at each corner of the pitch.

Access to the site will be taken from two entrances from the Portaferry Road, serving two separate car parks. The smaller car park, positioned to the rear of the Main Stand, will provide 40 spaces for players and club officials. The larger car park will provide 228 standard car parking spaces and four coach parking spaces, along with dedicated turnstile access for supporters. Secure bicycle storage facilities to accommodate up to 40 bicycles will be located adjacent to the turnstiles.

The land required for the development, including the car park, will be leased from the Council. Under this arrangement, the Council will retain the right to use the car park for public use outside matchdays, with Ards Football Club permitted to close public access to the car park when required for fixtures.

Please note that the below digital images are **illustrative only**, and are not detailed, scaled or dimensionally accurate plans. Detailed planning drawings can be viewed on the Planning Register and are appended to this report. Should permission be granted, the decision would relate to those detailed drawings and any conditions imposed, rather than the illustrative material. Please also refer to CGIs at end of report.



Principle of Development

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 is located within the settlement limit of Newtownards within the Ards and Down Area Plan 2015 (ADAP) and is identified as existing amenity open space and recreation.

Stadia are included within the definition of intensive sports facilities as described within the amplification and justification for Policy OS 4 in Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation (PPS 8).

It is considered that the proposed 2000-seater stadium and ancillary development is consistent with the Development Plan designation given the primary use of the site remains recreational in nature. It is recognised that open space often requires built development to enable its effective use. The stadium and pitch are designed to facilitate organised sport and community recreation. The proposed ancillary built development, including car park, forms an integral part of the overall sports facility and will facilitate its use. Overall, it is considered that the development enhances the recreational value of this area of open space.

In accordance with the SPPS Edition 2, 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 primary function of the land as a recreational area is retained. Therefore, it is considered that the proposed development is in compliance with the Development Plan and does not conflict with PPS 8 Policy OS1 Protection of Open Space. The principle of development is therefore deemed to be acceptable.

Policy OS 4 of PPS 8 states that intensive sports facilities will only be permitted where they are located within settlements. The site is located within the settlement limit of Newtownards and the application is therefore in accordance with this aspect of the policy.

The policy goes on to state that the development of intensive sports facilities is required to meet a number of specified criteria. These will be assessed in detail under the topic headings below, also taking into account the relevant policy contained within the SPPS Edition 2 and retained planning policies.

Residential Amenity

The site is located within a wider mixed-use area. Adjacent land-uses include Ards Airfield and sports facilities and pitches.

The site is located approximately 120m from the nearest residential receptor at 50 Old Shore Road and is separated from it by the intervening public highway. The rear

elevation of the main spectator stand is set an even greater distance of 150m from the front of this dwelling.

The timing and frequency of the proposed sporting activities, and the associated noise and lighting impacts, have been assessed through several documents submitted with the application. These include the Design and Access Statement, the Noise Impact Assessment and the Lighting Assessment.

Supporting information sets out the anticipated frequency of fixtures based on the Club's aspiration to compete in the Northern Ireland Football League (NIFL) Premiership. It is anticipated that there will be approximately 19no. home league games per season together with an additional 2no. to 5no. cup games. The season will run from August to early May.

It is expected that the majority of matches will be played during daylight hours, typically with a 3pm kick-off, or earlier. It is expected that during the darker winter months floodlighting will be in use for these 3pm kick-offs. Whilst training sessions will occur more frequently than competitive fixtures, their overall impact is expected to be significantly less than matchday activities as spectators will not be in attendance.

The supporting Lighting Assessment states the proposed football stadium will be located in an E3 Category Medium District Brightness Area which, according to the Institute of Lighting Engineers, applies to small town centres or suburban locations. The potential light pollution impacts on sensitive receptors on Old Shore Road are considered in the revised Lighting Assessment. Light modelling demonstrates that the proposed lighting scheme complies with the relevant limits for environmental zone E3.

The Council's Environmental Health section was consulted and raised no objection with regards to the information provided within the Lighting Assessment, subject to a negative condition requiring the submission and approval of an Artificial Light Verification Report prior to the commencement of the development.

The Noise Impact Assessment (as amended) concludes that, on matchdays, the 'worst-case' noise level generated by the proposal, including those spectators attending, will be 46db at the nearest residential receptors along Old Shore Road. This level is below the ambient noise levels of approximately 59db found in this location and would therefore not result in unacceptable adverse impacts. These noise levels are also lower than the existing ambient levels recorded around the site, which are approximately 57db. During training sessions, noise levels are anticipated to be significantly lower with a worst-case scenario of approximately 36db, which is below background noise conditions.

During construction, the Noise Impact Assessment determined that, in the 'worst case' scenario, noise levels may exceed targets for short durations only. Overall, Environmental Health is content the proposal would not result in adverse impacts subject to the implementation of appropriate noise mitigation measures for the operational use phase secured by condition.

A Transport Assessment (TA), Travel Plan and Air Quality Assessment have been provided in support of the application. Environmental Health was consulted with this information and raised no objection to the proposal in terms of impact on air quality.

The site is located a considerable distance of approximately 120m from the nearest dwelling at 50 Old Shore Road. Having considered the information submitted in support of the application and the consultation response from Environmental Health, I am satisfied that the proposal will cause no unacceptable adverse impact on existing residential amenity. I consider that the proposal complies with the SPPS Edition 2 and Policy OS 4, in that it will result in no unacceptable impact on the amenities of people living nearby by reason of the siting, scale, extent, frequency or timing of the sporting activities proposed.

Nature Conservation

Under Policy OS 4 of PPS 8, intensive sports facilities within settlements are required to ensure there is no adverse impact on features of importance to nature conservation.

PPS 2 Natural Heritage, Policy NH 1: European and Ramsar Sites states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site (such as a Special Protection Area (SPA), Special Areas of Conservation (SAC) or a listed or proposed Ramsar Site.

The policy states that where a development proposal is likely to have a significant effect (either alone or in combination), or reasonable scientific doubt remains, the planning authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives. Appropriate mitigation measures in the form of planning conditions may be imposed.

In terms of national designations, PPS 2 Policy NH 3 states planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitat network, or special interest of Areas of Special Scientific Interest (ASSI).

The application site is hydrologically linked to the following national, European, and international designated sites:

- Strangford Lough Ramsar
- Strangford Lough Special Area of Conservation (SAC)
- Strangford Lough Special Protection Area (SPA)
- Strangford Lough ASSI Part 1, 2 &3

NIEA's Natural Environment Division (NED) has considered all the information provided with the application and the potential impacts of the proposal on designated sites and other natural heritage interests. On the basis of the information provided, NED has no concerns, subject to recommended conditions. This includes a condition requiring the submission and approval of a Final Construction and Environmental Management Plan (CEMP) prior to the commencement of development.

NIEA's Marine and Fisheries Division has highlighted the need for adequate pollution mitigation to protect the marine environment.

The Shared Environmental Service (SES) carried out a Habitats Regulations Assessment (HRA) on behalf of the Council, which has concluded that the proposed development 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 assessed the manner in which the project is to be carried out including any mitigation. In line with the findings of the HRA, it is recommended that the following mitigation is secured by appropriately worded planning conditions:

- Pollution Prevention Plan: including suitable buffers between the location of all construction works including culverts, storage of oil/fuel, concrete mixing and washing areas and any watercourse or surface drains present on or adjacent to the site;
- Water Quality Monitoring Plan;
- Environmental Emergency Plan; and
- Operational Drainage to be constructed in accordance with the Granulate Management and Pitch Maintenance Plan to prevent granular material entering the drainage system.

I am satisfied that this mitigation will prevent pollution to designated sites and the surrounding environmental receptors during the construction and operational phases.

A Biodiversity Checklist and Preliminary Ecological Appraisal (PEA) report were submitted with the application, which were reviewed by NIEA's Natural Environment Division.

The PEA states the site is dominated by dense scrub, and unimproved neutral grassland, with small areas of bare ground, amenity grassland with scattered trees, and multiple stands of Japanese Knotweed. A methodology for the removal of the Japanese Knotweed has been agreed with NIEA and the CEMP will include a method for transporting the Japanese Knotweed to landfill.

The PEA concluded the habitats within the site and the surrounding area are likely to have moderate ecological value for birds, at the local scale.

No evidence of badgers was found within the survey area. However, suitable foraging and commuting scrub and grassland habitat is present both on site and within the surrounding area. Therefore, the site was cautiously considered to hold low ecological value for badgers overall.

The site has good linear connectivity to the wider landscape, via treelines, hedgerows, woodland, scrub, coastal habitats, and watercourses. No trees or buildings with bat roosting potential exist on site. Overall, considering the habitats within the site boundary, and the absence of roosting opportunities, the site is considered to have a moderate ecological value for bats, at the local scale.

Following consultation with NIEA's Natural Environment Division (NED), amended landscaping proposals were submitted to further mitigate potential impacts on protected

species. These amendments incorporated further native species planting along site boundaries to compensate for the loss of approximately 58.5% of dense scrub habitat, providing effective habitat replacement and enhancing ecological connectivity across the site.

In respect of the impact of proposed lighting on bats, NED noted that the site lies within an area already subjected to various levels of artificial lighting, and acknowledged the seasonal overlap between the proposed flood lighting operation and known bat activity patterns, concluding that no significant long-term impacts are anticipated, and any potential effects are expected to be short-term and limited to approximately eight weeks before and after peak bat activity season.

NED has provided no objection to the proposal in terms of the potential impact on protected and/or priority species and habitats, subject to the conditions requiring the retention of existing landscaping and the compensatory planting of Hornbeam hedgerow.

On this basis, I am content that the proposal satisfies Policies NH 2 and NH 5 of PPS 2: Natural Heritage as well as the relevant criterion within Policy OS 4 of PPS 8.

Archaeology and the Built Heritage

In accordance with Policy OS4 of PPS 8, the proposed development must result in no adverse impact on archaeology or the built heritage. PPS 6 provides further policy for the protection of archaeological remains and features of the built heritage.

The submitted Archaeological Impact Assessment (AIA) was reviewed by Historic Environment Divisions' Historic Monuments Unit (HMU). HMU agrees with the archaeological mitigation strategy proposed, and notes from the AIA that the proposed development would have a slight adverse visual impact on the strongpoint (DOW 006:507) which is located to the southwest of the site. HMU stated it would welcome integration of the development into the wider setting of this defence heritage site through augmentation of boundary planting. The amended landscaping plans and introduction of a Hornbeam hedgerow to the site boundaries would assist in this regard.

There are no listed buildings in close proximity to the site and separation distances ensure there is no adverse impact on the setting of any listed buildings.

Overall, HMU is content that the proposal satisfies policy requirements, subject to conditions for the implementation of an agreed developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ as per Policy BH 4 of PPS 6.

Design and Impact on the Character and Appearance of the Area

Policy OS 4 of PPS 8 requires that intensive sports facilities achieve a high standard of design, are of a scale appropriate to the local area or townscape, and sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment.

The site is located outside but close to the boundary of Strangford and Lecale AONB. The impact of the proposal on the setting on the AONB will be taken into account in the assessment below.

A Landscape and Visual Impact Assessment (LVIA) was submitted which identifies the site as lying within the Scrabo Landscape Character Area (LCA 101). Within this area *'the scale of the landscape allows large scale development to be integrated, provided it is carefully sited to prevent obstruction of views and avoid sprawl on the outskirts of Newtownards; new development sites will be most effectively integrated into the landscape and setting of Newtownards if they are restricted to the flat lowland areas (including regeneration of some existing central urban areas) rather than adjacent hills.'*

The LVIA concludes that the proposal would give rise to a slight to moderate level of visual effect overall, with no significant loss to landscape quality. Eight viewpoints were assessed, supported by photomontages demonstrating how the development would appear within the receiving environment. (Photomontages are appended to this report)

The wider mixed-use context of the site includes the NI Water Wastewater Pumping Station to the south-east, Ards Airfield and its associated clusters of buildings, Londonderry Park, and the more substantial built form of Castlebawn Retail Park to the northwest. When viewed from the wider area, the proposed stadium will be read with existing established development. The existing development also helps to visually contain longer-range views of the proposed development. -use context

The Main Stand will be situated approximately 34m from Portaferry Road and has been designed with a contemporary profile incorporating a simple cantilevered roof profile. External finishes include painted render at ground floor level with aluminium cladding and a continuous band of glazing at first floor level extending the full width of the building. The roof is finished in grey aluminium cladding, with clear polycarbonate panels on the gables

From Portaferry Road, the Main Stand will present as a modern two storey sporting/community pavilion, providing an attractive frontage to Portaferry Road. Views of the proposed built form will be softened by the retention of existing roadside vegetation and the introduction of additional structural landscaping.

The second, smaller stand is located on the opposite side of the pitch approximately 120m from Portaferry Road, reducing its visual prominence.

The proposal includes 4no. 24m high floodlights to be installed in each corner of the pitch. Floodlighting is an established feature of the local area, with similar floodlights already in operation at Londonderry Park sports complex. Having regard to the established context of the site, I am satisfied that the proposed floodlights will have no unacceptable impact on the character of the area.

The site is also located within Strangford Lough Seascape Character Area (SCA 16), an area where the western shoreline is noted for its relative seclusion, contrasting with the larger scale and more open character of the northern and eastern shores.

DAERA's Marine and Fisheries Division raised concerns regarding potential impacts on the Strangford Lough seascape. However, the site forms part of the developed coast, as defined by the SPPS Edition 2 by virtue of it being within the settlement limit. The definition of the developed coast contained within the SPPS Edition 2 *"includes existing settlements and existing major developments such as ports, isolated industrial units and power stations"*. (page 43)

The aim of the SPPS in relation to the coast is to protect the undeveloped coast from inappropriate development, consistent with the Regional Development Strategy; and to support the sensitive enhancement and regeneration of the developed coast largely within coastal settlements.

It is considered that the proposed development will enhance the existing recreational value of site for the local community. Given the scale of the development and the established mixed-use context of the site, I am satisfied it will cause no unacceptable impact to the seascape character and the undeveloped coast.

Overall, I am content the proposed development is designed to a high standard, and the scale is appropriate to the wider mixed-use area, which includes a significant amount of similarly used open space, and will cause no unacceptable adverse impact to its character.

The proposed development will read closely with Ards Airfield, its associated buildings and the Londonderry Park sports complex. In this context, the design, scale and appearance of the proposed development is sympathetic to the surrounding environment, and it will integrate with existing built development and infrastructure.

I am also satisfied that the existing boundary landscaping and the proposed Hornbeam hedge will soften the visual impact of the proposal and assist integration.

Given the scale and siting of the development, I am satisfied that it will not be prominent when viewed from the AONB and will cause no harm to its setting or landscape character.

Public access to the coast has been retained through the community Greenway. Taking these factors into account, it is considered that the proposal would not give rise to unacceptable landscape or seascape impacts and accords with the relevant provisions of the SPPS.

Access, Traffic, Road Safety and Car Parking

Policy OS 4 of PPS 8 requires that the needs of people with disabilities are fully considered and that the development is in an accessible location to the catchment population, with priority given to walking, cycling and public transport.

In accordance with this policy, the site layout has been carefully designed to provide safe, convenient and inclusive access for all users including those with disabilities. Particular consideration has been given to internal circulation within the site and to external routes for travel to and from the site. 18no. wheelchair accessible car parking spaces are provided, comprising 16no. spaces within the main car park and a further 2no. in the players/official's car park.

The site occupies a highly accessible location on Portaferry Road, which is well served by public transport providing connections to both Ards Peninsula and Belfast. In addition, the site is within walking distance of the town centre which offers a wider range of public transport services. Pedestrian footpaths are provided on both sides of Portaferry Road. Furthermore, a recently opened extension to the community Greenway passes directly through the site, offering a dedicated walking and cycling route linking the site to the wider surrounding area and onto Bangor. To support sustainable travel, secure bicycle storage facilities accommodating up to 40no. bicycles have been proposed within the site.

Policy OS 4 also requires the road network to be able to safely handle the extra vehicular traffic the proposal will generate and for satisfactory arrangements to be provided for site access and car parking.

In addition, PPS 3 Policy AMP 2 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of use of an existing access to a public road where:

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

The proposed development will be accessed from Portaferry Road, which is not a protected route.

A Transport Assessment (TA) was submitted containing baseline traffic surveys undertaken to assess existing conditions within the surrounding road network. Traffic surveys and queue observations were undertaken between the hours of 1600 – 1930 and 1230 – 1630 on Thursday 6th June 2024 and Saturday 8th June 2024, respectively. The surveys were undertaken via video cameras. The weekday peak hour was identified as 16:30-17:30 and the Saturday peak hour was identified as 12:45-13:45.

It is anticipated that peak arrival times on match days for the proposed stadium would take place between 18:30-19:30 (weekdays) and 14:00-15:00 (Saturdays). The TA confirms that traffic modelling was based on a worst-case full capacity scenario and that committed developments have been factored into the assessment. The TA concludes that the surrounding road network has the capacity to accommodate the level of traffic associated with the worst-case full capacity scenario.

The proposal includes widening of the existing Portaferry Road to accommodate new right hand turning lanes at both access points in accordance with DDMRB standards to improve traffic flow and road safety.

DfI Roads has reviewed the application, including the TA and accompanying drawings, and has raised no objection to the proposed development subject to conditions to secure provision of safe access to the site, the proposed road improvement works and right-hand turning lane accesses into the site. On this basis, I am content that the proposal complies with Policy AMP 2 of PPS3 and the relevant requirements of Policy OS 4 in terms of access, traffic and road safety.

In accordance with Policy AMP 7 of PPS 3, the level of car parking has been assessed having regard to the specific characteristics of the development, its location and the guidance contained within the published Parking Standards. Policy AMP 7 sets out several circumstances where a reduced level of car parking may be acceptable. This includes where, through a Transport Assessment, it forms part of a package of measures to promote alternative transportation modes or where the development is in a highly accessible location well served by public transport.

A total of 228no. car parking spaces and 4no. coach spaces are provided within the main car park for spectators. In a separate car park, a further 40no. spaces are provided for match and club officials.

The Parking Standards guidance state that 1no. car parking space should be provided per 3no. staff, 1no. car parking space per 3no. players, 1no. car parking space per 3no. spectators and 1no. coach space per 500no. spectators. The parking layout incorporates designated coach parking spaces in accordance with standards. The proposed 40no. parking spaces are also considered adequate for players and officials.

The Parking Standards guidance (Feb 2005) indicates that a full capacity game would ordinarily require 667 car parking spaces for 2000 spectators. It is acknowledged that the stadium will not operate to full capacity at all events/matches. Historical evidence presented in the Transport Assessment indicate that Ards FC games have attracted significantly lower spectator numbers; therefore, the full-capacity scenario represents a worst-case assessment.

As referenced above, the Parking Standards guidance was issued in 2005. In the intervening years there has been move away from the use of single vehicles. This modal shift is promoted within the prevailing regional Planning Policy.

It has been demonstrated through the Transport Assessment that the site is located within a highly accessible location which is well served by sustainable modes of travel including walking, cycling and public transport. It is considered that these factors provide genuine and realistic alternatives to private car travel and would materially reduce reliance on on-site car parking.

The submitted Travel Plan promotes a modal shift to more sustainable forms of transport - it includes a clear set of targets, and measures to promote sustainable forms of travel through controlled use of the on-site car park, promotion of walking, cycling and car-sharing and clear matchday travel messaging.

For higher capacity fixtures, additional capacity is proposed through off-site parking locations including local schools which are closed at weekends and will not be in use during match-times. Matchday stewarding and signage are also proposed to manage any overspill. A Travel Plan Co-Ordinator will be appointed to monitor attendance, modal share and parking demand through on-going surveys and reviews. The document would operate as a live plan capable of introducing additional measures where necessary.

Having regard to the highly accessible location of the site and the absence of any road safety objections from the statutory roads authority, I am satisfied that the level of car parking is appropriate for the proposed development and fully complies with planning

policy requirements. Furthermore, it is considered that a Travel Plan can be an effective tool to deliver a meaningful reduction in the reliance on private car travel. It is recommended that any approval of the application is subject to a planning condition to secure implementation of the Travel Plan.

Supporting information states that as part of the development's lease agreement, the proposed car parking facilities are to be shared with the Council and will be exclusively used by Ards Football Club on match days/club events. Outside of match days, this car parking area will provide additional car parking for existing vehicles using the surrounding road network, including those visiting Newtownards. This will also assist in managing overspill from Londonderry Park and Ards Rangers site during non-match days.

Drainage and Waste Disposal

Policy OS 4 requires the provision of satisfactory arrangements for drainage and waste disposal.

A Drainage Assessment (DA) was submitted, and the proposal includes a formal stormwater drainage network. Stormwater discharges will be controlled, and attenuation will be provided by oversize pipework, manholes and an attenuation tank.

Mitigation in the form of 3P Technik Hydro Filter Drains will be incorporated to prevent rubber granulate from the artificial pitch from entering the neighbouring watercourse via the drainage system. This drain will catch the rubber crumb in the sedimentation box. The sedimentation box will be cleaned weekly with the crumb either redistributed or disposed of in an appropriate manner.

DfI Rivers has accepted the logic of the DA and has no reason to disagree with its conclusions.

NI Water has been consulted and advises there is available capacity at the Wastewater Treatment Works. NI Water has also highlighted network capacity issues within the area.

On that basis any approval is subject to a negative condition which will require a solution to be agreed with the relevant authority prior to the commencement of development to prevent any risk of environmental harm occurring as a result of the proposed development.

Floodlighting

Policy OS 7 of PPS 8 advises floodlighting associated with sports and outdoor recreation facilities will only be permitted where there is no unacceptable harm on the amenities of those living nearby, where there is no adverse impact on the visual amenity or character of the area, and where the floodlighting does not prejudice public safety.

The impact of the floodlighting on residential amenity has been discussed in detail above and is not considered to adversely impact the residential amenity of those living nearby.

The impact of the proposed floodlighting on the character of the area has also been considered above. The location of the site on the edge of, but within the settlement limit, and also within an area consisting of a variety of uses has been considered. This includes the site's proximity to sports pitches which have existing floodlighting. As such, it is considered that the proposed floodlighting would not adversely impact on the character of the area.

Consultees, specifically DfI Roads and the Ulster Flying Club have been consulted on the proposal, and no objections in this regard have been raised.

The site falls within a critical area for Ards Airfield close to several of its Obstacle Limitation Surfaces (OLS). The floodlighting has been designed so that the installation is at an appropriate height not to cause an impact on usage of the airfield. Obstacle lighting in a steady state red shall be placed on top of all floodlighting and the development as a whole where it infringes the OLS.

Flood Risk

DFI Rivers considered the Flood Risk Assessment (FRA) submitted in support of the application.

It is accepted that the site constitutes previously developed land, and as such, the proposed development is considered to fall within an exception to the presumption against development in the floodplain under Policy FLD1 of PPS15. The site is also located upon land which is protected by flood defences against a 1 in 100-year fluvial flooding event and a 1 in 200-year coastal flooding event.

The proposal will give rise to intensification of use; however, this will not be a significant intensification of use due to the sport and recreational nature of the use and the likely frequency. As such, I agree with the conclusions of the FRA that the proposal can be deemed an exception to Policy FLD1 and DFI Rivers has not put forward any objections to the proposal.

DAERA Marine and Fisheries Division has expressed concern in relation to the potential for climate change to impact the proposed development. However, DFI Rivers has confirmed the site remains unaffected by the coastal flooding during the 1 in 200 year climate change storm event flood.

DFI Rivers has raised no objection to the proposal with regards to Policies FLD 1 - 4 of PPS 15.

The proposal includes culverting a section of the undesignated watercourse along the eastern boundary of the site, together with the diversion of an existing culverted watercourse traversing the site. Policy FLD 4 states it is acceptable to culvert short lengths of a watercourse to enable access to and from the site. Paragraph 6.54 of PPS15 clarifies 'usually less than 10m' constitutes a short length of the watercourse.

This is repeated at para. 6.125 of the SPPS Edition 2. The culverting of the undesignated watercourse along the eastern boundary is for access reasons and involves only a short length of the watercourse, approximately 10m in length. Schedule 6 approval has been granted by DFI Rivers for this proposed culverting.

PPS 15, Policy FLD 5 states that new development will only be permitted within the potential flood inundation area of a “controlled reservoir” if the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety. In such circumstances, the application must be supported by a Flood Risk Assessment and appropriate mitigation measures.

For all development, Policy FLD5 concludes that there will be a presumption against development within the potential flood inundation area for any development located in areas where the FRA indicates potential for an unacceptable combination of depth and velocity.

A portion of the site is located within a potential area of inundation emanating from the Strangford Lough Wildfowlers Pond Reservoir, (located between Crawfordsburn Road and Mountain Road, more than 2.6km away as the crow flies) which is privately owned and for which no condition assurances have been provided.

In the Revised Technical Guidance Note 25 (TGN 25), produced by Department for Infrastructure, it is noted that the advice which DFI Rivers provides to planning authorities is a material consideration only and the relevance and weight to be applied to it is a matter for the planning authority as decision maker.

DFI Rivers has confirmed that a section of the proposed development at the northern part of the site lies within a low hazard rating and considers the overall risk in this area of the site to be an acceptable combination of depth and velocity, apart from development that involves more vulnerable groups such as children, the elderly and infirm. This part of the site does not involve bespoke accommodation or facilities designed for vulnerable groups. I am therefore satisfied that the overall risk in the low hazard area is acceptable.

Policy FLD 5 of PPS 15 states that there will be a presumption against any development located in areas where it is indicated that there is the potential for an unacceptable combination of depth and velocity.

DFI Rivers has further advised that a section of the proposed car park in the north-west portion of the site lies within a high hazard area. DFI Rivers considers that there would be an unacceptable combination of depth and velocity in this high hazard area.

PPS 15 refers to a presumption against development rather than an outright ban or moratorium. As accepted by the Planning Appeals Commission in appeal decision 2018/A0098, the use of the word ‘presumption’ is not an absolute term and suggests that there could still be instances where a decision to approve a proposal might be acceptable. Also, the inundation area affects a large proportion of Newtownards rather than just part of the application site.

The site is designated as existing amenity open space and is already accessible to the public for recreational purposes. The proposed layout has been designed to ensure that no buildings are located within the reservoir flood extents. Approximately 40no. car parking spaces would be located within the high hazard area, representing around 17% of the total provision of 228no. spaces. These spaces are located at the furthest distance from the stadium entrance, turnstiles and community Greenway access points. Disabled spaces are located outside this high hazard zone.

Given the limited scale of development in the high hazard area, its use solely for car parking and its peripheral location relative to the stadium, it is considered unlikely that a significant number of users would be located within this area at any given time.

Furthermore, while the stadium has a capacity of up to 2000 spectators, historical attendance levels at Ards FC have been significantly lower. Even in circumstances where attendance levels increase significantly over time, the car parking spaces within the high hazard area are those least conveniently located and would typically only be used by spectators during exceptional peak events. The limited frequency and duration of such events would further reduce the impact of flood risk from this source.

On non-match days the car park will provide overflow parking to help alleviate existing pressures in the wider area. Given the anticipated nature and frequency of this use, it is not expected to result in prolonged or intensive occupation of the high-risk area.

Whilst recognising the harm that Policy FLD5 seeks to protect against, through the establishment of a presumption against development in areas of unacceptable flood risk, in this instance I consider there is public interest in developing a new football stadium in Newtownards for Ards FC. Significant weight is also afforded to the established use of the site for open space, the minor scale of development within the high hazard area, and the likely limited intensity and duration of use of the car parking spaces. It is therefore considered that the proposal would not result in a significant increase in flood risk to people and that on balance, the development is acceptable in flood risk terms.

5. Representations

One representation has been received to date and raises a number of considerations including the change in use of the existing scrubland for use as a football club.

As previously referenced, stadia are included within the definition of intensive sports facilities as described within the amplification and justification for Policy OS 4 in PPS 8 – Open Space, Sport and Outdoor Recreation. Therefore, the proposal would not represent a loss of open space to a competing land use. Rather, it would facilitate and enhance use of the site for recreational purposes, provide car parking on non-match days and bicycle parking for those using the community Greenway.

The representation raises concerns about the visual impact of the proposed development. The impact of the proposal on the character of the local landscape and seascape has been fully assessed in the main body of this report, including consideration of Strangford Lough Seascape Character Area (SLSCA) and Strangford and Lecale AONB. It is the professional planning judgement the proposal would not adversely impact on either the character of the local area, AONB or the SLSCA.

Concerns have also been raised regarding the potential of the proposal to result in increased traffic congestion within the area. DfI Roads was consulted on the proposal and raised no objection regarding traffic congestion. The information provided within the Transport Assessment (TA) demonstrates the road network would be able to accommodate the level of traffic generated by a match.

The representation also expressed concern that the proposal could exacerbate existing carparking issues in the area. As detailed above, the proposed car park will be shared by the Council and Ards FC, with Ards FC taking control on matchdays. On non-matchdays the car park will be used as an overflow car park for Londonderry Park and for other users and will therefore help alleviate any existing car parking issues. I have also considered the level of car parking provided for the proposal. The site is in a highly accessible location due to its proximity to the community Greenway and Newtownards town centre (and bus station) and is well served by public transport. It is recommended that any approval of the application be subject to a condition securing the implementation of the Travel Plan. Taking into account all of these relevant factors, I am content that the level of car parking provided is acceptable and is in accordance with policy requirements.

Concerns are raised regards litter generated by those attending the matches at the proposed stadium. The responsibility for managing any potential waste within the site would rest with the operator. It is recommended that any approval of the application is subject to a condition requiring the submission and approval of a plan to secure the management and maintenance of the site and its landscaped areas in the long-term.

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 vehicular accesses / egresses, including visibility splays of 2.4m X 80m, shall be provided in accordance with Drawing No. 02D & 10 prior to the commencement of any 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.

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

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

4. The access gradients hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where the vehicular access crosses the 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. No development hereby permitted, including site preparation and clearance, shall be commenced until the road works indicated on Drawing No 02D & 10 have been fully completed in accordance with the approved plans.

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

6. The development hereby approved shall not become operational until the parking and turning areas have been provided and permanently marked out in accordance with the approved plans. Such areas shall not be used for any purpose other than the parking and turning of vehicles and shall remain free of obstruction for such use at all times.

Reason: To ensure that adequate parking, servicing and traffic circulation within the site is provided.

7. 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. This shall be submitted to and approved in writing by the Council.

Reason: To ensure no adverse effect on the water environment.

8. Prior to the installation and operation of the public address (PA) system, or any sound amplification system, full details and specifications of the system shall be submitted to and approved in writing by the Council.

The details shall include its location, mounting height and orientation, design and noise mitigation measures and shall be in general accordance with the Noise Impact Assessment, dated October 2025, prepared by F.R. Mark. The PA system shall be installed in accordance the approved details and shall be

operated and maintained thereafter in strict accordance with the approved details unless otherwise agreed in writing with the Council.

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

9. Noise from the operation of the public address (PA) or sound amplification system shall not exceed 50 dB LAeq1hr at the façade of the nearest noise-sensitive property.

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

10. Within 28 days of the receipt of a written request from the Council (following a complaint from a Noise Sensitive Receptor relating to noise from the PA or any sound amplification system which the Council judges to be reasonable) the operator shall, at their expense, employ a suitably competent person to undertake attended noise monitoring at the complainant's property. The monitoring shall be undertaken at a date and time first agreed in writing by the Council and during an event when the PA system is in normal use. The monitoring shall assess compliance with the approved noise limit.

The test results, including all calculations, audio recordings and raw data upon which they are based, shall be submitted to the Council within 8 weeks of the written request unless otherwise agreed in writing by the Council.

Reason: To verify and control the amplified sound in the interests of neighbouring residential amenity.

11. The development hereby approved shall be designed and constructed in accordance with the specifications stipulated within the SGSA: Guide to Safety at Sports Grounds, 6th Edition, or any subsequent revision.

Reason: In the interest of public safety.

12. All remediation measures as outlined in Section 7 of the Ards Football Club, Portaferry Road, updated Contaminated Land Risk Assessment, prepared on behalf of Tetra Tech Consulting (NI) Ltd and dated August 2021, shall be incorporated into the development prior to the operation of the development hereby approved.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.

13. An appropriate 500mm capping system, including a minimum of 200mm crushed stone capillary break, shall be installed in all landscaped areas prior to the commencement of operation of the development hereby approved.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.

14. Prior to the commencement of operation of the development hereby approved, all new buildings shall be installed with gas protection measures which meet Characteristic Situation 2 as per C665 and attain a gas protection score of 2.5 in accordance with B.S 8485 and be as detailed in Section 7.2 of the updated contaminated Land Risk Assessment, prepared on behalf of Tetra Tech Consulting (NI) Ltd and dated August 2021.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.

15. On completion of the remediation under condition 12 and 13, and prior to the commencement of operation of the development hereby approved, a Verification Report shall be submitted to and approved in writing by the Council. This report shall demonstrate the successful completion of remediation works and demonstrate that the site is now fit for end-use and include details of:

a) Capping system

- The methodology and programme of the capping system.
- Photographs and records of any excavation works within the source area including photographs showing depths to accommodate the capping layer.
- Photographs of the clean material being used and placed on the source area, also showing depths being placed.
- Records and photographs showing the depth of the capping system as required.
- Details of the materials that were used for the capping system along with laboratory certificates and results which confirm that the materials are suitable for use.

b) Gas Protection Measures

The Verification Report must confirm the gas protection measures were installed as specified in Section 7.2. of the updated Contaminated Land Risk Assessment, referenced B028827 V1, prepared on behalf of Tetra Tech Consulting (NI) Ltd and dated August 2021.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.

16. If during the development works, new contamination or risks to human health 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 available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and approved in writing by the Council and shall be subsequently implemented and verified to its satisfaction.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.

17. After completing any remediation works required under Condition 16 and prior to the commencement of operation of the development hereby approved, a Verification Report shall be submitted to and approved in writing by the Council. This report shall 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>. The Verification Report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.

18. Prior to any piling works taking place on this site, a Piling Risk Assessment shall be submitted to and approved in writing by the Council. The Piling Risk Assessment shall be undertaken in full accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention". It shall assess the risk of pollution to environmental receptors as a result of piling and shall set out any necessary mitigation measures.
Any Piling works shall thereafter be carried out strictly in accordance with the approved Piling Risk Assessment.

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

19. Additional groundwater sampling and analysis shall be undertaken from Borehole BH101 prior to, during, and following completion of site excavation and piling works. Samples shall be analysed for an appropriate suite of contaminants and determined concentrations screened and risk assessed against Generic Assessment Criteria. In the event that samples exceed the applicable Generic Assessment Criteria, works shall cease, and no further development shall take place until the requirements of conditions No. 16 & 17 have been satisfied. Following completion of site preparation works and prior to the commencement of any further development, a written report detailing the results of groundwater monitoring, screening and risk assessment shall be submitted to and approved in writing by the Council.

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

20. During the operational phase of the development, pitch maintenance must be carried out strictly in accordance with the Granulate Management & Pitch Maintenance Plan (May 2023) by Hamilton Architects unless otherwise agreed in writing by the Council.

Reason: To ensure the project will not have an adverse effect on the integrity of any protected site.

21. The operational drainage system for the site shall be constructed and operated in accordance with the Granulate Management & Pitch Maintenance Plan (May 2023) by Hamilton Architects and the Flood Risk and Drainage Assessment by Tetra Tech Consulting (NI) Ltd (Jan 2024). The drainage system shall incorporate perimeter drainage channels consisting of 3P Technik Hydro Filter drains to prevent the loss of rubber crumbs, microplastics, and other synthetic pitch infill material from the 3G pitch into the drainage network and to retain such material within the pitch area. The approved drainage and filtration measures shall be retained and maintained for the lifetime of the development and shall operate in accordance with the approved details unless otherwise agreed in writing by the Council.

Reason: To prevent the release of microplastics into the wider environment and to ensure the project will not have an adverse effect on the integrity of any protected site.

22. Prior to the commencement of development, including ground preparation or vegetation clearance, a Final Construction and Environmental Management Plan (CEMP) shall be submitted to and approved by the Council in writing. The development shall be undertaken in strict accordance with the approved Final CEMP, unless otherwise agreed by the Council in writing. Specifically, the Final CEMP shall include noise/vibration, air quality/dust mitigation measures and the following:

- a) Construction methodology and timings of works;
- b) Pollution Prevention Plan; including suitable buffers between the location of all construction works including culverts, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;
- c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- d) Water Quality Monitoring Plan;
- e) Environmental Emergency Plan;
- f) Updated method for transporting Japanese Knotweed waste to landfill;
- g) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities.

Reason: To protect the amenity of neighbouring dwellings in respect of air quality (dust), noise and vibration and to protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified, to protect

the water environment and to prevent likely significant effects on Strangford Lough.

23. During all construction works, all mitigation measures specified in Tables 4.5-4.9 of the Air Quality Assessment - Ards Football Club, New Stadium, prepared by Mabbett, dated May 2023, shall be fully implemented and adhered to unless otherwise approved in writing by the Council.

Reason: To minimise the impact of dust from the site during construction works.

24. Prior to the commencement of operation of the development, an Artificial Light Verification Report shall be submitted to and approved by the Council in writing. This report shall verify that the design measures recommended in the report entitled Ards Football Club, New Stadium, Lighting Assessment, submitted by Hamilton Architects, dated November 2024, have been implemented and shall verify that all artificial lighting connected with the development is optically controlled and directed in such a manner as to minimise light pollution from glare and spill at the closest residential receptors. The report shall include detailed contoured plots demonstrating that levels will be within E3 limits as specified within Table 2 of the Guidance Notes for the Reduction of Obtrusive Light (2021)–The Institute of Lighting Professionals (ILP).

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

25. No site works of any nature or development, including ground preparation or vegetation clearance, shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted to and approved in writing by the Council in consultation with Historic Environment Division, Department for Communities.

The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary;
- Preparation of the digital, documentary and material archive for deposition.

Reason: To ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

26. No site works of any nature or development, including ground preparation or vegetation clearance, shall take place other than in accordance with the programme of archaeological work approved under condition 25.

Reason: To ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

27. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 25. These measures shall be implemented, and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

28. All trees and planting within the site shall be retained unless shown on the approved drawings as being removed. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Council.

Reason: To protect the biodiversity value of the site, including protected species.

29. No works shall commence on site (including demolition and site clearance) unless a Tree Protection Plan ("TPP") to BS5837:2012 (or any standard that reproduces or replaces this standard) has been submitted to and approved in writing by the Council. The TPP shall detail the methods of tree/hedge protection and clearly detail the position and specifications for the erection of tree protective fencing and a programme for its implementation. The works shall not be carried out unless in accordance with the approved details and the measures specified by the TPP shall remain in place until the completion of the construction.

Reason: To safeguard existing tree(s) in the interests of visual amenity. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

30. If any retained trees or planting indicated on the approved plans die, are removed or become seriously damaged, diseased or dying within 5 years of operation of the development hereby approved, they shall be replaced during the next planting season (October to March inclusive) with other trees or plants of a location, species and size to be first approved in writing by the Council.

Reason: In the interests of visual amenity.

31. All hard and soft landscaping works shall be carried out in the first available planting season following completion of the development in accordance with the

approved details as indicated on Drawing No. 12. The proposed Hornbeam boundary hedge shall be allowed to grow to a minimum height of 3 metres and shall be retained thereafter at a minimum height of 3 metres. All hard landscaping works shall be permanently retained in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

32. Any proposed trees or plants indicated on the approved plans which, in the opinion of the Council, 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.

33. A detailed landscape and operational management plan shall be submitted to and agreed in writing by the Council prior to the commencement of development. The plan shall provide long term landscape design objectives, performance indicators, management responsibilities, and maintenance schedules. It shall include arrangements for the on-going maintenance of all landscaped areas and measures to protect landscaping (including management of match-day litter and waste). The landscape management and maintenance plan shall be carried out as approved for the lifetime of the approved development unless otherwise approved in writing by the Council.

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

34. The development shall operate in accordance with the Travel Plan and the approved mitigation measures, dated 6 February 2026. A Travel Plan Co-Ordinator shall be appointed prior to the operation of the development and shall be retained for the lifetime of the development. Monitoring and review of the Travel Plan shall be undertaken in accordance with the approved document, and the results shall be submitted to the Council within two weeks of any request. Where monitoring demonstrates that the Travel Plan targets or mitigation measures are not being achieved, a revised Travel Plan including additional mitigation measures shall be submitted to and approved in writing by the Council and shall be implemented thereafter in accordance with the approved details.

35. Reason: To promote sustainable travel patterns and to manage parking impacts associated with the proposed development.

36. Prior to operation of the proposed development, bicycle stands shall be provided in accordance with the details shown on Drawing No.02D. The cycle stands shall thereafter be retained and kept available for bicycle parking at all times.

Reason: In the interests of sustainable transport and to reduce reliance on the private car.

36. The spectator capacity of the stadium hereby approved shall not exceed 2,000 persons at any time.

Reason: In the interests of road safety and amenity.

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.

Annex A – Photographs and Plans

Photograph 1 – View of site from Portaferry Road



Photograph 2 – View of site from Greenway



Photograph 3 – View of site from Greenway towards Portaferry Road



Photograph 4 – Buildings and car park at Ards Airport



Photograph 5 – View of site from Ballyreagh Lay-by, Portaferry Road



Photograph 6 – Viewpoints and digital mock up provided by agent in LVIA – Portaferry Road

Viewpoint 1

Location: Portaferry Road Facing North

Distance from Site: 20m

Receptors: Road users, pedestrians

Existing View



Proposed View



Photograph 7 – Viewpoints and digital mock up provided by agent in LVIA – Floodgates Public Path

Viewpoint 3

Location: Floodgates Walk Public Path Distance from Site: 80m Receptors: Pedestrians

Existing View



Proposed View



Photograph 8 – Viewpoints and digital mock up provided by agent in LVIA – Old Shore Road

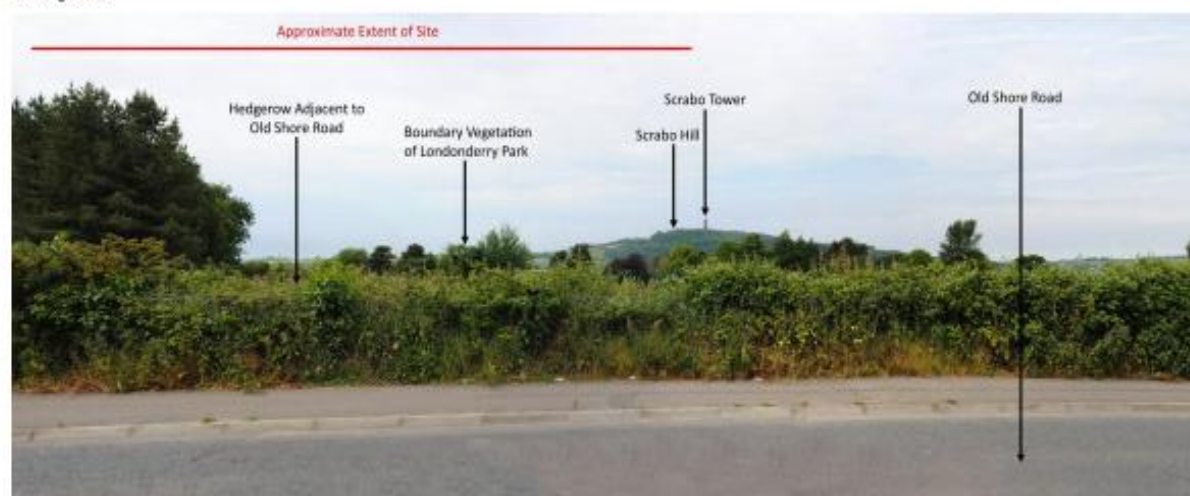
Viewpoint 4

Location: Old Shore Road

Distance from Site: 85m

Receptors: Road users, pedestrians

Existing View



Proposed View



Photograph 9 – Viewpoints and digital mock up provided by agent in LVIA – Londonderry Park

Viewpoint 5

Location: Londonderry Park Playing Pitches Distance from Site: 85m Receptors: Sport competitors

Existing View



Proposed View



Photograph 10 – Viewpoints and digital mock up provided by agent in LVIA – Scrabo Tower

Viewpoint 8

Location: Scrabo Tower Distance from Site: 2.1km Receptors: Visitors

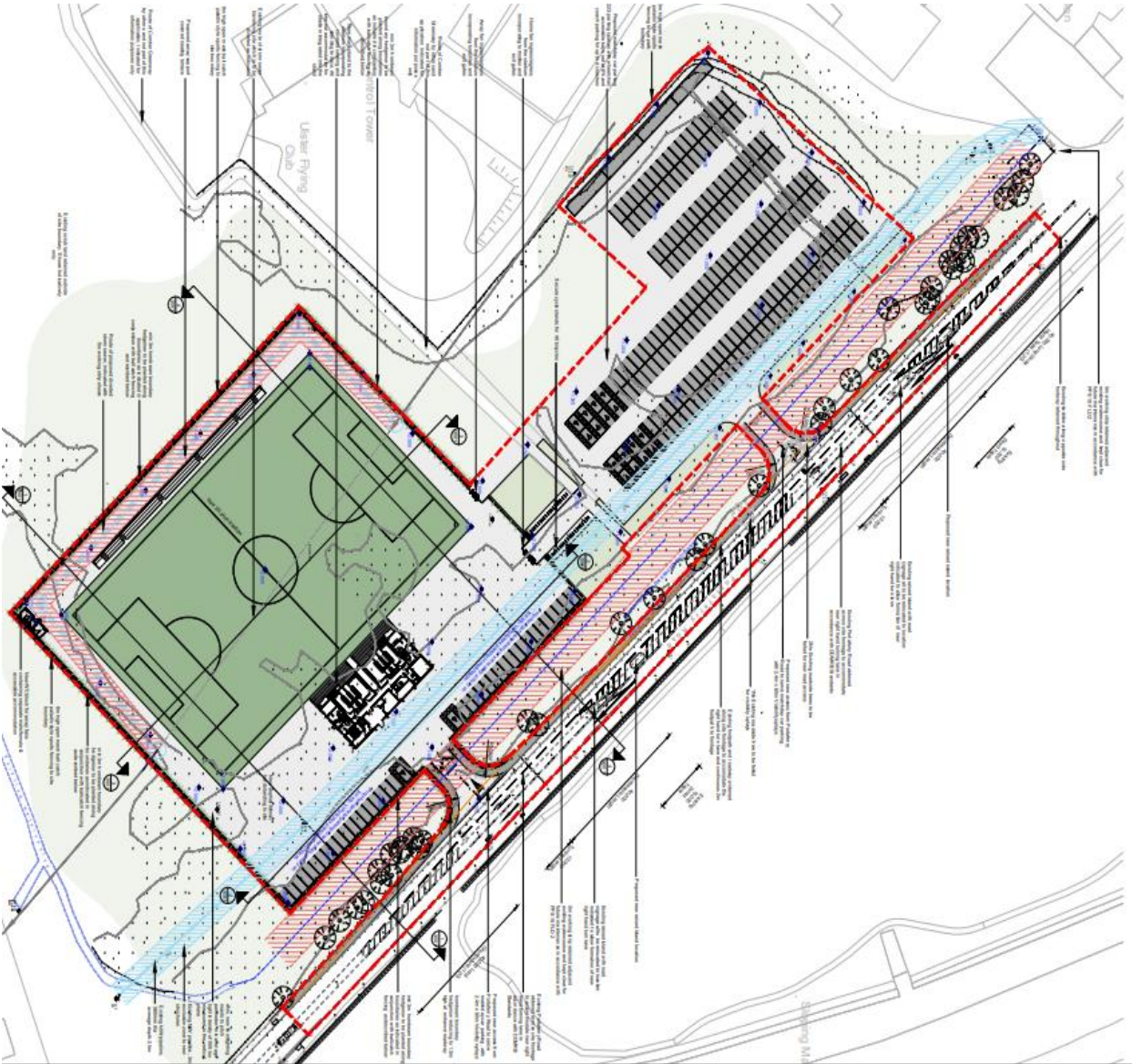
Existing View



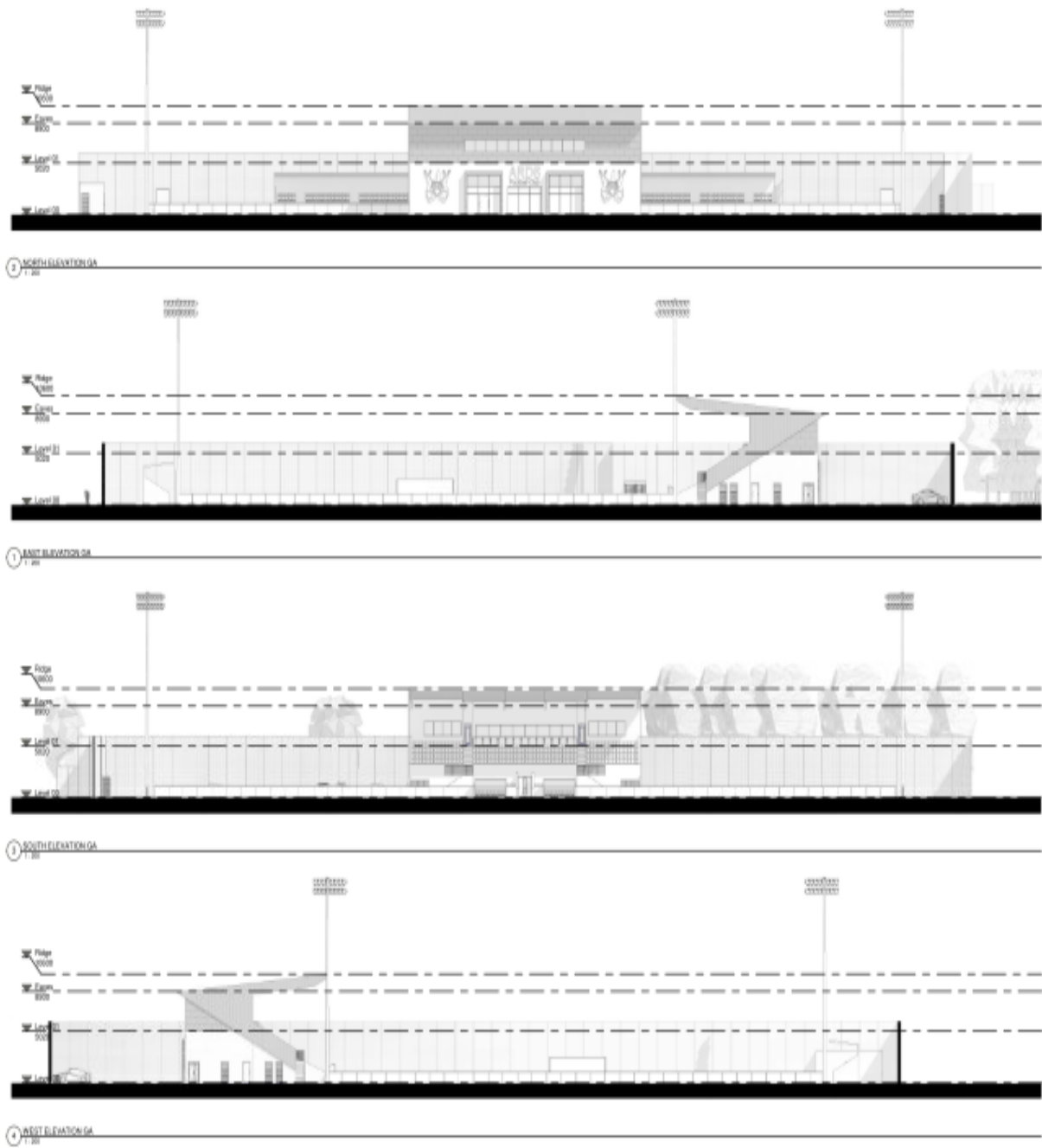
Proposed View



Proposed Site Layout Plan



Proposed Elevations



Addendum to Planning Report

Application Ref: LA06/2024/0104/F

Proposal: New football stadium for Ards Football Club with capacity of 2000 spectators. Works include two new spectator stands accommodating supporters, matchday facilities, admin office, function and ancillary spaces. New car parking, vehicular entrances to Portaferry Road, hardstanding, new artificial pitch with floodlighting and boundary treatments.

Location: 100m East of Newtownards Airport, 61 Portaferry Road, Newtownards.

This addendum has been prepared to address addition consultation comments received from the Council's Environmental Health Department on 23 February 2026 in respect of the proposed floodlighting.

Environmental Heath has advised that a further planning condition should be imposed to control the operational use of floodlighting. It is therefore recommended that, should planning permission be granted, it is subject to the additional condition set out below.

Condition

Prior to commencement of operation of the development, a Lighting Management Plan shall be submitted to and approved by the Council in writing. The Lighting Management Plan shall include:

- the specific lighting levels to be used for NIFL Premiership fixtures, televised and non-televised
- the specific lighting levels to be used for all other fixtures and training sessions
- the maximum number of occasions per calendar year on which 500 lux lighting will be used
- operational controls and procedures to ensure that lighting used for training does not exceed 120 lux
- the permitted hours of operation for each lighting level, and
- measures and monitoring arrangements to ensure ongoing compliance with Environmental Zone E3 limits.

The development shall operate strictly in accordance with the approved Lighting Management Plan, unless otherwise agreed in writing by the Council.

Reason: To protect the amenity of neighbouring dwellings.

Development Management Case Officer Report  Ards and North Down Borough Council		
Reference:	LA06/2024/0945/F	DEA: Hollywood & Clandeboyne
Proposal:	Single storey detached dwelling and associated entrance	
Location:	Site immediately south and east of No. 1 Craigantlet Road, Craigantlet, Newtownards	
Applicant:	Ken Black	
Date valid:	04/11/2024	EIA Screening Required:
Date last advertised:	04/12/2025	Date last neighbour notified:
		No
		11/09/2025
Letters of Support: 13 Letters of Objection: 1 Petitions: 0		
Consultations – synopsis of responses:		
DFI Roads	No objection subject to conditions	
NI Water	No objection	
NIEA: Industrial Pollution & Radiochemical Inspectorate	No objection – Informative	
NIEA WMU	Standing Advice	
Environmental Health	Further Information Required	
Health & Safety Executive for Northern Ireland (HSENI)	Advice & Guidance	
Summary of main issues considered:		
• Principle of Development • Impact on Character and Appearance of the Area • Integration within the countryside • Impact on Biodiversity • Access & Road Safety • Residential Amenity		
Recommendation: Refuse 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 application site is located between 81 Hollywood Road, and 1 Craigantlet Road, Craigantlet, Newtownards, and comprises part of an agricultural field situated within the open countryside. The roadside boundary is defined by a mature hedgerow which provides partial screening to the lower section of the site. A timber-boarded fence forms the shared boundary with No. 1 Craigantlet Road. The southern and south-eastern boundaries are marked by a number of mature trees, while the northern and eastern boundaries are enclosed by established hedging.

The site levels rise gradually in a south-easterly direction, resulting in the upper parts of the site being prominently visible from Hollywood Road and Craigantlet Road. There is currently no vehicular or pedestrian access from the public road.



The site lies within 100 metres of an active quarry, located to the south-east. The wider surrounding area includes a mix of rural dwellings, a church, and a dog park, set within a dispersed countryside context.



2. Site Location Plan



3. Relevant Planning History

LA06/2021/0407/F: 73A Hollywood Road, Craigantlet: Proposed shed for secure storage of builder's equipment (machinery, trailers, tools, drainage pipes, etc) within established builder's yard: Approved 01/10/2021

This shed has been constructed and lies within the applicant's ownership as outlined in blue on the above Site Location Plan.

LA06/2022/0627/F: 81 Hollywood Road, Craigantlet: Retention of dog exercise park (submitted off back of an Enforcement Case LA06/2021/0282/CA): Approved 21/06/2021

This area can be seen to east of shed and within blue line above.

4. Planning Assessment

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

- North Down & Ards Area Plan 1984-1995
- Belfast Metropolitan Area Plan (BMAP) 2015
- Draft BMAP 2015
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)

- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Guidance:

- Building on Tradition: A Sustainable Design Guide for the NI Countryside (BoT)

Principle of Development

Section 6 (4) of the Planning Act 2011 states that determination under this Act must be made in accordance with the plan, unless material considerations dictate otherwise. The site described above lies outside any settlement development limit in the countryside as confirmed by the North Down and Ards Area Plan 1984 – 1995 and the draft Belfast Metropolitan Area Plan 2015. The site also lies within a proposed Local Landscape Policy Area: Holywood Road, Craigantlet.

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 21. Policy CTY1 of PPS 21 lists a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Policy CTY 2a allows for a dwelling at an existing cluster of development providing all six listed criteria are met.

Policy CTY 2a – New Dwellings in Existing Clusters - Requirements

- **The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.**

As illustrated in Figure 1, which shows the concept plan submitted by the agent, the identified grouping of buildings would, if accepted as a cluster, lie outside of a farm complex and is comprised of four or more permanent buildings. The dwellings forming this 'cluster' would include Nos. 81 and 83 Dunlady Road, 70 Holywood Road, and No. 1 Craigantlet Road. On this basis, the proposal satisfies Criterion 1 of Policy CTY 2a, which requires that a cluster consists of four or more buildings, at least three of which are dwellings, and that it lies outside of a farm.



Figure 1: Concept Plan

- The cluster appears as a visual entity in the local landscape.

In assessing whether the identified buildings appear as a visual entity in the local landscape, I do not consider that they form a coherent cluster. The existing development comprises ribbon development and dispersed dwellings. There are substantial gaps that create important visual breaks within the rural setting. The application site itself forms one of these gaps; therefore, its development would erode an existing and valuable break in built form. The wide separation distances between several buildings further weaken any sense of cohesion typically expected of a rural cluster, for example, the church at 10 Craigantlet Road is located over 90m from the proposed dwelling and cannot reasonably be regarded as visually connected. The industrial shed at 81 Holywood Road does not exhibit any clear visual or functional relationship with the dwellings, with a gap of over 65m between it and the dwelling and outbuilding at No. 1 Craigantlet Road.

The Planning Appeals Commission (PAC) has referenced *Building on Tradition* in several appeal decisions, which provides useful guidance on the interpretation of what constitutes a cluster. The examples illustrated on pages 68 and 69 depict groups of buildings located in close proximity and clearly forming a cohesive cluster (see Figure 2 below). In contrast, the crossroads at Craigantlet does not appear comparable to these examples, as it lacks the compact and tightly grouped pattern of development demonstrated in the guidance.

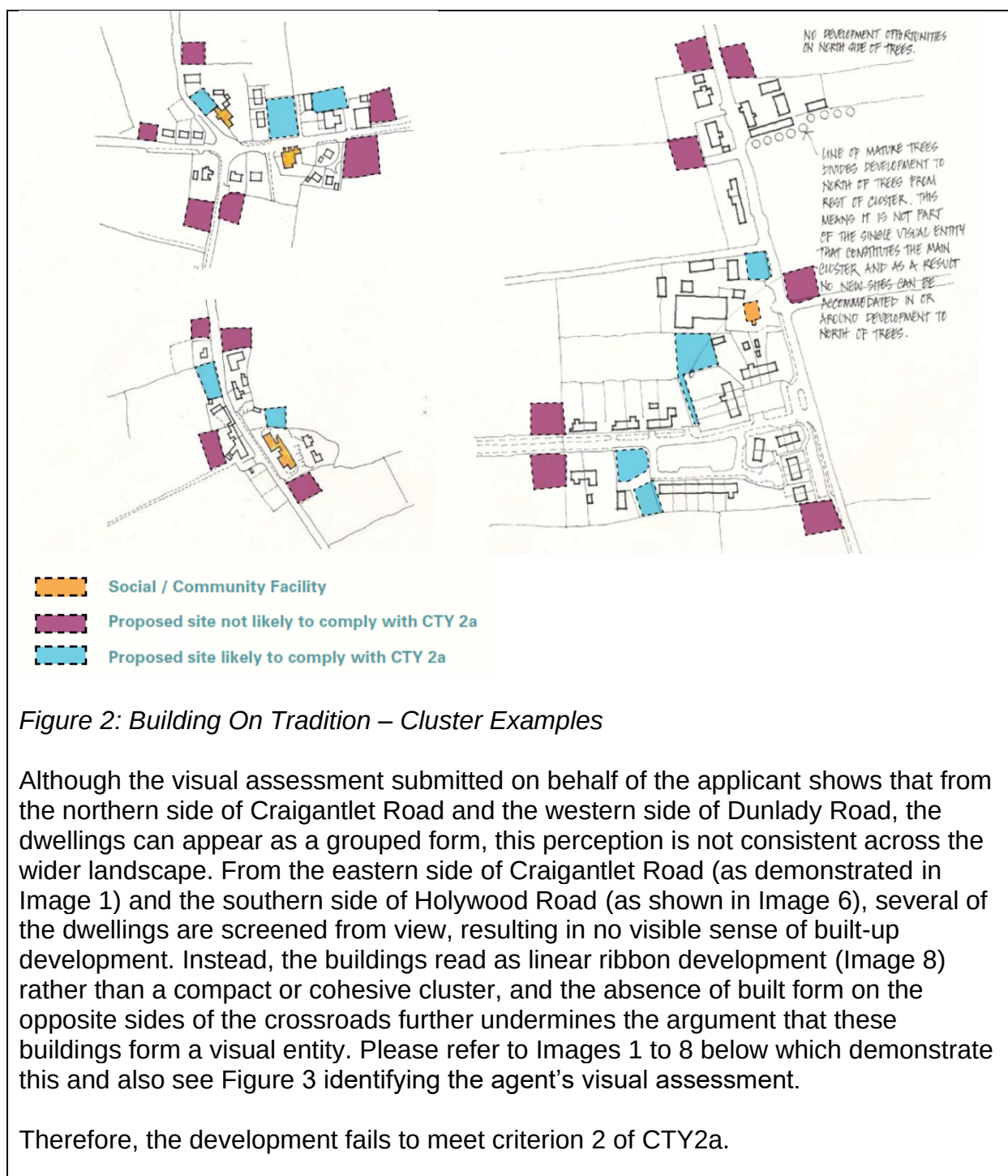




Image 1: View from Eastern side of Craigantlet Road - no sense of a cluster of development reading as a visual entity



Image 3: View from 1 Craigantlet Road – no sense of a cluster with large areas of undeveloped land on the northern side of the crossroads



Image 4: View from 60 Dunlady Road – no sense of a cluster and significant physical separation between this dwelling and nearest dwellings at crossroads



Image 5: View of Craigantlet Cottages in distance –significant physical separation between these dwellings and other dwellings at the crossroads



Image 6: View from Dunlady Road towards crossroads – no perception of a cluster – vegetation along roadside screening views



Image 7: View from Holywood Road approaching crossroads – also no perception of a cluster of development from here (industrial shed on right)



Image 8: Ribbon of development on southern side of crossroads – no development on northern side with exception of church in distance



Image 9: Existing dwellings read as ribbon of development from Whinney Hill

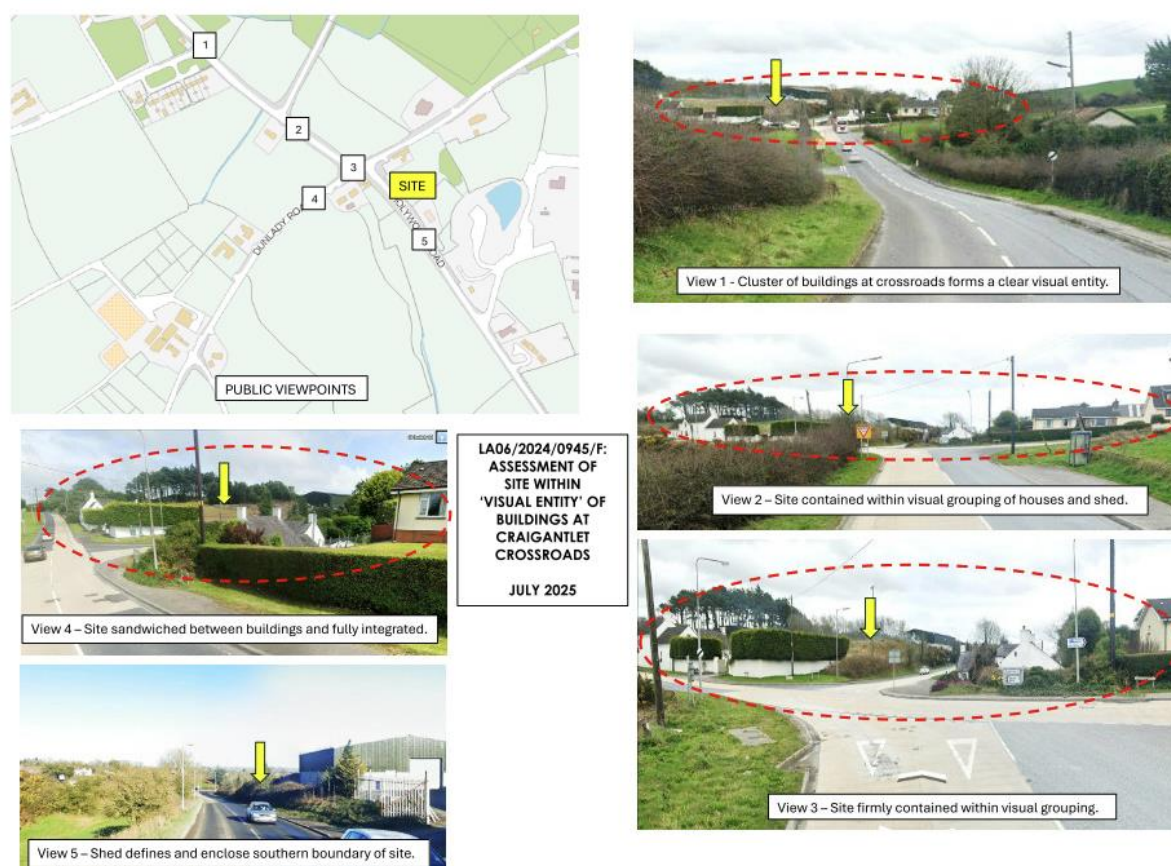


Figure 3: Planning Consultant's Visual Assessment

In addition, within both the draft BMAP and the unlawfully adopted BMAP, the dwellings located at the crossroads are included within a small, designated Settlement Development Limit known as Craigantlet (see Figure 4 below). The Settlement Development Limit has been specifically drawn to reflect the four nodes that form the existing settlement pattern and to prevent further encroachment into the surrounding open countryside. The green stars mark proposed Local Landscape Policy Areas.



Figure 4: Settlement Limit of Craigantlet

This designation is a key consideration in assessing the current proposal. Allowing development at this location would undermine the strategic intent of the development limit, which is to maintain the compact form of Craigantlet and protect the rural character of the area from incremental sprawl.

- **The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads.**

With regard to the requirement that the cluster should be associated with a focal point such as a community facility or be located at a crossroads, I do not consider that Crossroads Church can reasonably be included as part of the cluster due to its significant separation distance and lack of visual relationship with the identified buildings. While the site is situated at a crossroads, only two of the four roads contain any development, with the remaining sides remaining entirely undeveloped. As a result, although a crossroads is present in a physical sense, the pattern of development around it does not display the balanced or cohesive built form typically associated with a cluster.

- **The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.**
- **Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character or visually intrude into the open countryside.**

Building on Tradition states that a key requirement of Policy CTY 2a is that the identified site should have a suitable degree of enclosure and be bounded on at least two sides by other development within the cluster. The application site is large and presents a frontage to Holywood Road, with the dwelling and outbuilding at No. 1 Craigantlet Road considered to bound the site to the north-west. If the industrial unit were accepted as part of a cluster at this location, then this building would bound the site to the south. However, I do not consider that the dwelling at No. 9 Craigantlet Road bounds the site on its eastern side due to the significant separation distance.

In this regard, the reasoning in **Appeal 2018/A0106** is directly relevant: although the appeal site in that case was bounded on two sides by existing development, the Commissioner found that this did not override the fundamental requirement that the development must be bounded by **buildings within the cluster**, and that such enclosure must contribute to rounding off and consolidation. In the current proposal, even if two sides could be argued to be physically enclosed, the buildings involved do not form part of a coherent cluster that appear as a visual entity in the landscape. As such, the site cannot be said to achieve the degree of policy-compliant enclosure required under Policy CTY 2a.

The site currently provides an important visual break between the industrial unit to the south and No. 1 Craigantlet Road to the north-west. Development of a dwelling in this location would erode this gap, creating the appearance of ribbon development and significantly altering the established pattern of development. The site's open field setting, framed by mature trees, offers valuable visual relief within the landscape and contributes to the rural character of the area. Furthermore, the site lies within one of two proposed Local Landscape Policy Areas which were designated in draft BMAP and *'adjoin the Craigantlet settlement and fall within the North Down Countryside and are considered to be of greatest amenity value, landscape quality or local significance and must therefore be protected from undesirable or damaging development'*. Proposal CR 03, within which the proposed site sits, recognises an area of local nature conservation interest - a locally significant stand of trees situated on a localised landform. Policy ENV2 of draft BMAP requires development proposals to ensure there is no adverse effects on those features that contribute to environmental quality, integrity or character. As illustrated in Figure 5 below, the proposed site layout shows the dwelling positioned outside the main stand of trees identified within the proposed LLPA designation. Given this separation, it is considered that the LLPA is unlikely to be adversely affected by the development.

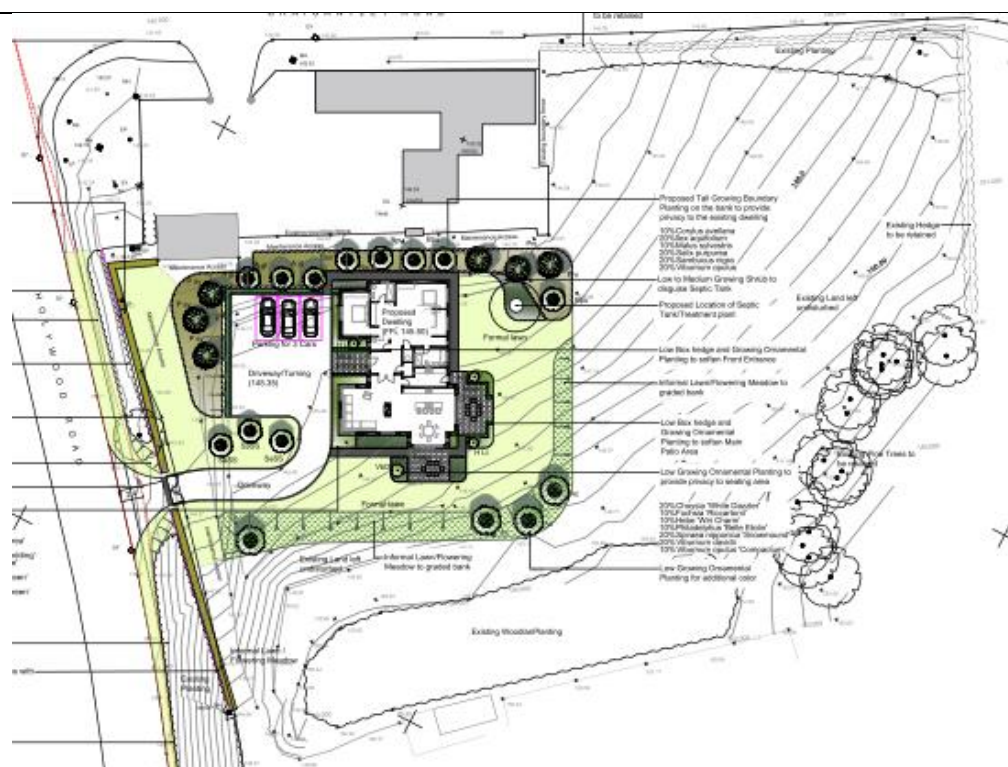


Figure 5: Proposed Site Layout

- Development would not adversely impact on residential amenity.**

The proposal comprises a single storey detached dwelling with a ridge height of 5.2m and an eaves height of 2.5m. Due to the uneven topography of the site, a section of the land will be cut into to accommodate the dwelling. The only property with potential to be affected is No. 1 Craigantlet Road.

The side elevation of the proposed dwelling will be located approximately 8.6m from the rear elevation of No. 1. Only one window serving a bathroom window will face this neighbouring property, and this can be conditioned to be obscure-glazed. As such, there are no concerns regarding overlooking or loss of privacy. Additional planting is proposed along the shared boundary to provide screening and soften the visual impact of the development.

Openings are present at the ground floor rear elevation of No. 1 Craigantlet Road. With respect to overshadowing, the 25-degree light test has been applied to the nearest window, as illustrated in Figure 6. Although the proposal technically fails the test, it does so by only 4-degrees. Any resulting overshadowing would therefore be minor and not sufficient to justify refusal.

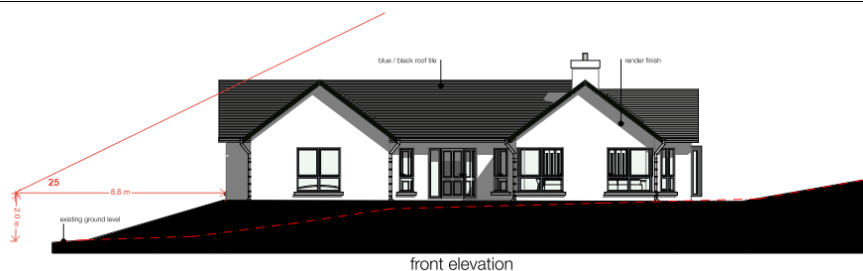


Figure 6: 25-degree Light Test

It is therefore considered that one dwelling on this site would not cause any unacceptable impacts regarding the residential amenity to any neighbouring properties. Therefore, the development meets criterion 6 of CTY 2a.

Policy CTY 8: Ribbon Development

Policy CTY 1 permits the development of small gap sites within an otherwise substantial and continuously built-up frontage, as set out in Policy CTY 8. To determine whether an infill opportunity exists, it is first necessary to establish that such a frontage containing a definable gap is present.

In this case, there is a physical gap between No. 1 Craigantlet Road and No. 81 Hollywood Road. The application site is located along Hollywood Road, with the industrial building at 81 Hollywood Road presenting its frontage to this road. While the dwelling and outbuilding at No. 1 Craigantlet Road are positioned at the crossroads and could arguably be perceived as fronting both roads, the significant setback of the dwelling and the minimal projection of the outbuilding beyond its rear elevation mean they are read as a single group rather than two distinct frontages. Consequently, the dwelling at No. 1 is considered as accompanying development to the rear of the outbuilding (as excluded by Policy CTY 8) and therefore it is not considered to represent a building with a frontage to the Hollywood Road therefore this section of Hollywood Road cannot be considered a continuously built-up frontage with three or more buildings.

If, however, it was accepted that these buildings have separate distinct frontages, the gap between the industrial building and the outbuilding measures approximately 69m. When viewed from Hollywood Road, the industrial building, dwelling, and outbuilding are intervisible, as shown in Images 9 and 10. The guidance advises that “a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.”



Images 9 and 10: Buildings are intervisible

In this case, the gap measures approximately 69m, with the outbuilding at No. 1 and the industrial unit effectively acting as bookends. The plot width of No. 1 Craigantlet Road is approximately 20m, meaning that three dwellings of similar width could theoretically fit within this gap. This indicates that the gap is not small and its development would introduce a pattern that is out of character with the existing ribbon development. Such an arrangement would conflict with Policy CTY 8 requiring development to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size.

It is considered that the gap represents a visual break providing an important visual relief, as it were, in ensuring that the existing buildings do not read as ribbon development and a build-up of development.

Conclusion

It is considered that the group of housing in the immediate area cannot be defined as a cluster under Policy CTY2a. It is also considered that if a dwelling was allowed on this site as part of a 'cluster' that this would set a harmful precedent for other dwellings to be granted as part of this 'cluster' which would have an adverse impact on the character of the countryside and create a suburban style build-up of development.

The principle of development for a dwelling on this site is therefore not considered as acceptable as it does not comply with the SPPS, Policies CTY 1, CTY 8 and CTY 2a of PPS 21.

During the processing of the application, the applicant referred to a need for a dwelling associated with the dog park adjacent the site, citing health and safety concerns. This formed the basis of several letters of support, which referenced early opening and late-night closing of the dog park. However, the dog park has been operational for over five years and was granted retrospective permission in June 2023 following an enforcement case initiated in 2021. The applicant was aware of this operational need without a dwelling being in place, and it is not the role of Planning to respond to a perceived need retrospectively under Policy CTY 6, particularly where that need has been self-created. The business has functioned without a dwelling for at least five years; therefore, Policy CTY 6 is not considered appropriate for assessing this application under as it is not considered that genuine hardship would be caused if planning permission were refused.

Whilst not referred to, it is also not considered that a dwelling would fall to be permitted under Policy CTY 7 of PPS 21 – i.e. a dwelling for a non-agricultural business enterprise, given the adjacent dog park has been in operation for many years.

No other reasons have been put forward of why this development is essential at this location and the land is not allocated for housing in the extant NDAAP nor draft BMAP.

Integration into the countryside

Design, Scale and Appearance

The proposal is for a detached single-storey dwelling with a pitched roof and two front projections. The design incorporates materials typical of rural dwellings, including white painted render and blue/black concrete roof tiles. Figure 7 below shows the proposed plans. These materials are consistent with those used in nearby properties. As the application site has a large red line boundary, the residential curtilage will be limited to that shown on the landscape proposal. Should permission be granted, a condition would be imposed to ensure this restriction is maintained.

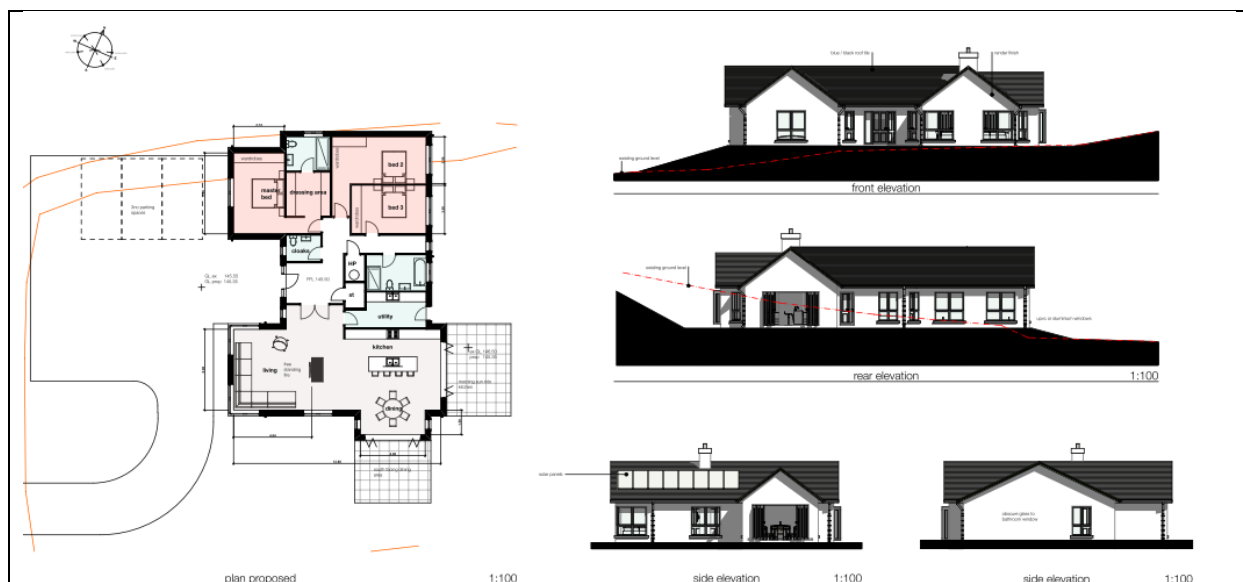


Figure 7: Proposed Plans of Dwelling

Regarding visual impact and integration into the countryside, the site sits at an elevated position above the road and therefore prominence needs to be considered. Given the dwelling will be set back from the roadside, will be single storey in nature, and will be partially cut into the existing landform, I do not consider it will appear prominent in the landscape. It will be screened by the existing dwelling and outbuilding at No. 1 Craigantlet Road and the industrial building at No. 81 Hollywood Road. The established roadside hedgerow will provide effective screening, and the wider site's existing trees and vegetation will offer additional enclosure and a natural backdrop.

I am satisfied that the existing front boundary hedgerow, combined with the proposed supplementary planting, will provide an adequate level of enclosure to ensure the dwelling integrates appropriately with the landscape. The proposal does not rely solely on new landscaping for assimilation. The chosen materials and colour palette are sympathetic to the rural setting, and the retention of existing natural boundaries will further assist in blending the development into its surroundings. Should approval be granted, appropriate conditions will be attached to secure the proposed landscape works and ensure the existing hedging and vegetation are retained.

However, on balance I do consider that the proposal would result in a suburban style build-up of development when viewed with existing buildings, contrary to criteria (b) and (d) of policy CTY14 Rural Character. The amplification of the above policy (5.80) states that 'ribbon development is always detrimental to the rural character of an area as it contributes to a localised sense of build-up and fails to respect the traditional settlement pattern in the countryside'. The impact of ancillary work would be minor, and as such it is considered that the development to be compliant with part (e).

Sewerage Disposal

Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. The P1 form stated that there will be septic tank used for the proposed dwelling. Following consultation with NIEA: Water Management Unit it has

no objection to the proposal. Consent to Discharge will need to be obtained from NIEA WMU as a separate matter.

Residential Amenity & Contaminated Land

This has been covered above under principle of development.

Environmental Health was consulted and raised an objection to the proposed dwelling due to its close proximity (approximately 120m) to the operational Northstone Craigantlet Quarry. It considers a new residential property in this location to be an incompatible land use, as future occupants may be adversely affected by noise, vibration, dust, and potential land contamination. Environmental Health requires the applicant to submit a comprehensive noise and vibration impact assessment that considers cumulative impacts across the entire quarry along with an air quality impact assessment.

In addition, the site lies close to, and down-gradient from, the quarry, raising concerns about potential land contamination. Environmental Health therefore requires a Contaminated Land Risk Assessment in accordance with LCRM guidance. This includes a Phase I Preliminary Risk Assessment and, if necessary, a Phase II Quantitative Risk Assessment with site investigations, followed by a Remediation Strategy and Verification Report if contamination is found.

Environmental Health advises that its objection may only be reconsidered once all necessary assessments have been submitted and demonstrate that the identified impacts can be effectively mitigated. It also recommends seeking the views of NIEA Land & Resource Management regarding potential contamination issues.

The Health & Safety Executive for Northern Ireland (HSENI) was consulted and advised that the proposed single storey dwelling, and entrance, lie less than 100 metres from the boundary of an active quarry. However, it notes that the quarry's current extraction area is located to the east of the site and is more than 100m away. HSENI states that if the quarry's consented extraction limit extends to within 100m of the proposed dwelling, it would advise against the application. If it does not, HSENI has no objection to the proposal. No objections were raised by the representative of the Quarry in this respect.

Access and Roads Safety

The proposal includes a new vehicular and pedestrian access onto Hollywood Road, which is not a protected route. DFI Roads considered the proposal and offered no objections subject to conditions. Ample parking is provided in accordance with Parking Standards.

Designated Sites and Natural Heritage

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).

In terms of protected and priority species, a Biodiversity Checklist was submitted by an ecologist. No badger setts or significant signs of badger activity were recorded, with only minor mammal tracks likely attributable to foxes. A daytime bat assessment concluded that the site provides moderate connectivity to suitable foraging habitat, but no trees with bat roost potential were identified and no buildings that could host bats will be affected. As such, no further bat surveys are required. Vegetation removal at the access points may affect nesting bird habitat, so clearance should occur outside the breeding season (1 March–31 August).

5. Representations

1 letter of objection was received from a neighbouring property at No. 1 Craigantlet Road. 13 letters of support were received, many appearing to utilise proforma wording, mainly from users of the dog park and expressing support for the application but not citing any specific policy compliance. Comments were made on the behalf of Northstone Quarry which neither objected to nor supported the application. The following matters were raised in the letter of objection:

- **Principle of Development:** The objector asserts that the proposal does not meet relevant planning policy for cluster development in the countryside and therefore should not be considered acceptable in principle.

Response: These matters have been discussed in the main report.

- **Impact on Residential Amenity:** The objector stated that the development will have a detrimental impact on their residential amenity, particularly in relation to noise, dust, odour, loss of privacy and outlook and general disturbance.

Response: These matters have been discussed in the main report. Any disturbance during construction will be temporary.

- **Impact on Natural Heritage:** The objector raises concerns regarding the natural heritage of the area, including potential effects on local wildlife, existing vegetation and the general ecological integrity of the site and surrounding countryside.

Response: These matters have been discussed above under 'Designated Sites and Natural Heritage'. No further surveys are required following the submission of the biodiversity checklist.

- **Impact on Rural Character:** The development is considered by the objector to be harmful to the rural character of the area. Concerns include visual impact, inappropriate siting, and the cumulative effect of alterations across multiple revised drawings.

Response: These matters have been discussed in the main report under section 'Integration into the countryside'. Each subsequent revision of the drawings

supersedes the earlier version. Accordingly, should the application be approved, it is the final submitted set of drawings that would be formally approved.

- **Concerns Regarding the Application Process:** The objector sought confirmation on whether the revised drawings are still being treated as part of the same planning application or whether a new application has been lodged. The objector reported increased recent activity in the surrounding area and asked whether this site activity is related to the planning application.

Response: The updated drawings are still being treated as part of the same planning application for a new dwelling. It is normal for applicants to submit revised plans during the assessment process, and these revisions remain linked to the original application unless a new application has been formally submitted.

Regarding the recent activity observed on site, if there is any suspected breach of planning control, the Planning Enforcement team can be contacted and can investigate the matter further. However, if the applicant is undertaking minor clearing, tidying, or maintenance works, these activities typically do not require planning permission.

- **Septic Tank Concerns:** The objector identified that on the updated plans the septic tank is on higher ground than the dwelling. Clarification is requested on whether this is intentional and whether any assessment has been undertaken on risks, including potential backflow. Further questions were asked, such as will the septic tank be vented and clarification was sought on the presence of soil pipes. The objector expressed concern that poorly sited septic infrastructure could result in unpleasant or unhygienic odours being carried towards their property.

Response: Planning does not hold the technical expertise to comment on the detailed design or operation of the proposed septic tank, including matters such as venting arrangements, soil pipe layout, or potential backflow risks. These elements fall outside the scope of the planning process. NIW advised in its consultation response that the use of an onsite wastewater treatment works or a septic tank is subject to the written consent being obtained from Northern Ireland Environment Agency. Where approval to use a private septic tank disposal system is granted, and the applicant wishes NI Water to provide a periodic desludging service, the applicant must complete the necessary 'Form of Agreement' and adhere to the construction conditions contained therein.

- **Boundary Screening:** The objector requested tree/vegetation to be planted on their shared boundary asking for a minimum height of 3m.

Response: As can be shown on the proposed landscaping plan below in Figure 8, tree planting is proposed along this boundary which should help with screening.

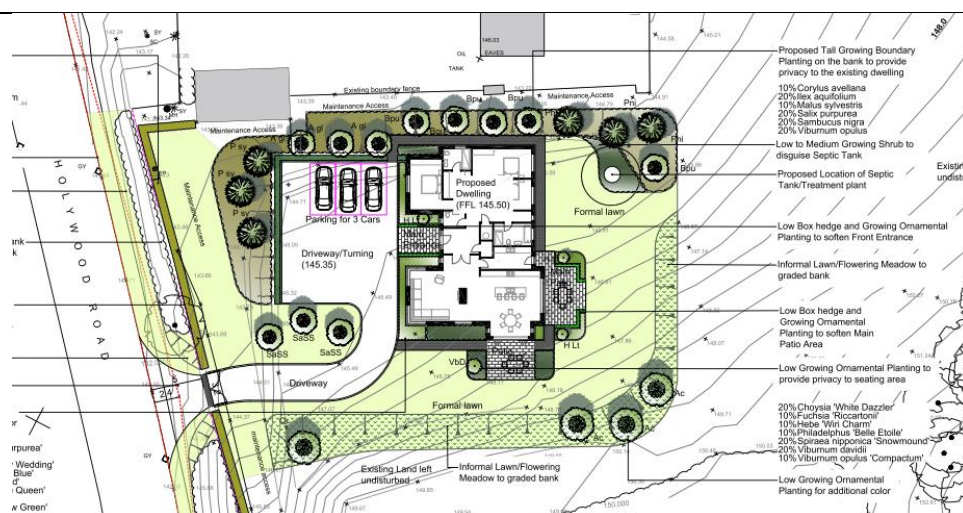


Figure 8: Proposed Landscaping Plan

Non-Committal Comments from Northstone Quarry

It was highlighted that both the Noise Impact Assessment and Air Quality Assessment submitted with the Coated Roadstone Plant application were assessed against existing residential receptors at greater distances than the proposed dwelling. The quarry's representative notes that the proposed house would be significantly closer to the quarry and new roadstone plant than any of the previously assessed receptors. As no new noise or air quality assessment has been provided with the current application, Northstone expresses concern that future occupants may experience adverse amenity impacts, including noise, air pollution and general disturbance from quarry operations. The company emphasises that mineral sites and residential properties are generally acknowledged as incompatible land uses and cites relevant planning policy (including MIN 6 and the SPPS) which seeks to safeguard mineral resources and prevent sterilisation by incompatible development.

Northstone representatives stated that introducing a new dwelling at this location would represent an intensification of residential use in an area dominated by established mineral and industrial activity, which is considered to be inappropriate and potentially prejudicial to ongoing operations. It concluded that the applicant has not demonstrated that acceptable levels of residential amenity can be achieved or what mitigation, if any, would be required. It specifically requested that this information be provided and made publicly available before any decision is taken.

In addition to environmental concerns, Northstone raises significant procedural issues relating to land ownership and certification. Following the applicant's submission of a revised Site Location Plan (Revision A), Northstone confirms that the amended red line still includes land within its ownership along the Hollywood Road frontage, and that Certificate A remains unchanged. This matter was raised with the agent who disagreed that any adjustment was required. The issue of landownership is a civil matter, and it is not considered that completion of Certificate A, if incorrect, is fatal to the processing of the application, as Northstone is aware of the application and has had opportunity to comment accordingly.

6. Recommendation
Refuse Planning Permission
7. Refusal Reasons
1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. 2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no cluster of development which appears as a visual entity in the local landscape, the site is not bounded on at least two sides with other development in the cluster and the dwelling would, if permitted, significantly alter the existing character and visually intrude into the open countryside. 3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal does not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and would, if permitted, result in the extension of ribbon development along the Hollywood Road and would result in the loss of an important visual break. 4. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the dwelling would, if permitted, result in a suburban-style build-up of development when viewed with existing and approved buildings (criterion b), would fail to respect the traditional pattern of settlement in the area (criterion c), and would create or add to a ribbon of development (criterion d, see Policy CTY 8). This would cause a detrimental change that further erodes the rural character of the countryside. 5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland in relation to safeguarding human health and protecting environmental receptors. Insufficient information has been provided to address Environmental Health concerns arising from the site's proximity to Northstone Craigantlet Quarry, including potential adverse impacts from noise, vibration, dust, and land contamination. In the absence of a comprehensive noise and vibration assessment, air quality assessment, and contaminated land risk assessment, the proposal fails to demonstrate that it would provide a safe and healthy living environment for future occupants.

Unclassified

ITEM 5

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	03 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	NIW Closed Catchments
Attachments	Item 5a - NIW Letter to K Armstrong MLA Item 5b - Wastewater System Capacity Information Item 5c - NIW Presentation to Corporate Services Feb 2025
File Reference (if applicable)	
Legislation	Other The PLanning (General Development Procedure) Order (NI) 2015
Resource Implications	Other Narrative: Writing to relevant bodies if requested
Screening Requirements	<i>The Council will commit to consider the implication of all reports under the categories of Section 75, Rural Needs, Data Protection, Climate and Sustainability:</i> Screening of decision not required
Link to Corporate Plan Priority and Outcome	Multiple Choose an item. If multiple: Economic, Social and Environmental

Background

1. Subordinate Planning legislation requires the Council to consult with Northern Ireland Water (NIA) where a development proposal is likely to significantly impact upon the availability of suitable water and sewerage infrastructure to service development proposals.
2. Members will be aware of current issues with sewerage infrastructure as described by NIW across Northern Ireland caused by decades of under investment.
3. NIW provides a 'Wastewater Impact Assessment' service to assist developers in identifying any possible constraints that may be associated with servicing a development site in terms of wastewater infrastructure. The Impact Assessment can assist developers in understanding the potential costs and timescales involved in servicing a site prior to land acquisition or in advance of the submission of a planning application.
4. Planning Committee will be aware of the use of negative conditions on grants of planning permission as follows:
 "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"
5. The Council's recent Empty to Energised Pilot Grant scheme is directed at providing financial assistance to property owners who want to renovate vacant properties and introduce new commercial uses within Bangor's city centre and Newtownards' town centre. By bringing vacant spaces back into use, the scheme seeks to boost town centre vibrancy, attract new tenants, increase footfall, create local employment opportunities, and promote sustainability in redevelopment projects.
6. Via a recent NIW response to a consultation request on a planning application for a change of use of a vacant retail unit to a hot food carryout in Newtownards town centre, it has come to the attention of the Planning Service, and also via correspondence forwarded by Kellie Armstrong MLA, that there are a number of 'closed catchments' in the Borough for which no new connections can be permitted (see attached letter from NIW).
7. In relation to the particular property, NIW has advised that there is 'simply not enough capacity in the existing public wastewater system to facilitate new connection, without increased risk of adverse environmental effects such as out-of-sewer flooding'.
8. Members' attention is draw to the other attached document which is a download from the NIW's webpage entitled "Waste-water System Capacity Information – Council Areas (October 2025). It should be noted that any information relating to Waste-water Treatments Works (WwTWs) in other council areas has been omitted from the download.
9. Members will note that neither Cloughey WwTW nor Killinchy WwTW have any available capacity.

10. Regards information on Closed Catchments, Members should note the information on UIDs. A UID refers to an Unsatisfactory Discharge. This occurs when the discharge from a sewage treatment works does not meet the required standards set by regulations. The Northern Ireland Environment Agency (NIEA) and the Department of Agriculture, Environment and Rural Affairs (DAERA) are responsible for enforcing compliance with these standards, and any failure to meet them can lead to enforcement actions.
11. In addition to the WwTW capacity issues, NI Water has also identified areas of the sewage network in Comber, Donaghadee and Newtownards where developer-funded solutions are no longer possible to achieve a connection to the sewer network. This means that the Wastewater Impact Assessment process in these areas is no longer able to provide a solution that a developer can implement.
12. NIW has confirmed that the 'closed areas' do not cover all of the towns referenced above, and that it will continue to support developments in these areas where it can be proven that: -
 - The site has extant planning with no conditions relating to capacity constraints or
 - The site is a redevelopment and there is no intensification of foul sewage discharge post development compared to the sewage discharge from the site within the last 5 years.

Key Issues

13. Newtownards is one of the town centres identified in the Empty to Energised pilot grant scheme, with a significant number of vacant properties that the Council is seeking to encourage to be brought back into active use in the context of the Corporate Plan's priority regarding increasing economic growth by attracting more businesses and more jobs, and in turn increasing our non-domestic rate base.
14. The Council has just published its draft Plan Strategy within which is set out the Council's Social, Economic and Environmental Objectives alongside the Spatial Growth Strategy for the Borough. Without the requisite infrastructure being in place, or a commitment within NIW's next Price Control period (i.e. beyond 2027) the Council will not likely meet its growth aspirations.
15. The following is an extract from NIW's 2021-2046 Strategy:

Tipping point

We are therefore facing a tipping point as we approach the next business plan period PC21 (2021-27), which will require an investment of around £2.5bn, including the Living with Water Programme. The NI Water Board and Executives continue to work with stakeholders to identify a means to fund this vital investment. However, a solution has not been identified. Our shareholder, DfI, needs to commit to fund this investment but faces competing pressures from transport infrastructure. Unlike in the rest of the UK, the risk of shareholder sanction from the Utility Regulator is much diminished due to our Government ownership. A solution must be identified to avert a funding crisis for this vital infrastructure.

16. Members will recall previous letters written from Council to DFI Permanent Secretary and Secretary of State, and then DFI Minister (once Executive restored) regarding the ongoing funding crisis. Additionally, NIW representatives have attended as a deputation to Corporate Services Committee in previous years setting out its position in respect of underfunding. A copy of its presentation of February 2025 to Corporate Services is attached for Members' information.

Summary

17. In light of the ongoing, if not worsening, situation with NIW and NIEA, and the inevitable impact on the Council's growth plans and attempts to grow the non-domestic rates base, Members may wish to consider initiating further correspondence with NIW/DFI or inviting NIW representatives to present to Planning Committee on the matter.

RECOMMENDATION

It is recommended that Council Considers its approach in light of the information within the report.

Northern Ireland Water
PO Box 2376
Belfast
BT13 3DX
www.niwater.com

Tel: 0345 7440088



Kellie.armstrong@mla.niassembly.gov.uk

20 January 2026

Dear Kellie

Re: Oriental Express takeaway - Planning Application in Newtownards

Thank you for your e-mails of 12 & 19 January 2026 with reference to the matter above.

I raised this query with NI Water's dedicated Developer Services team for review, and would confirm as follows.

With regards the proposed relocation of the business in question, NI Water discussed with the Developer in September 2025, and explained that as you have alluded to this area of Newtownards is a closed catchment to new sewerage connections. There is simply not enough capacity in the existing public wastewater system to facilitate new connections, without increased risk of adverse environmental effects such as out-of-sewer flooding.

The premises to which the business in question propose to move are located upstream of what is termed an Unsatisfactory Intermittent Discharge at South Street Wastewater Pumping Station. NIEA have determined that the watercourse to which this Pumping Station discharges cannot support additional wastewater overflow or spills. As any new connections into the system upstream of this Pumping Station are likely to contribute to the risk of spills, NI Water, as a responsible public utility, simply cannot permit these.

Furthermore, the building to which the business proposes to move has not been used for more than five years. As such, there is no existing sewerage discharge from that building that the business could come in and take over from – we can't permit their new sewerage discharge for the proposed building on a like-for-like basis because that building has not been contributing to the sewer system for a long time.

This was explained to the Developer in 2025. When Planning was submitted and NI Water was consulted, we therefore provided a negative response. NI Water has not recommended any further applications, as there are no further options to allow for a connection here.



With regards the Developer of the site from which the business in question has vacated, NI Water must advise that we were able to approve new sewerage connections there, as that building had been in use in recent years, with multiple business occupying it and discharging sewerage into the local system. The planned redevelopment there can therefore essentially take over from that existing use, and its new connections can be approved on a like-for-like sewer usage basis. No additional waste is going to be discharged from the redevelopment, so there will be no adverse impact on the public system.

I appreciate that this is not the response that was wished for, but I trust it can confirm NI Water's position in this case. I am sorry we cannot help your constituents in this matter.

I must also advise that there are currently no plans to upgrade the sewer system in this catchment in Newtownards (upstream of South Street), nor for the other closed sewer catchment in Newtownards, upstream of Scrabo Road Wastewater Pumping Station, where there is also a lack of sewer capacity. Further information and a map of these areas is available at www.niwater.com/capacity-information.

I would take the opportunity to emphasise that a case like this, where there is insufficient capacity in a local sewer network to allow for a local business to relocate, is a direct result of the legacy of underinvestment in Northern Ireland's shared public wastewater systems with which we are now having to contend, and manage appropriately, in the current economic climate. Funding constraints placed on NI Water by Government have also meant that we are limited in the sewer system upgrades which we can progress. Ultimately, where capacity solutions can be identified and solutions proposed, these remain dependent on prioritisation against all such competing schemes across the country, and the availability of the necessary funding.

NI Water would always stress to all Developers that they should follow the pre-planning process and submit a Pre-Development Enquiry, in advance of any Planning applications, to ensure we can provide them with the appropriate advice, at the earliest possible stage.

Queries for our dedicated Developer Services team can be sent to them directly at customerengagementteam@niwater.com. We also have a phone number for Elected Representatives on 0345 3006461.

I hope you find this response helpful, although I do of course appreciate that it may be disappointing.

Yours sincerely



Sara Venning
Chief Executive



[Wastewater System Capacity Information](#)

Council Areas (October 2025)

[View Pre-Planning Process](#)

Disclaimer:

The wastewater system capacity information provided by Council area (for WwTW >250 population equivalent) in this document reflects the current position at time of publication but is subject to change. This may happen as a result of more detailed information becoming available through the completion of Drainage Area Studies, on-site investigations, or the completion of capital works.

NI Water remains committed to working with developers to consider ways of accommodating development wherever possible. The phasing of development is of high importance going forwards due to the historic and prolonged under investment in wastewater infrastructure across Northern Ireland.

Developers should always use the pre-development enquiry (PDE) process and follow NI Water's three stage pre-planning process. PDEs are valid for an 18-month period from issue. Should formal approval to make connections to the public water and sewerage networks not have been granted by NI Water within this timescale, a further PDE will require to be submitted. This is to ensure that the capacity originally identified as being available to serve this proposal, still exists.

In areas subject to capacity constraints NI Water can consider the provision of positive planning responses where developers can demonstrate (including calculations):

- 1. Like for like development.**
- 2. Extant previously approved development (where NI Water has given a positive response).**
- 3. Where a developer engages with NI Water through the wastewater impact assessment process to identify a no detriment solution for the development.**

All investments/upgrades detailed for completion during PC21 are subject to all statutory approvals being in place, land acquisition (where appropriate), and the availability of funding. NI Water is working closely with the Department for Infrastructure on the programming and funding the delivery of the capital works during the remainder of the PC21 Price Control Period.

Due to emerging issues, it is also possible that some re-prioritisation of the investment programme may take place and would be agreed with NI Water’s regulators.

Please note that only treatment works without available capacity are listed. This list provides an overview of wastewater treatment works specific to each council area.

Ards & North Down Borough Council

The following wastewater treatment works within the council area do not have any available capacity:

Name
Cloughey WwTW
Killinchy WwTW

NI Water's sewerage network capacity mapping tool and sewer network modelling activities have identified capacity issues in parts of the Ballyhalbert Victoria, Ballyrickard, Ballywalter, Cloughey, Greyabbey, Killinchy, Kinnegar, Kircubbin, North Down, Portaferry and Seahill wastewater networks. As a result, negative planning responses may be provided by NI Water in parts of these catchments.

Information on Closed Catchments

In addition to the capacity constraints detailed above, NI Water has also identified 34 areas of our sewage network in 23 towns where developer funded solutions are no longer possible to achieve a connection to the sewer network. This means that the Wastewater Impact Assessment process in these areas is **no longer able** to provide a solution that a developer can implement.

However, we will continue to support developments in these area where it can be proved that: -

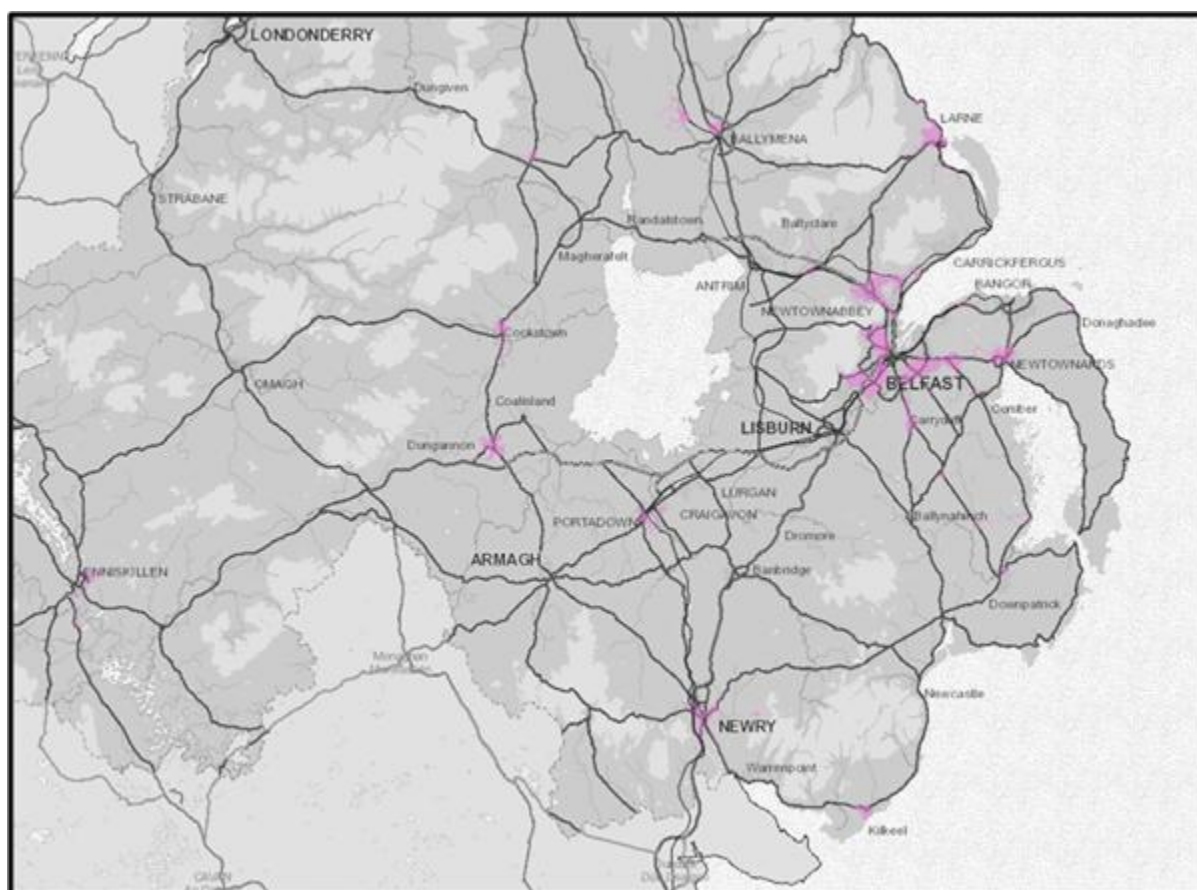
- The site has extant planning with no conditions relating to capacity constraints or
- The site is a redevelopment and there is no intensification of foul sewage discharge post development compared to the sewage discharge from the site within the last 5 years.

Table 1 below lists the towns within which these 34 areas are located. For all proposed sites in these areas, developers should in the first instance continue to apply through our pre-development enquiry process and we will advise next steps. Please note that the closed areas will not cover all of these towns and NI will continue to consider each planning application on a case-by-case basis depending on the location within the catchment.

34 network UIDs across 23 towns are high polluting and are not suitable for developer funded solutions.

Ballymena	Kilkeel
Belfast	Killyleagh
Carryduff	Larne
Comber	Maghera
Cookstown	Newry
Daraghcross	Newtownabbey
Donaghadee	Newtownards
Downpatrick	Portadown
Dundonald	Saintfield
Dungannon	Seahill
Enniskillen	Templepatrick
Greenisland	

The map below shows the approximate area of the NI Water network within these 23 towns:



Date of publication - 22/10/2025

Important Notes:

The Information depicted in the above map is for guidance purposes only and is the best available information at the time of publishing. It is subject to change, which may happen as a result of more detailed information becoming available through the completion of Drainage Area Study models, on-site investigations, or the completion of capital works.

The information should not be relied upon to conclude that a new connection to the wastewater network can be facilitated outside of these areas and should never be used to make planning or investment decisions.

While the 'pink' areas displayed identify 'closed areas,' within our wastewater network where new connections cannot be facilitated (subject to exceptions listed above), there are other areas of the NI Water wastewater system that are also subject to capacity constraints. However, within those areas it may be possible to identify a bespoke drainage solution through the Wastewater Impact Assessment process. Any solution identified through this process would be developer led and funded.

NI Water should always be contacted directly for the most up to date advice on water and wastewater capacity issues by Councils and Developers.



NI Water Presentation Ards & North Down Borough Council

11th February 2025

**Dr Stephen Blockwell, Head of Investment Management,
Engineering & Sustainability Directorate**

**Mark Consiglia, Wastewater Assets Area Manager,
Customer & Operations Directorate**

**Contacting NI Water:
Elected Representative Direct Line – 0345 3006461
Waterline – 03457 440088 or waterline@niwater.com**

About NI Water

It costs around £680m each year to deliver water services in Northern Ireland. Thousands of assets at a value of around £4bn, are operated and maintained to provide these services. This includes over 43,000km of water mains and sewers - one and a half times longer than Northern Ireland's entire road network and long enough to circle planet earth.

Households and businesses

Our customers rely on the services we provide

920k

Water treatment works

We clean the water, making it safe to drink

24

Water mains length

We distribute the drinking water to our customers through water mains

27,000 km

Pumping stations

We use pumping stations to get the drinking water to our customers

355

Service reservoirs

We store the drinking water in service reservoirs*

287



750k

Households and businesses

We collect wastewater from our customers

16,500 km

Length of sewers

We collect wastewater from our customers using a network of sewers

1,356

Pumping stations

We use pumping stations to get the wastewater to our treatment works

1,027

Wastewater treatment works

We treat wastewater and return it safely to the environment

66

Sludge management centres

Sludge is de-watered before being incinerated

*Number of service reservoirs in service and scheduled for regulatory sampling in line with the drinking water regulations.

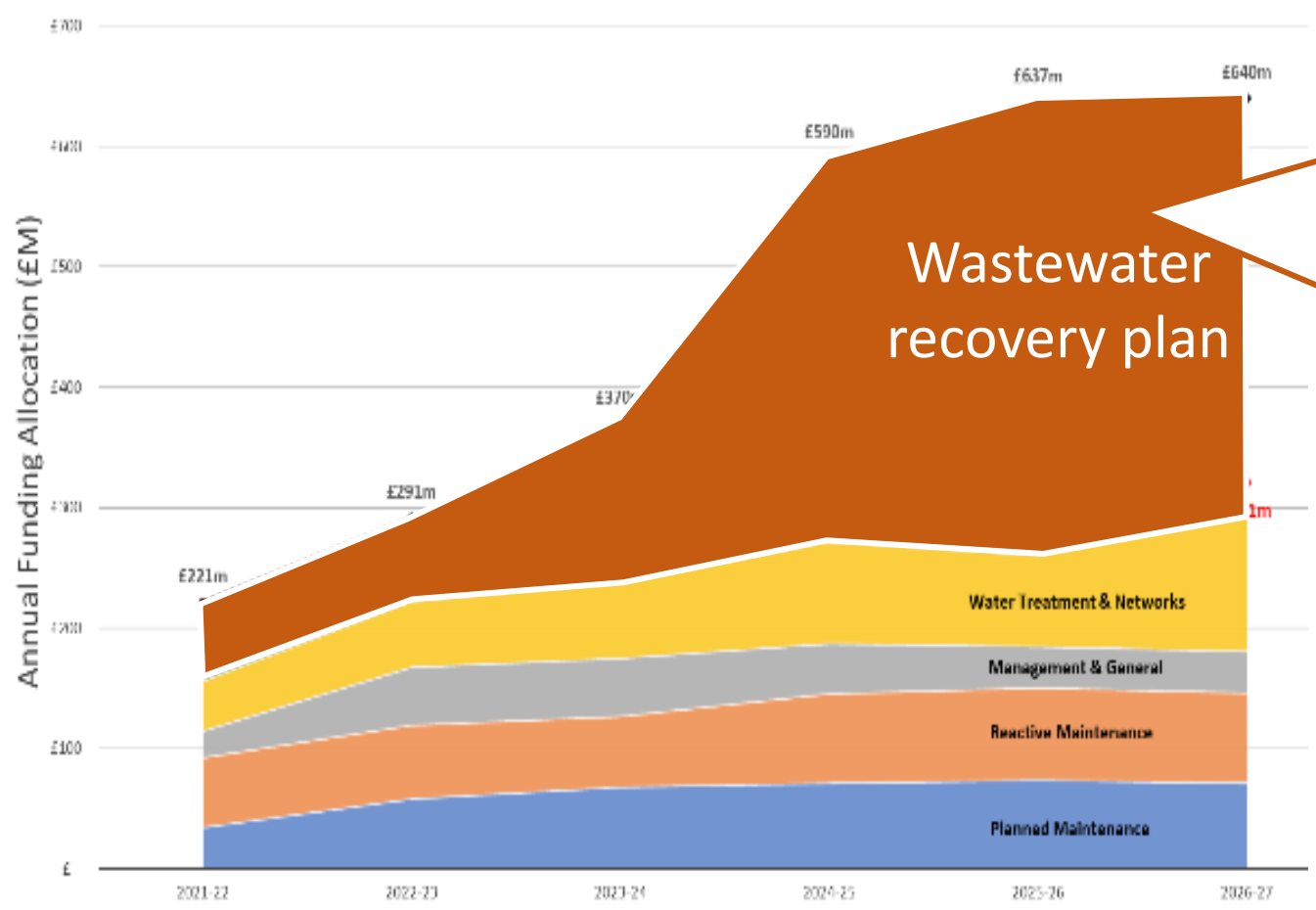
NI's wastewater system is at breaking point



- System can't cope during heavy rainfall so spills to the environment.
- 40% (c.950) of all storm overflows already failing the standard with 1,200 still to be assessed.
- The wastewater system is contributing to poor quality of watercourses and requires several billion to fix.

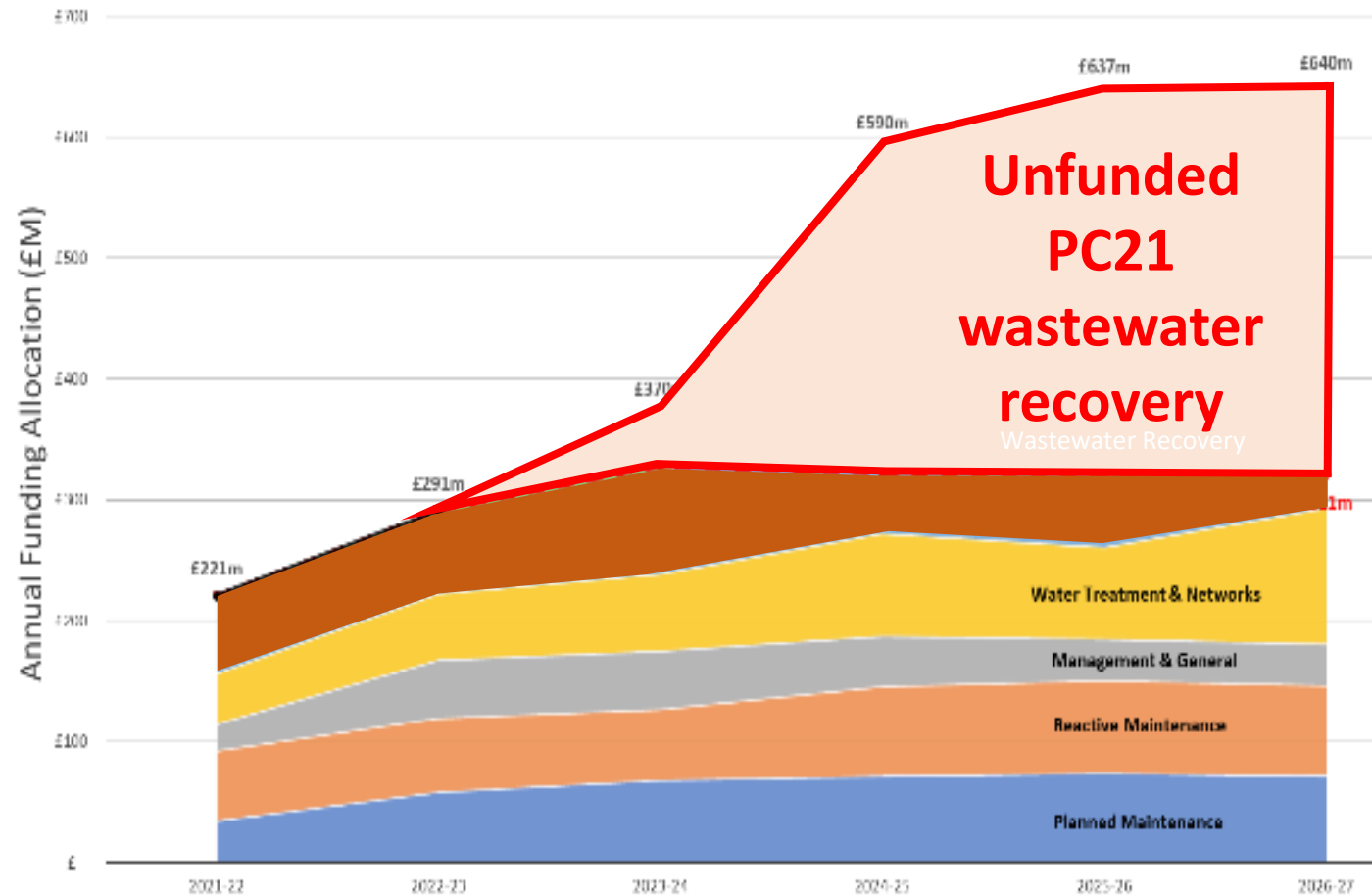
2007 environmental dispensation to operate at lesser standards only meant to be short-term pending investment.

Our PC21 plan set out to redress years of wastewater underfunding impacting the economy and environment



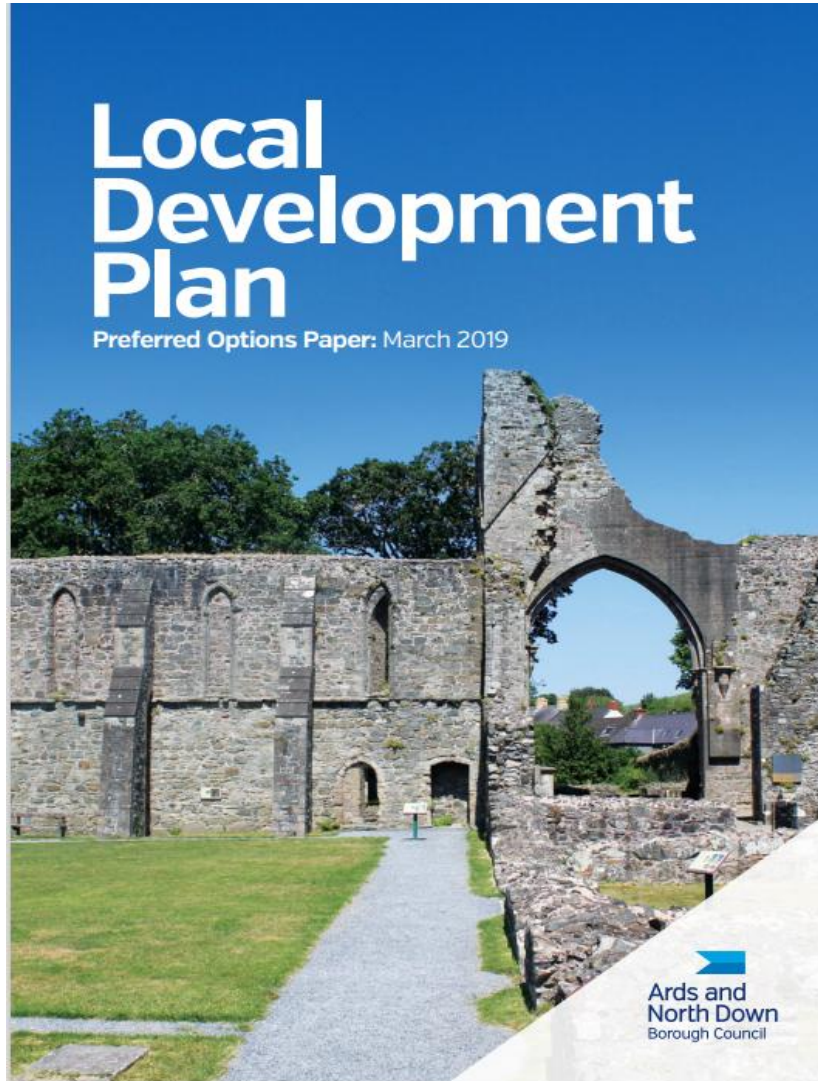
“This [wastewater] infrastructure presents a risk to both public health and the environment, consequently failure to invest and improve it, will result in continued deterioration of water quality in Northern Ireland and non-compliance of regulatory standards and requirements.”

Our shareholder has notified us that they will not be able to provide the funding determined necessary



Investment shortfall of up to £0.8bn puts a halt to wastewater recovery

Ards & North Down Borough Council's Ambitions LDP



Vision:

Ards and North Down will be a place to be proud of which is more prosperous, vibrant, healthy, sustainable and where people enjoy an excellent quality of life.

By 2030

- **8190+ new homes**
- **7500+ new jobs**

Large Towns – Bangor, Newtownards.

Small Towns – Comber, Donaghadee, Holywood

Villages – 17

Small Settlements – 20

2024/25 Planned PC21 Key Capital Investments in Water & Wastewater



Project Name	PC21 Year 4 Investment (2024-2025) £m
Whitespots Greyabbey Trunk main	0.12
Drum Road Strangford WIIM Regen2 Work package	0.90
Kinnegar Wastewater Treatment Works	3.76
Kinnegar Drainage Area UIDs - Section 1 (Dundonald)	0.08
Killinchy Wastewater Treatment Works	0.08
Killinchy Drainage Area, Inisharoan WwPs	0.47
Karoubi Drainage Area (DA)	0.01
Bangor DAP Work Package 1: Carnalea Stream UIDs	0.06
Bangor DAP Work Package 2: Rathmore Stream UIDs	0.09
Ballyrickard DA Upper Crescent Wastewater Pumping Station (WFP's)	3.66
Sea Outfalls Appraisal Studies	0.38
Seahill Catchment Storm Overflows	0.38
Storm Separation Living With Water Programme (LWWP)	0.21

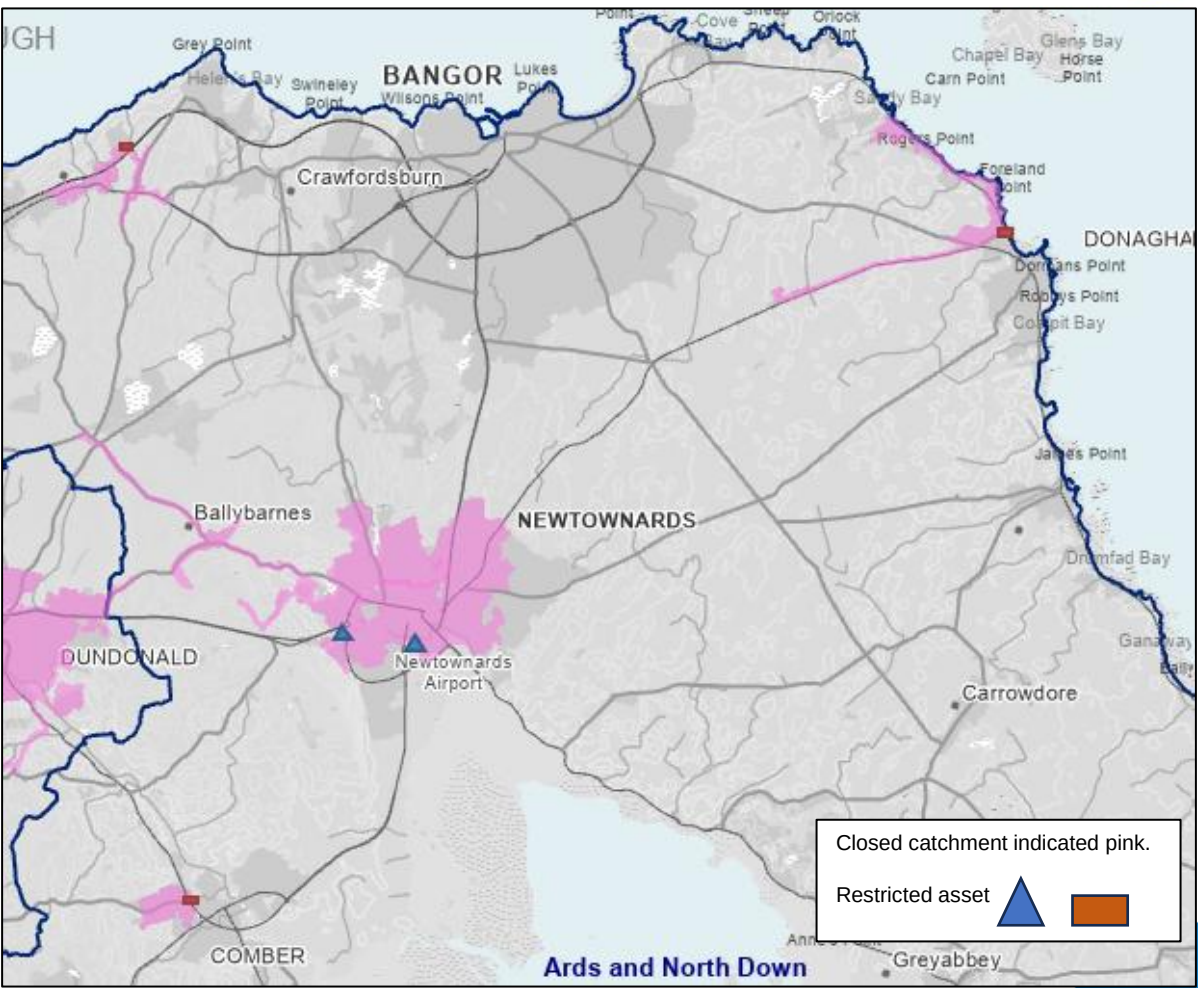
Ards & North Down Borough Council: New Connection Issues

Specific areas affected within your Council area will be impacted (within the 19,000 units province wide) that are outside of developer funded solutions. This may be for one or more of the following reasons:

- An area within the wastewater network that is ‘closed’ to any further connections due to high polluting assets.
- The Wastewater Treatment works within the catchment is operating at or over its design capacity.
- The availability of funding to undertake the required capital upgrades to existing assets.
- Some areas of the following city /towns are affected by network constraints: Comber, Donaghadee, Killinchy, Millisle, Newtownards, Portaferry.

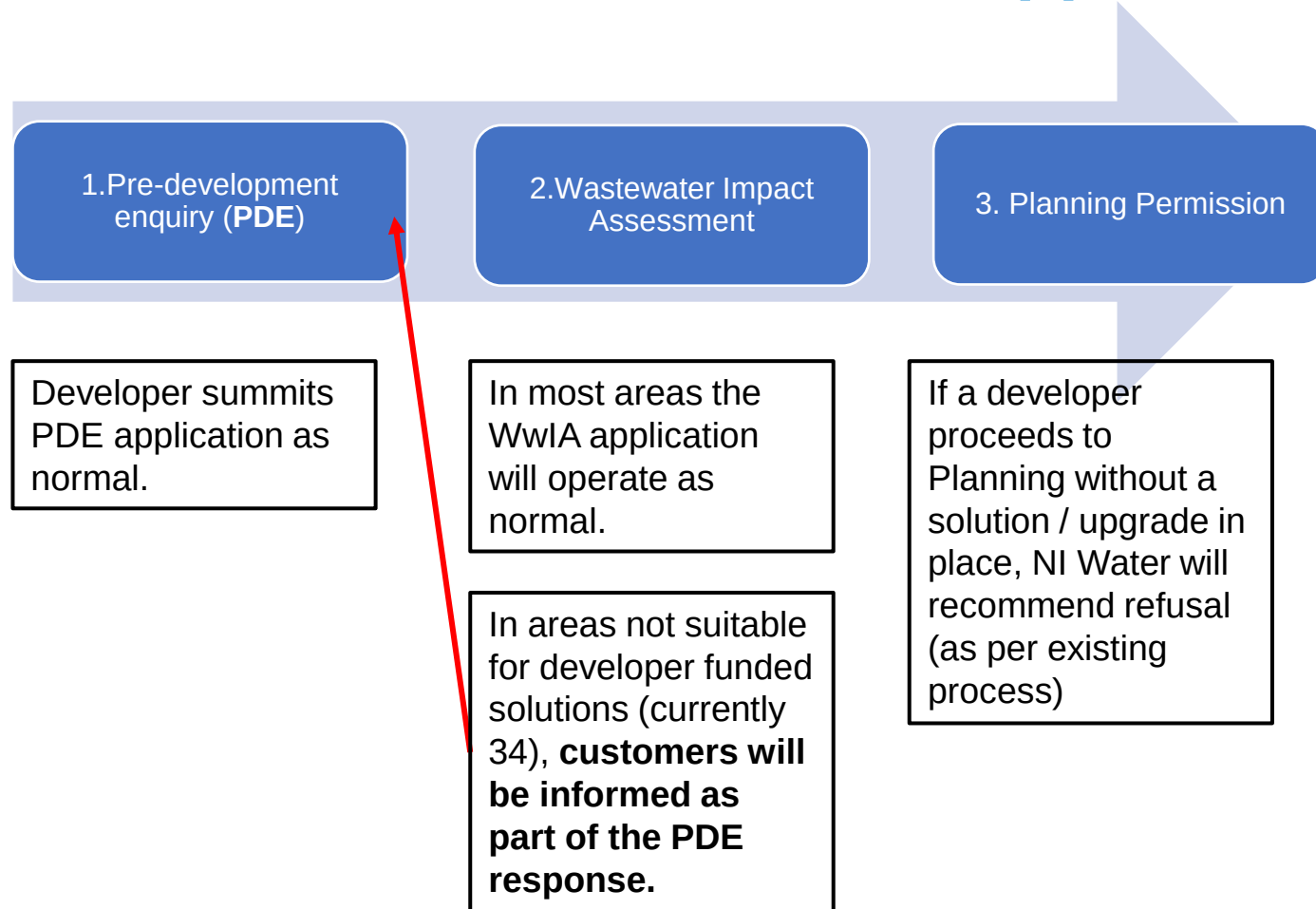
WwTW currently at Capacity

Name
Cloughey WwTW
Killinchy WwTW



*** Areas closed to development due to significant network issues**

Pre-Development Process - proposed approach to new wastewater assessment applications

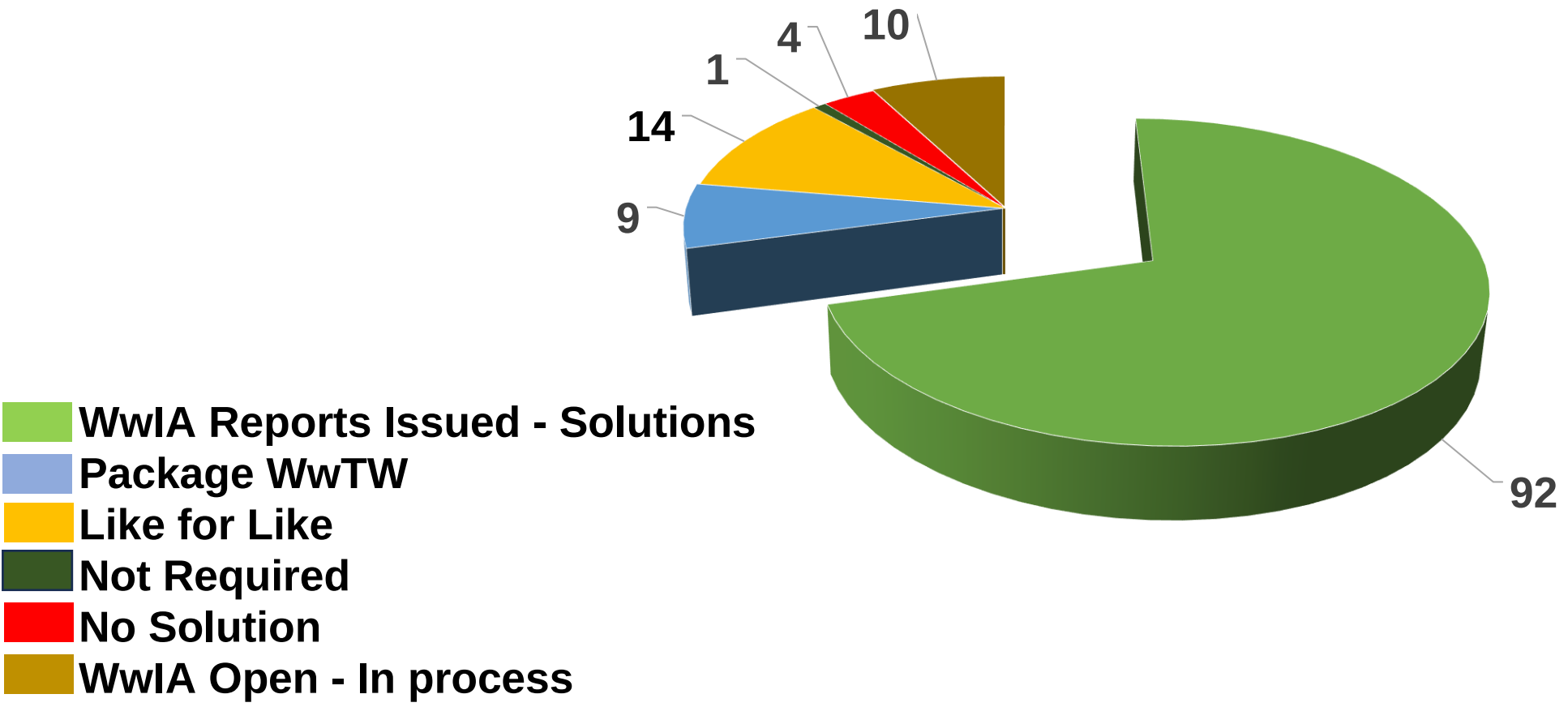


- **As part of the PDE assessment response, we will inform customers that their development site is above a high polluting asset that is not suitable for solution engineering and requires a NI Water capital upgrade or intervention to facilitate a connection to the Wastewater network.**
- Our response will include indicative timelines for capital upgrades if known and we will keep customers updated in areas where we are unsure.

Note: Brownfield applications without an increase in foul flow will proceed as normal.

Wastewater Impact Assessments (WwIA)

Ards & North Down Borough Council Solution Report or Letter issued

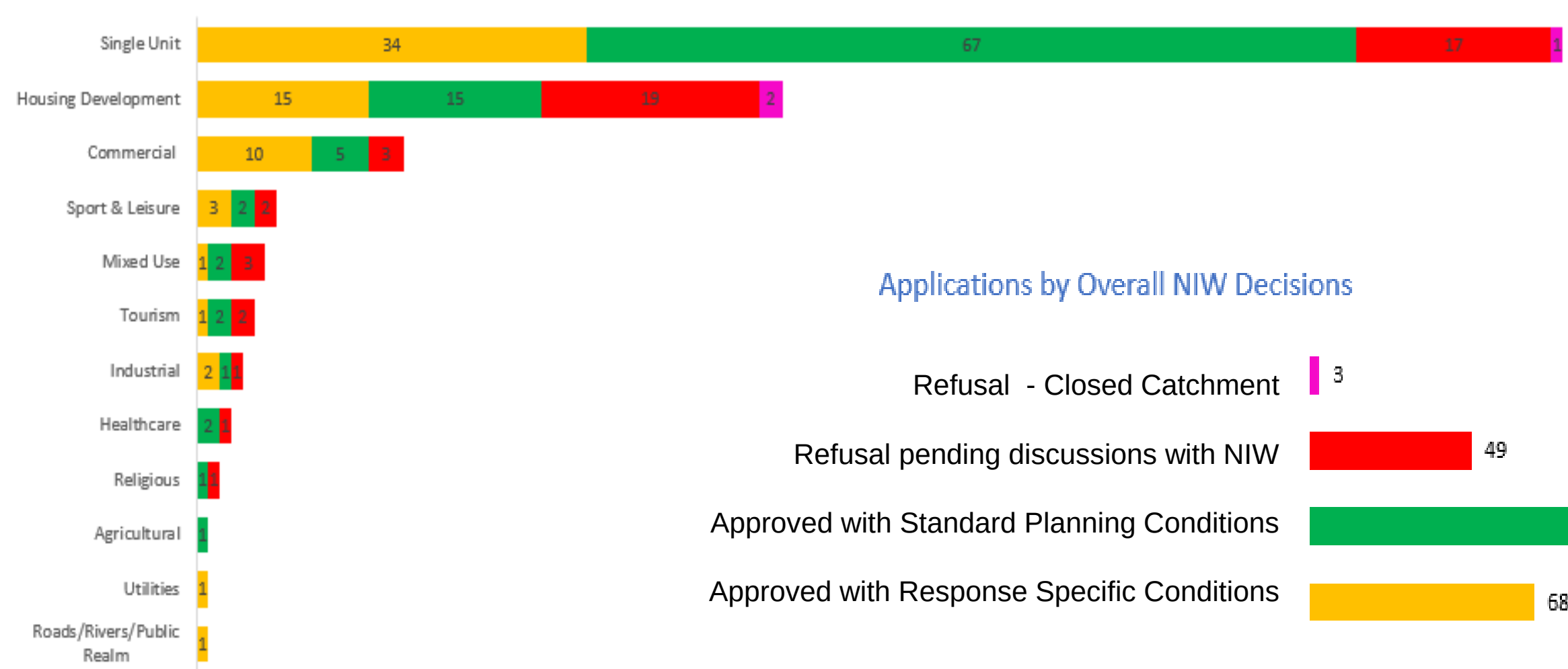


Ards & North Down Borough Council: Planning Application Statistics

142

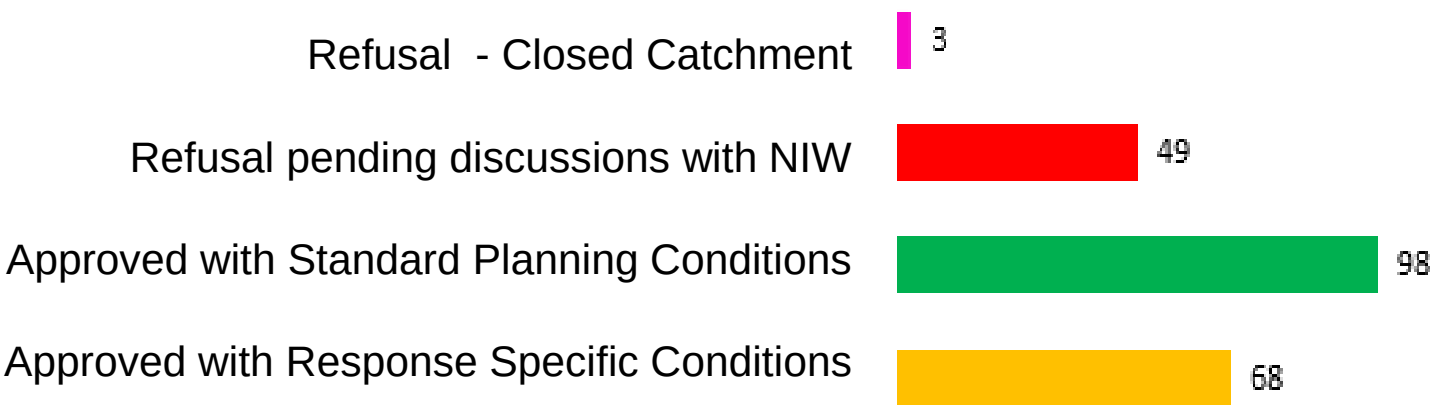
Jan 24 – Dec 24

Applications by Classification



number of applications **218**

Applications by Overall NIW Decisions



Summary

A permanent funding solution is required.

- Short-term injections of surplus money are unsuitable for funding of critical infrastructure.
- NI Audit Office Report (March 2024) called for *‘a comprehensive review of alternative funding and governance arrangements for NI Water led by suitable qualified experts.*
- Existing independent economic regulatory process has clearly set out the funding required yet the certainty of investment is not in place.
- Without change to the wastewater system Northern Ireland faces:
 - a permanent future of higher levels of pollution
 - severe constraints on our ability to build new homes
 - putting off new investors and slowing development of existing businesses.

THANK YOU



Delivering what matters



Unclassified

ITEM 6

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	03 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Workshop on Renewables
Attachments	6a - DFI Letter
File Reference (if applicable)	
Legislation	Other The PLanning Act (NI) 2011
Resource Implications	Other Narrative: Time out for training/learning
Screening Requirements	<i>The Council will commit to consider the implication of all reports under the categories of Section 75, Rural Needs, Data Protection, Climate and Sustainability:</i> Screening of decision not required
Link to Corporate Plan Priority and Outcome	Priority 2: Environmental 2. An environmentally sustainable and resilient Council and Borough meeting our net zero carbon targets If multiple:

Members should note the attached letter which sets out that as part of the Planning Improvement Programme, the Department, in conjunction with local councils and

Renewables NI, is proposing to host a workshop on Renewable Energy on 11 March 2026 as part of capacity building and knowledge development.

Nominations are sought in respect of circa three attendees per council, consisting of planning officers and Planning Committee members.

It is proposed that two planning officers attend and as such, the Committee is asked if it wishes to propose a Member to attend. In the absence of any Member expressing a desire to attend, a further planning officer will be proposed.

RECOMMENDATION

It is recommended that Council Considers the attached letter seeking nominations to the proposed Renewable Energy Workshop on 11 March 2026 and determines whether any Member wishes to be nominated.



Regional Planning Governance & Legislation

Heads of Planning (Councils)

James House
2-4 Cromac Avenue
The Gasworks
BELFAST
BT7 2JA

Tel: 0300 200 7830

Email: rosemary.daly@infrastructure-ni.gov.uk
julie.maroadi@infrastructure-ni.gov.uk

Your Ref:

Our Ref: DfIPG 045/26

16 February 2026

Dear Heads of Planning

Save the Date – Renewable Energy Workshop, 11 March 2026

As part of the Planning Improvement Programme, the Department in collaboration with local councils and Renewable NI will be hosting a series of workshops focused on capacity building and knowledge development in renewable energy technologies within the planning profession. The first workshop will take place on Wednesday, 11 March 2026. Further details of venue and agenda will be provided in due course.

These workshops will bring together colleagues from local and central government, alongside representatives from the renewable energy sector and other relevant stakeholders. The aim is that together, we will work through the processes involved in handling renewable energy proposals, explore new and emerging technologies, consider both opportunities and concerns, and share practical learning to strengthen assessment, decision-making, and professional confidence.

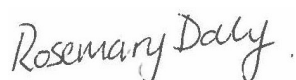
Our aim is to support planners and decision makers in developing the skills and understanding needed to deliver outcomes that reflect the **three pillars of sustainable development**:

- **Environmental** - supporting the transition to clean energy and responding to climate commitments.
- **Economic** - enabling responsible investment and growth in the renewable sector.
- **Social** - ensuring communities benefit from well-designed, well-assessed proposals that contribute to long-term wellbeing.

A full agenda and further information will follow shortly, but for now, please **save the date**. Numbers will be limited to around **three attendees (including planners/committee members) per council**, and we would be grateful if you could nominate planners and committee members from your council to take part. We can then reach out to the individuals with further information.

Please send attendees names to: legislation.planning@infrastructure-ni.gov.uk.

Yours sincerely



ROSEMARY DALY
Chief Planner & Director

Unclassified

ITEM 7

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	03 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Planning and Building Control Draft Service Plan 2026-27
Attachments	7a - Planning and Building Control Draft Service Plan
File Reference (if applicable)	
Legislation	Local Government Act (Northern Ireland) 2014
Resource Implications	None Narrative: Resources in place to deliver draft Service Plan, including external consultees.
Screening Requirements	<i>The Council will commit to consider the implication of all reports under the categories of Section 75, Rural Needs, Data Protection, Climate and Sustainability:</i> Screening of report not required
Link to Corporate Plan Priority and Outcome	Multiple Multiple If multiple: Social, Economic and Environmental

Background

Members will be aware that Council is required, under the Local Government Act 2014, to have in place arrangements to secure continuous improvement in the exercise of

its functions. To fulfil this requirement Council has in place a Performance Management Policy and Handbook. The Performance Management Handbook outlines the approach to the Performance Planning and Management process as:

- Community Plan – published every 10-15 years
- Corporate Plan – published every 4 years (Corporate Plan 2024 - 2028 in operation)
- Performance Improvement Plan (PIP) – published annually
- Service Plan – developed annually

The Council's 16 Service Plans outline how each respective Service will contribute to the achievement of the corporate objectives including, but not limited to, any relevant actions identified in the PIP.

Key Issues

Any key issues that the Service may face in 2026/27 have been detailed within the attached Service Plan.

Next Steps

Attached is the 2026/27 Service Plan for Planning and Building Control in accordance with the Council's Performance Management Policy and Handbook.

Plans are intended to:

- Encourage compliance with legal, audit and operational context.
- Provide focus on direction.
- Facilitate alignment between Corporate, Service and individual plans and activities.
- Motivate and develop staff.
- Promote performance improvement, encourage innovation and share good practice.
- Encourage transparency of performance outcomes.
- Better enable us to recognise success and address underperformance.

Summary

The attached Plan:

- Has been developed to align with the objectives of the Big Plan (2017 – 2032) and the Corporate Plan 2024 – 2028 and has been developed in conjunction with staff, officers and management, and in consultation with key stakeholders where relevant.
- Sets out the objectives for the Service for 2026-27 and identifies the key performance indicators used to illustrate the level of achievement of each objective, and the targets that the Service will try to attain along with key actions required to do so.

- Is based on the agreed budget. It should be noted that, should there be significant changes in-year (e.g. due to Council decisions, budget revisions or changes to the PIP), the Plan may need to be revised.
- Will be reported to Committee on a six-monthly basis as undernoted.

Reference	Period	Reporting Month
Half Yearly 1	April – September	December
Half Yearly 2	October – March	June

RECOMMENDATION

It is recommended that Council **Approves** attached Service Plan for 2026/27.

PLANNING & BUILDING CONTROL SERVICES

Service Plan: 01 April 2026 – 31 March 2027



**Ards and
North Down**
Borough Council

APPROVALS

Prepared By	Peer Reviewed By	Approved By Director
Ann McCullough	Sharon Mahaffy	Brian Dorrian
Head of Planning & Building Control	Head of Tourism, Arts & Heritage	Director of Place & Prosperity
15/01/2026	29/01/2026	30/01/2023

Contents

1. Introduction to Service 4

2. Context, Challenges and Key Assumptions 6

3. Strategic Objectives and Collaboration..... 12

4. Service Improvement..... 15

5. Service Risk Register 16

6. Key Activities (KPIs) for 2026/27 17

7. What Services/ Activities will be stopped 20

8. Reporting, Monitoring and Review 20

1. Introduction to Service

Name of Service	Planning and Building Control
Directorate	Place and Prosperity
Introduction and Reflection	Further to an organisational redesign in 2025, the Planning Service (formerly under the Prosperity Directorate) was amalgamated with the Building Control Service (formerly part of Regulatory Services under the Environment Directorate). The joint service now sits within the Place and Prosperity Directorate, alongside Capital Projects, Tourism, Arts and Heritage, and Economic Growth. Planning and Building Control are two distinct, but interconnected, processes in the construction industry. Planning permission is essential for most developments, ensuring that projects align with regional and local planning policies and do not adversely affect the surrounding area. Building Control focuses on the technical aspects of construction, ensuring that the work undertaken complies with safety, health and environmental standards. As such: • Planning permission controls what you are allowed to build and how it affects its surroundings; • Building regulations control how the work must be carried out, ensuring safety, performance and legal compliance. The NI Planning System The planning system makes sure that the right things are built in the right places, be it houses, shops, parks, community centres or energy plants. It provides the ability to shape and change the character, look and feel of the places where we live, work or visit. Responsibility for planning in Northern Ireland is shared between the 11 local councils and the Department for Infrastructure (the Department). Role of the Council (re Planning) The Council is responsible for, in the main: • Local development planning – creating a plan which will set out a clear vision of how the council area should look in the future by deciding what type and scale of development should be encouraged and where it should be located; • Development management – determining the vast majority of planning applications; • Planning enforcement – investigating alleged breaches of planning control and determining what action should be taken.

**Introduction
and Reflection,
cont.**

The objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. This means the planning system should positively and proactively facilitate development that contributes to a more socially, economically and environmentally sustainable Northern Ireland.

The Council, as a planning authority, is required to simultaneously pursue social and economic priorities alongside the careful management of our historic and natural environment for the overall benefit of our society. The Service provides statutory duties as set out under the Planning Act (Northern Ireland) 2011 and the mission is aligned with the Corporate Vision as set out in the Corporate Plan 2024-2028.

Building Control

The Building Control Service administers and enforces the Building Regulations, Dangerous Building Legislation, Energy Performance of Buildings legislation, and carries out Street Naming with the associated LPS/Pointer interface and data maintenance, and administers Property Certificates.

Planning Service and Building Control (BC) services liaise frequently in respect of information management and enforcement matters, which has resulted in the development of positive relationships, particularly continuance of a previous Protocol established whereby Building Control application forms now signpost applicants to the need to have planning permission for particular works, and Planning enforcement officers being able to check new BC applications via access to BC's system to do regular cross-checking of applications against planning permissions.

2. Context, Challenges and Key Assumptions

Development Plan and Policy (inc GIS)

Responsible for preparing a Local Development Plan (LDP) which will guide the future use of land within the Borough and inform developers, members of the public, communities, government, public bodies, representative organisations and other interested parties of the policy framework that will be used to determine planning applications. (Part 2 - Planning Act Northern Ireland 2011)

Also responsible for preparation of a suite of Supplementary Planning Guidance providing more detailed advice or guidance in relation to policies in the adopted Local Development Plan.

Also provided within this Service Unit is access to a Conservation Area Officer providing advice to Development Management colleagues in respect of applications within or affecting the setting of any of the three designated conservation areas of Donaghadee, Holywood or Portaferry.

Within this area also sits the Planning GIS Officer who contributes to development of interactive mapping solutions for the Planning pages of the Council website, alongside mapping of LDP information and analysis and assistance, where required, to other service units.

Factors affecting efficiency and effectiveness of Unit:

- Overall effectiveness of new Local Development Plan (LDP) system transferred by central government in 2015 and lack of progress regarding this through Planning Improvement Programme (PIP)
- Garnering support from elected members on policy direction
- Ensuring substantial evidence base is 'sound' to support policy proposals
- Aligning with other Council strategies and aspirations
- Aligning with continually emerging new/revised government policies and guidance
- Cost of securing specialist consultant advice/studies on thematic areas
- Lack of resource within Planning Appeals Commission to undertake Independent Examinations of LDP documents

Assumptions

- PIP Phase 2 and recommendations within final report of the Interim Regional Planning Commission will assist in progress re DFI being legislative-ready in 2027 for appropriate amendments to assist streamlining of process
- DFI successful in appointing Independent Examiners via its successful Transformation Bid of £3m

Development Management Service Unit

Responsible for assessing and determining planning applications with Statutory Performance Indicators as follows:

- Major development applications – process from date valid to decision within average processing time of 30 weeks
- Local development applications – process from date valid to decision within average processing time of 15 weeks
- And Householder development applications within internal processing target of 8 weeks

Considerable additional work is undertaken within the section, some of which is non-fee attracting but for which substantial resource is required as follows:

- Assessment of non-material changes to planning approvals;
- Processing Discharge of Conditions attached to planning approvals;
- Processing applications for Certificates of Lawfulness of Proposed Use or Development;
- Preparation of Statements of Case for, and representing the Council at, planning appeals;
- Pre-Application Discussions; and
- Duty planner services.

Factors affecting efficiency and effectiveness of Unit:

- Quality of applications being submitted
- Resource and expertise within statutory consultees
- Current inability to 'clock stop' in process when additional information required
- Volume and detail of objections received to proposals, including relatively minor applications
- Number of international and nation environmental designations
- Servicing of Planning Committee
- Tension between NIAO/Public Accounts Committee recommendations that Committee should only deal with most significant and controversial applications, and democratic right of Members to call-in applications
- Duplication of efforts in responding to queries from MLAs/MPs despite planning agents being appointed
- Increase in environmental governance
- Planning Appeals Commission decisions and Court judgments
- Lack of legislative controls governing submission of volume of amendments
- Staff movement

Assumptions

- Reduction in processing times further to introduction of Statutory Validation Checklist in January 2026 contributing to better front-loading of applications, reducing need for further re-consultations, re-advertising, re-neighbour notifying
- Faster processing times for Majors in light of set up of dedicated Majors team (but still potential for delays associated with likes of need for environmental statements)
- Further to DFI Consultation on Planning Fees in late 2025, it is anticipated that the DFI Minister will introduce legislation to enable Council to charge for applications for Non-Material Changes and Discharge of Conditions, which has been estimated to garner c£7.5k additional income on basis of legislation not being introduced until second part of financial year;
- Annual Inflationary Uplift in Planning Fees anticipated which equates to estimated additional £16.5k
- That economy will stabilise and there will be an increase in number and type of planning applications submitted, and resultant increase in planning fees

Planning Enforcement and Trees Service Unit

Effective enforcement of breaches of planning control is essential to ensure the credibility of the planning system is not undermined.

Under The Planning Act (NI) 2011 the Council has a general discretion to take enforcement action when it regards it as expedient to do so, having regard to the provisions of the Local Development Plan and any other material considerations.

Officers also process applications for Certificates of Lawfulness for Existing Use or Development.

Within this Service Unit sits the Tree Officer, who assesses requests for new Tree Preservation Orders (TPOs), as well as processing of applications for consent to carry out works to protected trees and notifications of proposed works to trees within conservation areas.

Factors affecting efficiency and effectiveness of Unit:

- Only fee attracting where retrospective planning applications are submitted further to breaches being identified;
- Cost of legal support for summons actions/prosecutions especially in relation to advertising breaches
- Length of time in negotiating to remedy or remove breaches – and reliance on Planning Appeals Commission hearing associated appeals against Enforcement Notices

- Increase in number of complaints regarding potential breaches reported requiring investigation
- Administrative resourcing regards processing of number of requests for new TPOs and applications seeking consent for works to protected trees
- Number of and legality of legacy TPOs transferred from previous planning authority requiring extensive Arboriculturalist input regarding Health and Condition Surveys
- Land Registry Charges – cost associated
- Statutory Charges – cost associated
- NIPSO Report – Strengthening our Roots – number of recommendations affecting council and need for production of Tree Strategy
- Limited resource in Trees – currently 1no. Tree Officer – impacts associated with any succession planning;
- Impact of trees on development proposals, and need to ensure protection wherever possible – requiring consultation with Tree Officer

Assumptions

- Reduction in number of Warning Letters issued – moving to formal enforcement action more quickly;
- Additional resource in place within Tree Unit to assist in TPO Review Exercise and provide resilience
- Tree Strategy document in place – to be taken account of in planning proposals by Development Management officers processing planning applications and planning agents (reduction in number of consultations on applications to Tree Officer)

Planning Business Support

The Business Support team provides essential support to the Head of Service and the three Planning Service Units in addition to ably carrying out a range of other duties, as follows:

- Processing of c300 Property Certificates per month
- Data cleansing in relation to migrated historic planning applications (1973-2000)
- Data cleansing in relation to migrated historic Enforcement cases
- Processing of copy document requests from public
- Processing of Statutory Charges – registering and removal
- Data cleansing re archived physical copies in storage
- Weekly updating of Planning website re delegated lists, advertising lists, Planning Committee schedules
- Responding to walk-in queries from customers unable to access/view online applications at home
- Maintenance of Correspondence, FoI and Complaints folders and spreadsheet
- Updating of the Planning Register
- Updating of repository of all Planning Appeals Commission decisions

- Fielding of all emails and phone-calls 9am to 4pm to Planning re duty planner queries as well as case-specific queries

Factors affecting efficiency and effectiveness of Unit:

- Receipt of increased number of FOI/Reviews

Assumptions

- Continued increase in number of applications being lodged on-line – reducing administrative burden

Planning Service – overall Challenges and Assumptions

Challenges

- Lack of specialist knowledge in topics such as Minerals, Retailing, Climate Change, Wind Energy, Place-Making and Design – requiring dependency on ad-hoc consultancy input, and competition among councils for same consultants
- Continued lack of financial sustainability of the planning system
- DFI Oversight role in the planning process and tension with sovereign authority of Council to make its own planning decisions as considered appropriate
- Maintaining staff morale in culture of social media attacks/complaints
- Facilitating input to Planning Improvement Programme in parallel with day job
- Late submission of information – in planning applications – under one fee
- Regional Wastewater infrastructure challenges – requirement for consistency, fairness, certainty for applicants, and assured environmental protection of natural assets, particularly in context of Council's responsibilities in relation to Habitats Regulations Assessment – particularly Strangford Lough and Belfast Lough
- Need for full Systems Review/Analysis of NI planning process – to streamline processes

Assumptions

- Continued partnership working with DFI and across other local planning authorities to affect positive change and improvement.

Building Control Service Unit

The Building Control Service administers and enforces the Building Regulations, Dangerous Building Legislation, Energy Performance of Buildings legislation, and carries out Street Naming with the associated LPS/Pointer interface and data maintenance and administers Property Certificates.

Factors affecting efficiency and effectiveness of Unit:

- Changes to the legislation administered and enforced by Building Control often comes from the outworkings of political objectives, the scope of these areas of legislation is seldom overly contentious but can be massively impactful, such as the anticipated Building Safety Bill measures.
- Increasing complexity of regulations and verification.
- Compliance obligations, e.g. Agency Workers and FOI.
- Loss of specialist staff / inability to recruit accordingly as pay scales not aligned with other local authorities.
- No direct control over fee setting.

Challenges

- Anticipated Building Safety Bill measures – requiring Council to implement measures that ensure the safety and habitability of properties, aligning with the Building Safety Act 2022. Council will need to adapt its regulations and enforcement processes to comply with new requirements, potentially leading to increased responsibilities and operational changes. Training will be required on a regular basis to ensure staff are ‘competent officers’ (at cost to Council), and Building Control is likely to be responsible for regulation of some aspects of the process which are not currently controlled. Additionally - Unknown ‘location’ of the upcoming Building Safety Regulator’.
- Implications arising from Dilapidations Bill – placing onus on councils to carry out work themselves on dilapidated and dangerous buildings and neglected sites – and associated issues with procurement, cost recovery
- Service is reliant on buoyant economy and construction industry – as fee income dependent.
- Commencement of works is dependent on infrastructure provision, which may not allow Planning approvals to be built out.

Opportunities

- A lot of training coming on stream to enable the BSB measures.
- Opportunities to bring fees closer to actual costs.

3. Strategic Objectives and Collaboration

Within our new Corporate Plan 2024-2028 we have a vision of *A Sustainable Borough*. One where Economic, Environmental and Social Wellbeing are linked and in which we, as a Council, make decisions about policies, services, investments and resources that balance the demands of each.

By doing so we can positively impact the people and the assets in our Borough and play a part in addressing some of the world's most pressing problems e.g. poverty, inequality, depletion of natural resources, climate change, economic growth etc.

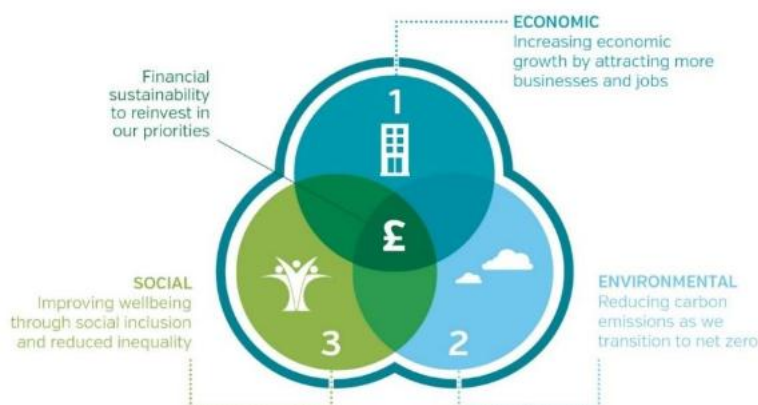
In brief, *A Sustainable Borough* is one where we make sure that we think about economic, social AND environmental impacts when we make decisions.

The three priorities we will be delivering against are:

- **ECONOMIC** - increasing economic growth by attracting more jobs and businesses
- **ENVIRONMENTAL** - reducing carbon emissions as we transition to net zero
- **SOCIAL** - improving wellbeing through social inclusion and reduced inequality

These priorities align with the three pillars of sustainable development. They are ambitious, and we will need to work in partnership and collaborate to achieve them.

The diagram below summarises our three Corporate Priorities and shows how they all link together. As you will see at the heart of the diagram is our commitment to address the key issue of our financial sustainability – as without that, we will be less able to deliver on all our ambitions.



We have also identified **seven outcomes** that we want to achieve to meet our priorities. They are (not in order of priority):

1. An engaged Borough with citizens and businesses who have opportunities to influence the delivery of services, plans and investment
2. An environmentally sustainable and resilient Council and Borough meeting our net zero carbon targets
3. A thriving and sustainable economy

4. A vibrant, attractive, sustainable Borough for citizens, visitors, businesses and investors
5. Safe, welcoming and inclusive communities that are flourishing
6. Opportunities for people to be active and healthy
7. Ards and North Down Borough Council is a high performing organisation

The Planning and Building Control Service does not typically engage in its own projects, rather it acts as an enabler for development across the Borough, including prioritisation of key proposals/developments that support the growing of the non-domestic rates base

The table below reflects the key projects that Planning and Building Control will assist in through provision of professional advice and prioritisation of processing, where practicable, over the next 12 months, and the key Services that will be collaborated with as part of the process.

Strategic Objective	Collaboration Required	Corporate Plan Priority	Corporate Plan Outcome (1-7)
Objective 1			
Professional advice and input to Council's Regeneration Projects, such as: • Bangor Waterfront Project - Redevelopment of Pickie Fun Park - Redevelopment of Marina - Commercial opportunities for Public Realm - Ballyholme Yacht Club redevelopment • Redevelopment of Queen's Parade - Analysis of Phase 2 proposals including Civic Offices • Redevelopment of Whitespots Country Park • Cemetery Extensions/ new sites • Development of Innovation Hub Development of NIE site and Lands at Comber Road, Newtownards	Capital Projects; Parks and Cemeteries; Lands; Economic Growth; Corporate Comms	Economic Environmental Social	2, 3,4,5 & 7
Objective 2			
Effective enforcement of legislation and awareness of current and new/upcoming legislation, particularly in context of outworkings of Dilapidation Bill and Building Safety Regulations – Building Control	Administration; Corporate Comms; Compliance	Economic Environmental Social	2, 4 & 7
Objective 3			
Agreement of any required changes by Council to encompass the production of	Business Technology;	Economic Environmental	1, 2 & 3

Focussed Change Document as response to Public Consultation / Statutory Consultee input to draft Plan Strategy	Corporate Comms & Marketing	Social	
--	-----------------------------	--------	--

4. Service Improvement

The “**Service development/ improvement**” element should identify areas of the service that require development/ improvement along with any new, innovative ideas for future improvements. **Please state clearly in the “Rationale” section why the improvement is being undertaken and what evidence there is to support the decision.**

Only Service improvement activities should be included in this section, ‘business as usual’ activities should be detailed in Section 6.

Please ensure KPIs are included in Section 6 to measure Service development/ improvement(s) outlined below.

Service development/ improvement 2026/27?	Which of the specified aspects will this improve?	Rationale	Responsible Officer(s)	Who do we need to help us? (Internal and/ or External partners) Please specify
Continued application of Statutory Validation Checklist (introduced Jan 2026) should contribute to improvements in meeting statutory performance indicators for planning applications – whereby applications in both major and local categories of development (30 weeks and 15 weeks targets) are front-loaded to assist in quicker processing; alongside restructure of Development Management Service to incorporate dedicated Majors team and prioritisation of applications contributing to non-domestic rates base	☒ Strategic Effectiveness ☒ Service Quality ☐ Service Availability ☐ Fairness ☐ Sustainability ☒ Efficiency ☐ Innovation	Front-loading of applications to ensure all information submitted at outset to assist statutory consultees respond substantively; dedicated staff allocated to Majors and Priority applications	SUM	Statutory Consultees and Applicants/Agents

5. Service Risk Register

Service Risk Register should align with the Corporate Risk Management Strategy.

When completing your Service Plan, you must review and consider your current Service Risk Register. Please confirm this has been completed. ☐ **Yes**

6. Key Activities (KPIs) for 2026/27

Please ensure service development/ improvements detailed in Section 4 are included as KPIs.

KPIs should be aligned to the 7 Outcomes of the Corporate Plan 2024-2028, detailed below:

1	An engaged Borough with citizens and businesses who have opportunities to influence the delivery of services, plans and investment
2	An environmentally sustainable and resilient Council and Borough meeting our net zero carbon targets
3	A thriving and sustainable economy
4	A vibrant, attractive, sustainable Borough for citizens, visitors, businesses and investors
5	Safe, welcoming and inclusive communities that are flourishing
6	Opportunities for people to be active and healthy
7	Ards and North Down Borough Council is a high performing organisation

In addition to the outcomes the KPI should align with one of the three **Corporate Priorities** of the **Corporate Plan**, detailed below:

Corporate Priority 1	Economic	Increasing economic growth by attracting more jobs and businesses	• Business Support • Attracting Investment • Rural Regeneration • Labour Market Partnership • Sustainable Tourism • Town and City Regeneration • Vacant to Vibrant Scheme • Innovation Hub
Corporate Priority 2	Environmental	Reduce carbon emissions as we transition to net zero	• Waste Management • Digital and Physical Infrastructure • Estate Management • Tree Planting Strategy • Management of Outdoor Spaces • Local Development Plan • Litter Control and Enforcement • Sustainable Waste Resources Strategy • Sustainable Energy Management Strategy
Corporate Priority 3	Social	Improving wellbeing through social inclusion and reduced inequality	• Sport, leisure and outdoor recreation • Active travel • Environmental Health • Community Development • Neighbourhood Environment • Good Relations • Leisure Strategy • Placemaking

Existing KPI Number	Performance Measures Should include improvement actions outlined in Section 4 and relevant measures both existing and new.	Is the KPI Mandatory/ Statutory/ Service-led	Reporting frequency (6 Monthly/ Year-end)	Outcomes and Priorities to be mapped to KPIs on Ideagen		KPI to be included in Performance Improvement Plan	2026/27 Reporting						
							2024/25 Actual	2025/26 Target	2025/26 YTD End of H1	2026/27 Target	Reporting end of H1 Target	Reporting end of H2 Target	Cumulative/ Fixed
	% Spend against budget	Mandatory	6 Monthly	7	Economic	N/A	100.95 %	95%	88.3% (Planning only)	100%	100%	100%	Fixed
	% Staff attendance	Mandatory	Yearly	7	Economic	N/A	89.28%	95%	95.49% (Planning only)	95%	-	95%	Fixed
	% of completed Employee Appraisals	Mandatory	6 Monthly	7	Economic	N/A		95%	50%	95%	95%	95%	Fixed
	Average CO2 generated by each dwelling (tonnes based on standardised dwelling figures(lower figure is better))	Service Led	Yearly	2	Environmental	Yes		3.79 tonnes	N/A Yearly target	3.78 tonnes	-	3.78 tonnes	Cumulative
	% of Borough housing stock meeting general disability standards (2001 standard taken as baseline)	Service Led	Yearly	5	Social	Yes		21.5%	N/A Yearly target	21.75%	-	21.75%	Cumulative
EC.01.PL.04	Process major development applications with target performance time of 30 weeks	Statutory	6 monthly	Select Primary Outcome here	Select Primary Priority here	Yes	76.6 wks	30 weeks	89.4 wks	30 weeks	30 weeks	30 weeks	Cumulative
				Additional Outcomes ☒ 1 ☐ 2 ☒ 3 ☒ 4 ☐ 5 ☐ 6 ☒ 7	Additional Priorities ☒ Economic ☒ Environment ☒ Social								

Existing KPI Number	Performance Measures Should include improvement actions outlined in Section 4 and relevant measures both existing and new.	Is the KPI Mandatory/ Statutory/ Service-led	Reporting frequency (6 Monthly/ Year-end)	Outcomes and Priorities to be mapped to KPIs on Ideagen		KPI to be included in Performance Improvement Plan	2026/27 Reporting						
							2024/25 Actual	2025/26 Target	2025/26 YTD End of H1	2026/27 Target	Reporting end of H1 Target	Reporting end of H2 Target	Cumulative/ Fixed
EC.01.PL.05	Process local development applications with target performance time of 15 weeks	Statutory	6 monthly	Select Primary Outcome here	Select Primary Priority here	Yes	17.0 wks	15 weeks	15.4 wks	15 weeks	15 weeks	15 weeks	Cumulative
				Additional Outcomes ☒ 1 ☐ 2 ☒ 3 ☒ 4 ☐ 5 ☐ 6 ☒ 7	Additional Priorities ☒ Economic ☒ Environment ☒ Social								
EC.01.PL.06	Process householder development applications within 8 weeks	Service Led	6 monthly	Select Primary Outcome here	Select Primary Priority here	No	38%	75%	34%	75%	75%	75%	Cumulative
				Additional Outcomes ☒ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6 ☒ 7	Additional Priorities ☒ Economic ☒ Environment ☒ Social								

Existing KPI Number	Performance Measures Should include improvement actions outlined in Section 4 and relevant measures both existing and new.	Is the KPI Mandatory/ Statutory/ Service-led	Reporting frequency (6 Monthly/ Year-end)	Outcomes and Priorities to be mapped to KPIs on Ideagen		KPI to be included in Performance Improvement Plan	2026/27 Reporting						
							2024/25 Actual	2025/26 Target	2025/26 YTD End of H1	2026/27 Target	Reporting end of H1 Target	Reporting end of H2 Target	Cumulative/ Fixed
EN.04.PL.07	Investigate and take proportionate and appropriate enforcement action against alleged breaches of planning control – conclude 70% of cases within 39 weeks	Statutory	6 monthly	Select Primary Outcome here	Select Primary Priority here	No	67.9%	70%	55.2%	70%	70%	70%	Cumulative
				Additional Outcomes ☐ 1 ☒ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6 ☒ 7	Additional Priorities ☒ Economic ☒ Environment ☒ Social								

7. What Services/ Activities will be stopped

What service/ activities will we be stopping/ changing in 2026/2027	Reason for stopping / changing activity	Savings	Impact on Performance	Impact on the Public	Impact on staffing
N/A					

8. Reporting, Monitoring and Review

Provide detail below how this plan will be monitored and reviewed.

Monitoring Method	Frequency	Responsible Officer
Team Meeting	Monthly	HoST/ SUMs/ Line Managers
HoST	Quarterly	HoST

Standing Committee	6 Monthly	Directors and HoST
Performance Improvement Plan	Annually (30 June)	Transformation Manager
Self-Assessment Report	Annually (30 September)	Transformation Manager

Unclassified

ITEM 8

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	03 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Planning Appeals Update
Attachments	Item 8a - Decision 2025-A0023
	Item 8 b - Decision 2025-E0006
File Reference (if applicable)	
Legislation	Other Planning Appeals Commission (Decisions on Appeals and Making of Reports) (No. 2) Rules (Northern Ireland) 2006 as amended
Resource Implications	None Narrative:
Screening Requirements	<i>The Council will commit to consider the implication of all reports under the categories of Section 75, Rural Needs, Data Protection, Climate and Sustainability:</i> Screening of decision not required
Link to Corporate Plan Priority and Outcome	Choose an item. Choose an item. If multiple:

Appeal Decisions

1. The following appeal was dismissed on 30 January 2026 following written representations with accompanied site visit on 04 September 2025.

PAC Ref	2025/A0023
Council Ref	LA06/2024/0438/O
Appellant	Ryan Doherty
Subject of Appeal	Refusal of planning permission for: Erection of shed for the storage and maintenance of agricultural machinery, yard and relation of access
Location	100m south of 35 Ballymaleddy Road, Comber

The Council refused the application at the Planning Committee of 04 March 2025, further to call-in from the delegated list by Alderman McIlveen, for the following reasons:

- a) The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21: Sustainable Development in the Countryside in that, there are no overriding reasons why the development is essential at this location.
- b) The proposal is contrary to The Strategic Planning Policy Statement for NI (para 6.73), and Policy CTY 12 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - it has not been demonstrated that the shed is necessary for the efficient use of the agricultural holding;
 - the shed would not be sited beside existing farm buildings;
 - it does not merit being considered as an exceptional case as it has not been demonstrated that there are no other sites available at another group of buildings on the holding, health and safety reasons exist to justify an alternative site away from existing farm buildings or that the alternative site away from existing farm buildings is essential for the efficient functioning of the business.
- c) The proposal is contrary to criteria a, b, c, d and f of Policy CTY 13 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal:
 - is a prominent feature in the landscape
 - the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
 - it relies primarily on the use of new landscaping for integration
 - ancillary works do not integrate with their surroundings
 - it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop
- d) The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would be unduly prominent in the landscape and the impact of the ancillary works would

damage rural character.

Commissioner considered:

- there was an active and established farm business but not adequately demonstrated that the shed was necessary for the efficient use of the agricultural holding.
- Invoices for agricultural contracting work outside the applicant's holding / evidence of four invoices were inconclusive in terms of demonstrating that the proposed shed was necessary for the efficient use of the holding.
- Recommendations within the Health and Safety report for facilities for the maintenance of farm machinery appeared excessive for a relatively small holding.
- Limited evidence presented leaned towards the appellant's agricultural contracting business rather than demonstrating maintenance or upkeep of the agricultural holding.
- Not persuaded that a shed of the size, scale and with the technical requirements specified were necessary for the efficient use of this agricultural holding or could not be sited beside existing farm buildings at 37 Ballymaleddy Road within its generous curtilage and which the farm business is registered to.
- Considered that a shed would appear as a prominent feature in the landscape and was unable to provide a suitable degree of enclosure to integrate into the landscape and the impact of ancillary works would damage rural character.

All of the Council's refusal reasons were upheld and the appeal was dismissed.

2. The following enforcement appeal was upheld on 30 January 2026

PAC Ref	2025/E0006
Council Ref	LA06/2022/0296/CA
Appellant	Andrew Lawther
Subject of Appeal	Alleged i. Unauthorised laying of hardcore to form a level surfaced area; ii. Unauthorised erection of one wooden building and eco composting facility; iii. Unauthorised erection of one yurt with pier foundations; iv. Unauthorised laying of hardcore stone laneway
Location	Lands opposite 49 Holly Park Road, Killinchy, Down, within forested area (wet woodlands) on eastern side of Holly Park Road, approx. 140m back from Holly Park Road and approx. 520m north of Derryboy Road

Appeal was brought under Grounds (a), (c), (d), (f) and (g) 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. This decision only considered Grounds (c) and (d).

Ground (c)- that those matters (if they occurred) do not constitute a breach of planning control

Appeal site not being actively farmed; however, appellant argued that site was farmed previously and planning permission therefore not required due to permitted development rights and that laying of hardcore was associated with overall agricultural management of the lands.

Commissioner not persuaded by evidence submitted which included mapping and invoices or that the laneway and level surfaced area were in place since the appellant’s father possessed permitted development rights. Appeal under ground (c) failed.

Ground (d)- that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters

Commissioner also considered evidence presented in relation to Section 132 of the Act which deals with time limits and considered on balance of probabilities, it was not demonstrated that on 1st April 2025 no enforcement action could be taken in respect of breaches i and iv. The appeal on ground (d) failed.

New Appeals

3. The following appeal was lodged on 10 February:

PAC Ref	2025/A0124
Council Ref	LA06/2024/0952/F
Appellant	James Morley
Subject of Appeal	Demolition of existing dwelling and erection of 2 No. 3 bed and 4 No. 2 bed apartments
Location	115 Station Road, Craigavad

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

RECOMMENDATION

It is recommended that Council Notes this report and attachments.



Appeal Decision

4th Floor
92 Ann Street
BELFAST
BT1 3HH
T: 028 9024 4710

E: info@pacni.gov.uk

177

Appeal Reference:	2025/A0023
Appeal by:	Ryan Doherty
Appeal against:	The refusal of outline planning permission
Proposal:	Erection of shed for the storage and maintenance of agricultural machinery, yard and relocation of access
Location:	100m south of 35 Ballymaleddy Road, Comber
Planning Authority:	Ards and North Down Borough Council
Application Reference:	LA06/2024/0438/O
Procedure:	Written Representations with Accompanied Site Visit on 4 September 2025
Decision by:	Commissioner Mandy Jones dated 30 January 2026

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal relate to the:
 - principle of development in the countryside and
 - whether the proposed building visually integrates into the surrounding countryside.
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the local development plan (LDP), 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 local development plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.
4. The Ards and Down Area Plan 2015 (ADAP) continues to operate as the LDP for the area and the appeal site is located within the countryside.
5. On 11 December 2025, the Department for Infrastructure published the Strategic Planning Policy Statement for Northern Ireland, 'Planning for Sustainable Development' Edition 2 (SPPS2) which includes new policy provisions on Renewable and Low Carbon Energy. The preamble to the SPPS2, makes it clear that all other policy provisions within the former SPPS are unchanged. The SPPS2 is material to all decisions on individual planning applications and appeals. The SPPS2 retains policies within existing planning policy documents until such times as the Plan Strategies for the whole of the Council areas in Northern Ireland have been adopted. No Plan Strategy has been adopted for this Council area. The SPPS2 retains the policy provisions of PPS 21: Sustainable Development in the

Countryside. The SPPS2 sets out the transitional arrangements to be followed in the event of a conflict between it and retained policy. Any conflict arising between the SPPS2 and any policy retained under the transitional arrangements must be resolved in favour of the SPPS2. As no such conflict arises in this instance, the retained policies apply.

Site description

6. The appeal site is part of a large roadside agricultural field at the junction of Ballymaleddy Road to the east and Gransha Close to the west. Roadside boundaries are defined by hedgerows and mature vegetation defines the northern boundary. The host field slopes from the north-west down towards the south-east. The western and southern boundaries of the appeal site are undefined. The host field is detached from the remainder of the farm holding. A substantial part of the holding is located to the north of the appeal site to the north of Ballymaleddy Road. The second part of the holding is in Killyleagh (within the Newry, Mourne and Down District Council Area).

Policy Context

7. Policy CTY 1 of PPS 21, 'Sustainable Development in the Countryside' states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Policy continues that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. One of the types of development considered to be acceptable in the countryside is Agricultural and Forestry Development in accordance with Policy CTY 12. It follows that, if the development complies with Policy CTY 12, it will satisfy Policy CTY 1 of PPS 21.
8. Policy CTY 12 of PPS 21 – Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding 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 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 (3) 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.
9. Policy CTY 12 also advises that in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all the following :
 - There are no suitable existing buildings on the holding or enterprise that can be used;
 - The design and materials to be used are sympathetic to the locality and adjacent buildings; and
 - The proposal is sited beside existing farm or forestry buildings.

Policy continues, that exceptionally, consideration may be given to an alternative site away from the 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.
10. Paragraph 5.56 of PPS 21 states that for the purposes of Policy CTY 12, the determining criteria for an active and established business will be that set out under policy CTY 10, that is, that the farm business is currently active and has been established for at least 6 years.
 11. The Department of Agriculture, Environment and Rural Affairs (DAERA) consultation response dated 8 July 2024 confirmed that the appellant's farm business number was allocated on 8 April 2005 and has been in existence for more than six years. (ID number 637004). There was no dispute that the farm business is established and active.
 12. Although this is an outline application, block plans were submitted which indicate the siting of the proposed shed and yard within the appeal site. The western and southern boundaries are undefined on the ground and new landscaping is proposed to define these boundaries. The shed is orientated north-east to south-west with a footprint of approximately 7.2m x 17m across two finished floor levels and a ridge height of 4.7m. A barrel or pitched roof is proposed. An external yard area is to the north, east and west of the proposed shed and a new vehicular access is to be created on the Ballymaleddy Road.
 13. The Council's reason for refusal engaged criterion (a) in that, it was not considered it had been demonstrated that the proposed shed is necessary for the efficient use of the agricultural holding. Within the Design and Access Statement, the appellant stated that the shed was necessary:
 - To provide an agricultural vehicle and implement shed, incorporating a work area for maintenance and repair;
 - The provision of a safe work area for farm machinery as directed by the Health and Safety Executive. The appellant no longer has access to the limited facilities at no 35 Ballymaleddy Road;
 - For the sheltering of machinery from the elements to prevent damage – this is required by machinery manufacturers and will reduce depreciation, and
 - The associated yard space will facilitate the storage and loading of produce and reduce the need to enter the fields during wet weather.
 14. The appellant provided a list of machinery which is currently stored outside including a tractor, sower, mower, tedder, rake, baler, bale lifter, sprayer, hedge cutter, pick up and trailer. The appellant stated that the need for the shed is that he no longer had the use of the drive and garage at 35 Ballymaleddy Road due to the new occupiers of this dwelling (which was previously his grandmothers). The appellant stated that currently his machinery is stored within the fields adjacent to 37 Ballymaleddy Road. At the site visit, I saw various items of farm machinery stored within the field adjacent to 37 Ballymaleddy Road (appellants address). The appellant confirmed these machinery items belonged to him, however they were stored on lands which were not within his holding. No farm equipment or machinery was stored within the appellant's holding. I was told that

the shed beside 37 Ballymaleddy Road is used to store the appellant's mother's machinery. Receipts were provided for a mower (12.4.16), rake (7.4.21) and baler (26.01.14), (however, this had no reference to the appellant - only that delivery was to Comber) and a pick-up truck (6.12.14). I was told that the shed is necessary for the dry storage of machinery held by his business.

15. The host field is the only land within the appellant's ownership within Ards and Down Borough Council Area with the remainder of the holding located within Newry Mourne and Down District Council area and the reason provided for the location of the appeal site is the close proximity to his home address (37 Ballymaleddy Road).
16. A Health and Safety report by Brian Larkin Safety Limited dated 18.11.24 was submitted, which outlines the necessity of setting up a designated work area for the appellant, including features such as a levelled concrete floor with a pit, fume extraction systems and equipment compatibility for servicing and maintenance of agricultural machinery. The report outlined that the maintenance of tractors and agricultural implements is a critical aspect of ensuring farm related operations run smoothly. General medical records from the appellant's GP were also provided.
17. The appellant states that his business produces grass silage / hay for sale, typically for the equestrian market. He does not keep livestock. I was told that a typical sales invoice would be for five round haylage bales delivered. Included was the first sales invoice dated 28 June 2014 for small hay bales and the most recent for haylage bales dated 20 April 2025. I was told that these invoices are numbered sequentially including agricultural contracting work and to date 764 have been generated. I note that the first invoice is headed 'Ryan Doherty Oil Fired Boiler Installation – Agricultural Contracting and Feed Supplies' and the most recent headed 'Ryan Doherty Agricultural Contracting and Hay Sales'. Two additional invoices were included dated 20 April 2025 and 30 November 2023 to E Doherty, 37 Ballymaleddy Road for bales and mowing. The appellant stated that the Council 'didn't consider the additional revenue the machinery generates for me when carrying out contracting work.' The appellant stated that his machinery is also used for contracting work, increasing business income. However, policy requires that it must be demonstrated that the shed is necessary for the efficient use of the agricultural holding. Any invoices for agricultural contracting work outside his holding do not demonstrate to me the efficient use of the appellant's agricultural holding. I consider that this evidence of four invoices is inconclusive in terms of demonstrating that the proposed shed is necessary for the efficient use of the holding.
18. The holding comprises of eight fields (five owned and three rented) and is 7.7 hectares in total. I would concur with the Council that the recommendations within the Health and Safety report for facilities for the maintenance of farm machinery appear to be excessive for a farmer with a relatively small holding requiring a shed to store equipment associated solely with the cutting of hay. I would agree that the facilities listed for the maintenance of farm machinery are more to the extent that would be required for an agricultural machinery maintenance business on a daily basis rather than for occasional maintenance works. In addition, the limited evidence presented also leans towards the appellant's

agricultural contracting business rather than demonstrating the maintenance or upkeep of the agricultural holding itself.

19. Although it would appear that some of the appellant's agricultural machinery which is currently stored outside but not within his holding - unsecured and exposed to the elements - is used within the agricultural holding to maintain the land and for the cutting of hay, no specific evidence was presented in this regard. Rather, the limited evidence presented was primarily directed to his agricultural contracting business. I accept the point that the appellant could maintain and service his own agricultural machinery rather than subcontracting this work.
20. A statement of case was submitted by E Doherty, 37 Ballymaleddy Road, which stated that 35 Ballymaleddy Road was bequeathed to her in 2023 by her late mother which prior to this, the appellant had permission to use the area in hard standing in front of the house for the repair of his tractor and other farm machinery. This house is now rented out to tenants and no longer available to him. I was provided with no persuasive evidence that the previous facilities at 35 Ballymaleddy Road are no longer available in the longer term, only assertions that it has now been rented out.
21. Although this is an outline application, details of the size, scale and specifications of the proposed shed and associated external yard area were provided. Whilst a shed may be desirable for the safe storage of agricultural equipment and a work area for the established holding, given the limited evidence presented including the appellant's general medical information, I am not persuaded that a shed of the size, scale and with the technical requirements specified is necessary for the efficient use of this agricultural holding. The proposal does not meet criterion (a).
22. An additional requirement of Policy CTY 12, where a new building is proposed, states that the proposal must be sited beside existing farm buildings. In terms of alternative sites within the holding, the appellant states that the lands at Downpatrick Road, Killyleagh are 15 miles from Comber, which is a 25 minute journey by car or 50 minutes by tractor and a pointless commute. The land is also within an AONB and he believes that Newry, Mourne and Down Council would not want him to build there. I note there are no indications of any planning applications made to Newry, Mourne and Down Council by the appellant for a shed on his lands.
23. Within the appellant's statement of case, an extract of his parents' farm maps was included, which indicates their holding (fields to the west of 37 and 35 Ballymaleddy Road). The appellant's lands relative to this holding are also superimposed on this map (including the host field and lands to the east of 37 and 35 Ballymaleddy Road). Although the appellant states that his mother's farm business, registered in his mother's name and based on lands bequeathed to her in 1987, I have no information regarding which property this land or business is registered to. I am not persuaded that the proposed shed cannot be sited beside existing farm buildings at 37 Ballymaleddy Road within its generous curtilage and which the farm business is registered to.
24. The appellant has advised that while the farm business address is 37 Ballymaleddy Road and he lives at this address, he does not own the property as it is his parents' house and therefore it does not constitute an existing building on

the holding. I have no specific details of the ownership of 37 Ballymaleddy Road, however, I note that within the P1C form, the appellant stated that the active farm business (registered to 37 Ballymaleddy Road) is completely owned by him.

25. Notwithstanding, I was told that the appellant's mother and father jointly own the gardens at 37 Ballymaleddy Road and will not make the garden available for development, the appellant's farm business is registered to 37 Ballymaleddy Road and I consider, in this instance, it therefore represents an existing building on the farm. There are no other buildings within the appellant's holding. The appellant does not own any land around the curtilage of 37 Ballymaleddy Road and he advises that there is no possibility of erecting a shed within the curtilage of 37 Ballymaleddy Road given the financial investment by his mother to landscape the gardens. The appellant's mother's statement of case stated that her garden has been developed over the past 45 years and the Council's proposal would be an act of wanton destruction as Members of Comber Gardening Group would attest.
26. I do not consider this to be a material consideration, and it is not a sufficient reason for the proposal to be sited on an alternative site away from the farm buildings as required by policy. 37 Ballymaleddy Road occupies a substantial curtilage including sheds, and I have not been persuaded that, logistically, a shed could not be accommodated within its curtilage whilst retaining a garden area. The appeal proposal is not sited beside existing farm buildings.
27. The appellant included twelve previous appeal decisions within the statement of case including 2018/A0164, 2024/A0028, 2022/A0001 and 2022/A0035 which considered the dry storage of machinery as a material consideration and referred to an approval LA06/2016/0969, which he claims was referred to by the Council, as distinguishable as it was for the housing of cattle. I agree with the appellant that dry storage of agricultural machinery can be a material consideration under Policy CTY 12. A number of decisions were referred to including 2014/A0056, 2019/A0035 and 2019/A0087, for sheds which were approved on small holdings. However, this appeal can be distinguished, as I have assessed this appeal on the totality of the evidence presented and not just the size of the holding or its use for the dry storage of agricultural machinery.
28. In appeal decision 2021/A0038, the need for a shed was established on the holding in its evidential context and it was considered that there were no existing farm buildings, as such, it is distinguishable. 2021/A0229 was also referred to, as it was claimed that separate businesses cannot build on each other's holdings. However, there is no dispute that the appellant's farm ID is registered to 37 Ballymaleddy Road. Appeal decision 2024/A0057 does not assist the appellant's case, as it only discounted a domestic garage as a farm building.
29. The appellant also referred to appeal decision 2019/E0066, paragraph 7 which refers to The Planning (General Permitted Development) Order (Northern Ireland) 2015, agricultural buildings and operations which is not relevant to this appeal for outline planning permission. I note that appeal 2022/A0035 was dismissed and I do not consider that any of the points referred to this appeal in rebuttal evidence supports the appellant's case. Notwithstanding, each case is considered on its own merits and within its own evidential context.

30. To recap, the appellant's farm business ID 637004 is registered to 37 Ballymaleddy Road and the application forms submitted state that the appellant lives at 37 Ballymaleddy Road. As 37 Ballymaleddy Road is the primary farm dwelling for the farm business ID, this constitutes a building on the farm to which the proposed shed must be sited beside. As the proposed shed is not the first building and is proposed to move away from the existing farm buildings to an alternative site, the exception test is engaged. However, as it has not been demonstrated that the shed is essential for the efficient functioning of the business and there are no persuasive demonstrable health and safety reasons provided, the exceptional test has not been met. Given my considerations above I conclude that the proposal does not comply with Policy CTY 12. As it does not meet Policy CTY 12 and there are no overriding reasons why the development is essential it also fails to meet Policy CTY 1 and the Council's first and second reason for refusal have been sustained.
31. Policy CTY 13 – Integration and Design of Buildings in the countryside states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of appropriate design. It states that a new building will be unacceptable in a number of circumstances. The Council considers that the appeal proposal is unacceptable as (a) it is a prominent feature in the landscape; (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; (c) it relies primarily on the use of new landscaping for integration; (d) ancillary works do not integrate with their surroundings and (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.
32. The appeal site sits within the north-eastern portion of a larger host roadside field. The southern and western boundaries of the appeal site are undefined and the host field slopes from the north-west down towards the south-east. Critical views identified are from Ballymaleddy Road.
33. On approach, travelling north on Ballymaleddy Road, the entire sloping host field is highly visible, open and exposed and the appeal shed, sited as proposed with associated yard area would be viewed within the highest part of the host field. Due to the lack of any vegetation to the southern or western boundaries, the proposed shed would appear prominent and exposed. This part of Ballymaleddy Road on approach to the appeal site has a steep decline and traffic would be travelling slowly which, to my mind, would only exacerbate these open and direct views towards the appeal proposal. I would consider that from these viewpoints the proposed shed would be a prominent feature in the landscape.
34. Traveling along the host field frontage, the Ballymaleddy Road then ascends and a shed sited as proposed would be largely screened due to the mature roadside vegetation, except where vegetation is to be removed to create the access point and required visibility splays. Due to the absence of boundary vegetation to the southern and western boundaries of the appeal site, I consider that the shed and ancillary works would again appear prominent when viewed from the extent of road from which the boundary vegetation is to be removed.
35. The Council also raise critical views when traveling the opposite direction on approach from the east on Ballymaleddy Road. This road is around the same

level as the northern portion of the appeal site and given the mature roadside vegetation, views of the appeal shed would be restricted and the appeal shed from this viewpoint would be suitably integrated.

36. However, views travelling north on approach to the appeal site are determining, as given the topography of the host field and the proposed siting within the most elevated portion of the host field, I consider that a shed (regardless of size and massing) would appear as a prominent feature in the landscape. The submitted block plan indicates new planting to the southern and western boundaries which will take some time to establish, grow and provide containment. As such, due to the absence of long established boundaries to the southern and western boundaries of the appeal site, it is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. I also consider that the yard / terrace (ancillary works) area sited to the north and east of the proposed shed do not integrate into their surroundings.
37. The appellant refers to a previous appeal decision (2011/A0265) for a dwelling within the same host field but located to the west of the appeal site on a lower lying portion of ground. This appeal was dismissed, and I note that there were no refusal reasons in relation to Policy CTY 13, Integration or CTY 14, Rural Character. However, it was noted that *'The proposed dwelling is in a relatively low lying position set into the side of a hill with substantial vegetation particularly along its more elevated northern boundary. The proposed single storey dwelling would dovetail into the local landscape and achieve a satisfactory level of integration. I also consider that the concerns about the impact on the rural character of the area, given the level of integration, would not warrant the refusal of planning permission'*. However, this appeal is distinguishable in terms of integration and rural character as it relates to a site on a significantly lower level than the subject appeal site.
38. I consider that the proposed shed is unacceptable, as it is a prominent feature in the landscape, the site lacks long established natural boundaries, it relies primarily on the use of new landscaping for integration, ancillary works do not integrate with their surroundings and it fails to blend with the landform. As such, the appeal proposal is contrary to Policy CTY 13 and the Council's third reason for refusal is sustained.
39. Policy CTY 14 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As I have concluded above, the proposed shed is unduly prominent in the landscape and the impact of ancillary works would damage rural character, the proposal is also contrary to Policy CTY 14 and the Council's fourth reason for refusal is sustained. As all of the Council's reasons for refusal have been sustained, the appeal must fail.

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

- Site Layout Drawing, scale 1: 200, drg no. 01
- Site Location Plan, scale 1:1250, drg no. 02
- Elevation Drawings, scale 1:125, drg no.03

- Road Service Access, scale 1:300, drg no. 04
- Site Location Plan including visibility splays, scale 1:1250, drg no. 06

COMMISSIONER MANDY JONES

List of Documents

Planning Authority:	‘A’ ‘A1’	Statement of Case & Appendices Rebuttal
Appellant:	‘B’ ‘B1’	Statement of Case & Appendices Rebuttal
Supporter	‘C’	Statement of Case from E Doherty

Appearances at Site Visit

Planning Authority:	Andrea Todd Louise Flynn
Appellant:	Ryan Doherty



Enforcement Appeal Decision on Legal Grounds

4th Floor
92 Ann Street
BELFAST
BT1 3HH
T: 028 9024 4710
E: info@pacni.gov.uk

187

Appeal Reference:	2025/E0006
Appeal by:	Mr Andrew Lawther
Appeal against:	An Enforcement Notice dated 1 st April 2025
Alleged breach:	Alleged unauthorised I. laying of hardcore to form a level surfaced area within the area shaded yellow on attached map II. The alleged unauthorised erection of one wooden building and eco composting facility within the area shaded yellow on the attached map III. The unauthorised erection of one yurt with pier foundations within the area shaded yellow on the attached map. IV. The unauthorised laying of hardcore stone laneway within the area shaded green on the attached map
Location:	Lands opposite 49 Holly Park Road, Killinchy within forested area (wet woodlands) on eastern side of Holly Park Road, approximately 140m back from Holly Park Road and approximately 520m north of Derryboy Road
Planning Authority:	Ards and North Down Borough Council
Authority's Reference:	LA06/2022/0296/CA
Procedure:	Informal Hearing on 14 th October 2025 and accompanied site visit on 17 th October 2025
Decision by:	Commissioner Diane O'Neill, dated 30 th January 2026

Grounds of Appeal

1. The appeal was brought under Grounds (a), (c), (d), (f) and (g) 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. This decision only considers Grounds (c) and (d).

Ground (c)- that those matters (if they occurred) do not constitute a breach of planning control

2. A Ground (c) appeal poses two questions-(1) is the alleged breach of control development; and (2) if it is development, is planning permission required.
3. Section 23 of the Planning Act (Northern Ireland) 2011 defines the meaning of development as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change of use of any buildings or other land. Section 24 of the Act states that planning permission is required for the carrying out of any development of land. The

Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) provides planning permission for the various descriptions of development subject to compliance with the conditions and, as appropriate, limitations provided within the schedule to the GPDO.

4. The ground (c) appeal relates to the I and IV alleged breaches of planning control in relation to the alleged laying of hardcore within the area shaded yellow and the hardcore stone laneway shaded green.
5. The appeal site is not being actively farmed however the appellant argued that the appeal site and the surrounding land was farmed by the appellant's father for many years and that as a farmer Mr Lawther (senior) had permitted development rights on the land. The appellant claimed that the hardcore stone laneway was constructed by the appellant's father approximately 30-40 years ago and that it was reasonably necessary for agricultural purposes at that time thus making planning permission not required. Similarly, it was argued that the laying of hardcore to form a level surface area in the vicinity of where the yurt is sited has been in place for many years and was associated with the overall agricultural management of the lands, such as for the parking of machinery and for feed troughs.
6. I am not persuaded that the level surfaced area referred to in breach I is in the same location as the clearing area indicated as TN5 within the Department of the Environment's surveyors Target Note Map dated 18th July 1991. The appellant accepted that the square area indicated as TN 5 is located south of the clearing area. Likewise, I am not persuaded that the reference in TN7 to the raised lane which extends from the road, running through the fen towards the waters edge, relates to the laneway referred to within breach IV. Rather, the reference in TN7 would appear to correspond to the laneway indicated on the farm survey map following paragraph 3.2 within the appellant's Statement of Case. The appellant's evidence from Ayre Environmental Consulting Ltd (paragraph 3.11) also calls into question the accuracy of the Department of the Environment's survey work in relation to the ASSI, particularly in relation to Target Note Map dated 14th August 1996, which consequently undermines his overall reliance on Target Note evidence. The reference to 'cut-over' in the aerial photographs annotated OSNI Base Map April 1962 is to the north of the appeal site. There is no persuasive evidence to support the claim that the Departmental surveyor of the ASSI was able to easily navigate along the Holly Park Road boundary due to the presence of a clearing or track at the appeal site.
7. The appellant stated that the only activity carried out more recently was for the maintenance of these areas by clearing vegetation and spreading a thin layer of fine quarry stone in order to ensure their safety and useability. The appellant provided an invoice dated November 2022 for the purchase of 20mm quarry screening. I consider that the material on site has been appropriately defined as a type of hardcore. Persuasive evidence was however presented that the laneway and cleared area consisted of soil prior to these works including in the aerial image dated 25 April 2020 and in the NIEA photograph dated 20th October 2022.
8. Therefore, whilst clearing of vegetation may have occurred over time and whilst there may have been historic laneways in this locality, I am not persuaded that the hardcore laneway and level surfaced area were in place since the appellant's

father possessed permitted development rights. I am not persuaded by the appellant's evidence that he was carrying out repairs to unadopted streets and private ways.

9. As the development does not constitute permitted development, the breaches of planning control have occurred. The appeal under ground (c) therefore fails.

Ground (d)- that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters

10. Section 132 of the Act sets out time limits and states that where there has been a breach of planning control, which Section 131 identifies as being carrying out development without the planning permission required or failing to comply with any condition or limitation subject to which planning permission has been granted, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach. The critical 5-year period therefore begins to accrue from the date of the breach of planning control. The EN was issued on 1st April 2025. The appellant therefore must demonstrate that, on the balance of probabilities, the two appealed breaches (I and IV) were carried out on or before 1st April 2020.
11. The Council accepted that there has been vegetation clearance over the years and that there is a history of transversing laneways in this locality, such as that shown the appellant's images dated June 2010 and 25th May 2018, however they stated that they appear to consist predominantly of soil.
12. The Department's Target Notes on a map dated 18th July 1991, approximately 34 years ago, refer to a clearing within the vicinity of the appeal site. The parties however accepted that this clearing (TN5) is to the south of the current cleared area. The accompanying survey note to TN5 also refers to large areas of bare ground. The laneways were not evident on the Department of the Environment ASSI map dated 20th March 1998 and the appellant could not offer an explanation as to why this was the case. The Armstrong Auctions evidence dated 14th October 2024 draws on memory of a site visit carried out approximately 8 years previously in February 2016 and was not accompanied by any map or photographic evidence in order to clarify the areas being referred to.
13. The Council provided orthophotography evidence and agreed that the area, to which breach I relates, was cleared in the 25th April 2020 image however no hardcore was evident. Their orthophotography evidence dated 22nd April 2021 showed no evidence of the clearing. There was no evidence of the two breaches in a Google Earth image dated 18th July 2021. This would correspond with the photograph taken by NIEA scientists on 20th October 2022 which shows the clearing as being bare ground. The hardcore laneway and level surfaced area were however evident on Google Earth imagery on 4th September 2023.
14. Third party evidence was presented that from 14th January 2024 large machinery was brought onto the site to, for instance, make the paths. The appellant accepted that the lorries had been brought on site to level the materials. On 20th March 2024 the appellant submitted for a retrospective consent to the NIEA to carry out works in an ASSI which included the laying of an inert hardcore gravel lane and inert

gravel clearing equating to c.1,450m². The historic removal of vegetation from the appeal site, such as that referred to by WM Associates and by the appellant's sister, does not demonstrate that the alleged breaches occurred before the key date.

15. Therefore, having considered all of the presented evidence, on the balance of probabilities, it does not demonstrate that on 1st April 2025 no enforcement action could be taken in respect of breaches I and IV. The appeal on ground (d) therefore fails.

Decision

The decision is as follows:-

- The appeal on Ground (c) fails.
- The appeal on Ground (d) fails.

COMMISSIONER DIANE O'NEILL

List of Documents

Planning Authority (Ards and North Down Borough Council):-	Statement of Case PA 1 NIEA site photograph PA 2
Appellant (Donaldson Planning-agent):-	Statement of Case A 1
Third party objector Ms Cathy Wallace (43 Holly Park Road)	Statement of Case OB 1

List of appearances at hearing

Planning Authority (Ards and North Down Borough Council):-	Ms Wendy Murray*
Appellant (Donaldson Planning-agent):-	Mr David Donaldson

List of appearances at site visit

Planning Authority (Ards and North Down Borough Council):-	Ms Wendy Murray
Appellant:-	Mr Andrew Lawther Mr David Donaldson (Donaldson Planning)

*attended the hearing remotely

Unclassified

ITEM 9

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	03 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Confirmation of Listing
Attachments	Item 9a - Signed Schedule
	Item 9b - Listing Map
File Reference (if applicable)	
Legislation	Other
	The Planning Act (NI) 2011
Resource Implications	None
	Narrative:
Screening Requirements	<i>The Council will commit to consider the implication of all reports under the categories of Section 75, Rural Needs, Data Protection, Climate and Sustainability:</i>
	Screening of decision not required
Link to Corporate Plan Priority and Outcome	Choose an item.
	Choose an item.
	If multiple:

Background

A report was presented to the Council at its meeting of 17 December 2025 advising of DfC's Historic Environment Division's consideration of listing of Alexandra House, 230 Scrabo Road, Newtownards. Members resolved to support the intention to list the property.

This report is to advise Members that the property has now been listed and the signed schedule and map are appended for information.

RECOMMENDATION

It is recommended that Council Notes the report and attachments



**EIGHTH ADDITION TO THE LIST OF BUILDINGS OF SPECIAL
ARCHITECTURAL OR HISTORIC INTEREST
IN THE ARDS & NORTH DOWN BOROUGH COUNCIL**

Department for Communities
Causeway Exchange
1 – 7 Bedford Street
Town Parks
BELFAST
BT2 7EG

Dated 23rd January 2026

HISTORIC BUILDINGS LIST NUMBER 4199

NOTE: Further Additions to the list relating to this Council may be issued at a future date.

SCHEDULE

8th ADDITION TO THE LIST OF BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST IN THE ARDS & NORTH DOWN BOROUGH COUNCIL

HB Ref. Number	OS Map Numbers 1:2,500 or 1:10,000	Irish Grid Ref.	Building	Date Listed	Grade	Description and Evaluation	Date of Erection
HB24/13/069	148/7	J4786 7179	Alexandra House 230 Scrabo Road Castleaverry Newtownards Co. Down BT23 4SJ	23 rd January 2026	B1	Large, unusual and very fine Edwardian residence of 1903 in a free style with round castellated bay and a veranda which lends it a vaguely 'colonial Australian' feel. The eastern portion of the house (now No.228) incorporates an older mid-19th century farmhouse. The highly decorated and unique interior incorporating extensive use of timber panelling to walls and ceilings remains largely intact. The dwelling at no 228-230 comprises a prominent roadside presence on the axis of the principal road dropping from Scrabo Tower, a State Care monument and listed building (HB24 11 131). On long views from the Comber to Newtownards Road and from local landmarks, Islandhill etc, the complex is in the foreground below Scrabo Tower with the fertile south-facing fields outstretched below the complex.	1900 - 1919

Further information on these records can be accessed on the historic buildings database at www.communities-ni.gov.uk

PLANNING ACT (NORTHERN IRELAND) 2011**STATUTORY LIST OF BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST****WHEREAS**

1. by section 80 of the Planning Act (Northern Ireland) 2011 the Department for Communities (hereinafter called "the Department") is required to compile lists of buildings of special architectural or historic interest;
2. it appears to the Department that the buildings described in the attached Schedule are buildings of special architectural or historic interest;
3. the Department has consulted with the Historic Buildings Council and Ards & North Down Borough Council.

NOW THEREFORE the Department in exercise of the powers conferred on it by section 80 of the Planning Act (Northern Ireland) 2011 and of every other power enabling it in that behalf hereby includes on the list of buildings of special architectural or historic interest the building/s set out in the attached schedule.

Dated 23rd January 2026


Senior Officer for the Department for Communities

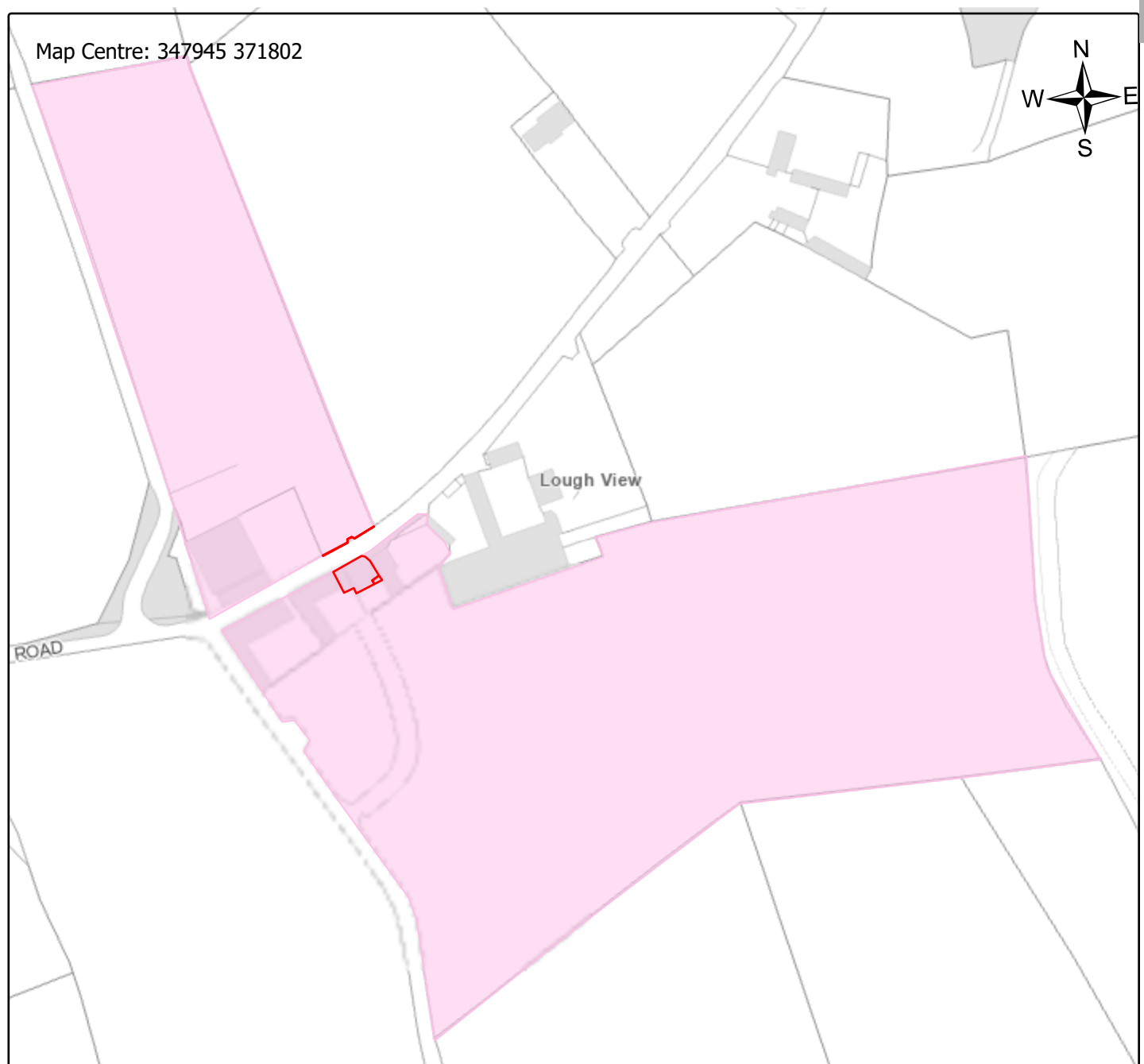
NOTE Subsection (7) of the said section 80 provides that the following shall be treated as part of the listed building:-

- a. any object or structure within the curtilage of the building and fixed to the building;
- b. any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 October 1973.



This map is supplied for information only. Please note any changes to a listed building require Listed Building Consent. Professional advice and relevant planning approvals should be sought.

197

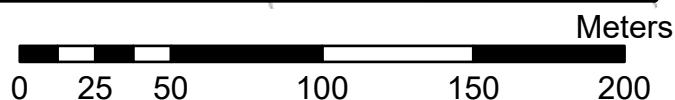


Map Centre: 347945 371802

Lough View

ROAD

Scale: 1:2,500



© Crown Copyright and Database Right 2023 – SpatialNI is a service provided by Ordnance Survey of Northern Ireland© NIMA MOU S&LA577.1 (2023)

Listing Map

HB Ref: HB24/13/069

Address: Alexandra House, 230 Scrabo Road, Castleaverry, Newtownards, Co.Down, BT23 4SJ

Note:

- The following should be treated as part of the listed building - any object or structure within the curtilage of the building and fixed to the building; or although not fixed to the building, forms part of the land and has done so since before 1st October 1973.
- The pink wash has no statutory basis.



Department for
Communities
www.communities-ni.gov.uk

INVESTORS IN PEOPLE®
We invest in people Standard

Unclassified

ITEM 10

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	03 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Second Review of the Implementation of the Planning Act (NI) 2011
Attachments	Item 10a. Report on First Review of Planning Act Item 10b. Chief Planner letter to Heads of Planning 22.01.26 Item 10c. Chief Planner to Chair of Heads of Plkanning 04.02.26
File Reference (if applicable)	
Legislation	Other The Planning Act (NI) 2011
Resource Implications	Staffing Narrative: Staff time to feed into consideration
Screening Requirements	<i>The Council will commit to consider the implication of all reports under the categories of Section 75, Rural Needs, Data Protection, Climate and Sustainability:</i> Screening of decision not required
Link to Corporate Plan Priority and Outcome	Choose an item. Choose an item. If multiple:

Primary Planning Legislation

1. In Northern Ireland, the planning system was fundamentally reformed in 2015 with the transfer of responsibility for most local planning decisions and plan-making going to councils as well as significant reforms to the development management and plan-making processes. The reforms represented the most fundamental change to the planning system in Northern Ireland in over 30 years.
2. This also involved commencement of significant new primary legislation in the form of the Planning (NI) Act 2011 (the Act), together with a raft of other supporting subordinate legislation, which all came into effect on 1st April 2015.
3. In May 2016 the Departments Act (Northern Ireland) 2016, reduced the number of government departments from 12 to 9. As part of this restructuring, the majority of departmental planning functions of the former Department of the Environment were transferred to the Department for Infrastructure.

First Review of the Implementation of The Planning Act (Northern Ireland) 2011

4. Section 228 of the Act requires the Department to review and publish a report on the implementation of the Act no later than 3 years after the commencement of Part 3 of the Act (Planning Control), and at least once in every 5 years thereafter. The Department is required by section 228(2) to make regulations setting out the terms of the review. The regulations were made on 12 October 2020 and came into operation on 2 November 2020.
5. The delay in meeting the initial timeframe set out in the Act for making the regulations and publication of the associated report, stemmed from decisions (not to proceed) made under the NI (Executive Formation & Exercise of Function etc.) Act 2018. These decisions determined that in the absence of a Minister or functioning Assembly, it would not be appropriate to make the regulations, and to publish the subsequent report on the implementation of the Planning Act.
6. The Planning Act 2011 (Review) Regulations (Northern Ireland) 2020 specify that the Review must:-
 - consider the objectives intended to be achieved by the Planning Act;
 - assess the extent to which those objectives have been achieved; and
 - assess whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act or subordinate legislation made under the 2011 Act, in order to achieve those objectives.
7. The Department carried out its first review in 2021, by way of a Call for Evidence, to which the Council submitted its considered response.
8. The Department published its report in January 2022 – copy attached for information.
9. As detailed on DFI's website, overall the Review found that the vast majority of provisions within the Planning Act had been implemented and that the reformed two tier planning system envisaged by the Assembly when the Act was made had been established. However, the Review has also identified parts of the planning system which could be improved, including the time it is taking for councils to bring forward their respective local development plans and the speed at which major planning applications are processed.

10. The 2021 Review brought forward a series of recommendations for changes to the Act, subordinate legislation and guidance, aimed at improving the planning system. These included:
 - reviewing the consultation requirements in plan-making;
 - improving the quality of planning applications submitted;
 - increasing the use of digital technology in the planning system;
 - reviewing the statutory consultations process, including timeframes for consultations responses, penalties for late responses and how councils can proceed if statutory consultees do not respond within the required timeframes;
 - reviewing categories of development and the Department's approach to call in notifications; and
 - reviewing aspects of the appeals system around new material, and the variation of proposals at appeal.
11. A number of outstanding recommendations continue to be taken forward via the Northern Ireland Planning Improvement Programme.

Second Review of the Implementation of The Planning Act

12. The Department has now advised Heads of Planning that it has commenced preparatory work with regards to its second report on the Review of the Planning Act (see letter of 21 January 2026 attached), and is seeking input from the planning authorities accordingly.
13. Further to some concern being raised in respect of the timeframe for response, the Chief Planner has recently (in attached letter of 04 February) set out the wish to maintain momentum, and reiterating that any response need only concentrate on any new matters that may not have emerged since the first Review and the intervening period.
14. Whilst a response is requested by the end of March, it is proposed to work with the other Heads of Planning to review the situation to date, to coordinate a response to DFI to be presented to Planning Committee at its meeting of 31 March (which was agreed in place of 07 April date). As such, delegated authority will be sought from Council at its meeting of 25 March for Planning Committee to approve the response, subject to any amendments instructed.

RECOMMENDATION

It is recommended that Council Notes this report and the intention to seek delegated authority from March Council regarding proposed response to be presented to Planning Committee at its meeting of 31 March 2026.

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

Report
January 2022

This review of the implementation of the Planning Act (Northern Ireland) 2011 (the Planning Act) has been carried out in accordance with section 228 of the Act.

It deals with the implementation of the Act and is not a detailed examination of the operation or performance of the overall new two-tier planning system. A separate Planning Monitoring Framework has been developed in conjunction with councils which includes a series of indicators to provide a more comprehensive assessment of the planning system.

Contents

Executive Summary	1-2
Background	3
The objectives underpinning the Planning Act	4
Introduction	5
Review of the implementation of the Planning Act	5
The Planning (Review of Act) Regulations (Northern Ireland) 2020.....	5
Report, Purpose and Scope.....	5-6
Call for Evidence.....	6-8
Part I.....	9
The legislative implementation of the Planning Act	9
Commencement of the Planning Act.....	9
Review of Old Minerals Permissions.....	10
Correction of Errors.....	10
Deemed Permission under the Electricity (NI) Order 1992.....	11
Subordinate Legislation.....	11
Legislative Directions	12
Other Legislation	12
Legislative Implementation	12
Functions of the Department for Infrastructure.....	13
Planning Policy	13
The Strategic Planning Policy Statement	13
Departmental Guidance	13
Department's Statement of Community Involvement.....	13
Department's oversight and intervention powers	14
Local Development Plans	15
Councils Statement of Community Involvement	15
Preparation of Local Development Plans	165
Local development plan progress by the councils	16
Planning Control	177
Determination of planning applications by councils.....	177
Determination of planning consent applications by councils	188
Access to Planning Statistics	188
Department's development management functions	188
Determination of regionally significant planning applications by the Department	188-19
Determination of called in applications by the Department.....	199
Enhanced Community Involvement.....	20
Pre-application community consultation	20
Pre-determination hearings	20
Planning Enforcement.....	21
Planning Appeals	21
Award of Costs	22
Assessment of the extent to which the objectives of the planning Act have been achieved	23-24

Part II 25

**Assessment of whether it is appropriate to retain, amend or repeal any of
the provisions of the Planning Act 25**

 The Planning Act.....25

 Amendments made or currently being made to Subordinate Legislation.....25

 Call for Evidence - Key Messages 26

 Key Recommendations / Actions 27-30

 Conclusions / Next Steps.....31

 Annex A 32-83

EXECUTIVE SUMMARY

The enactment of the Planning Act (NI) 2011 provided the legislative basis for the most significant reforms of the Northern Ireland planning system in a generation. These reforms impacted on every aspect of planning, including how development plans are drawn up, how development proposals and applications are managed and the way in which these functions are delivered. The key reforms set out to deliver the complete overhaul and redesign of the development plan and development management systems with the aim of improving efficiency and effectiveness. Significant changes were also made in relation to planning appeals and enforcement.

Overall, the aim of the Act is to create a planning system which is quicker, clearer and more accessible, with resources better matched to priorities. The Act also gives effect to local government reform changes which transferred the majority of planning functions and decision making responsibilities for local development plans, development management plus planning enforcement to locally accountable councils. This provides a framework for locally elected politicians to shape the areas within which they are elected based on an enhanced understanding of the needs and aspirations of local communities.

The majority of the Act came into operation for departments and councils in April 2015 and it was supported by a significant and comprehensive programme of subordinate legislation and guidance.

Section 228 of the Act requires the Department to review and issue a report on its implementation 3 years after the commencement of Part 3 and once in every five years thereafter. The requirement to review and publish a report on its implementation is to ensure the Department monitors and reports on the coming into operation of the provisions within the Act, to provide a level of assurance that the legislative framework for the delivery of a reformed two-tier planning system has been implemented, and in a timely fashion.

The Terms of Reference for the review are set out in The Planning Act 2011 (Review) Regulations (Northern Ireland) 2020¹ which specify that it must consider: the objectives intended to be achieved by the Planning Act; assess the extent to which those objectives have been achieved; and assess whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act or subordinate legislation made under the 2011 Act, in order to achieve those objectives.

To assist the review and to better understand stakeholders views on how the Act has been implemented, the Department issued a Call for Evidence (CfE) in February 2021, which ran for over an 8 week period. The CfE was part of the process of gathering additional information to help inform the preparation of the review report and the evidence submitted aided the Department's understanding of the outworking of the Act and associated subordinate legislation.

The review found that the vast majority of provisions within the Planning Act have been implemented and that the transfer of responsibility for the majority of

¹ <https://www.legislation.gov.uk/nisr/2020/218/made>

planning functions to locally accountable councils has been achieved, together with the establishment of the two-tier planning system. A small number of provisions have yet to be commenced including the Review of Mineral Planning Permissions, the Correction of Errors, and section 63(1)(d) with regard to permission deemed to be granted under the Electricity (NI) Order 1992.

Councils are preparing local development plans for their areas, have published statements of community involvement and now determine the vast majority of planning applications. Changes to the decision making process including pre-application community consultation and pre-determination hearings have further enhanced community engagement and have allowed greater public involvement and transparency in the determination of planning applications. Councils are also exercising their planning enforcement duties, investigating alleged breaches of planning control and taking action as appropriate.

The Department is determining applications for 'regionally significant development' under section 26, or applications 'called-in' under section 29 of the Planning Act. Since the commencement of the Act, the Department has also published the Strategic Planning Policy Statement for Northern Ireland setting out the Department's regional planning policies in a shorter more focused document, and has published extensive guidance by way of Practice Notes on the reformed planning system.

The review also found that 162 sections of the Act, or just under two-thirds of its provisions had not been remarked upon in the CfE and the Department has, therefore, drawn the conclusion that these should largely be retained as structured. Key issues emerging from the responses to the CfE included the timeliness of councils bringing forward their local development plans and delays in processing times for some planning applications, particularly major applications. Many respondents pointed to potential legislative changes which might address perceived obstacles in the system.

In seeking to address the findings from the review the Department has made 16 recommendations / actions covering aspects of the Planning Act governing, development planning, development management, planning enforcement and additional planning control. These include recommendations, on reviewing the consultation requirements in plan-making, on improving the quality of planning applications submitted, increasing the use of digital technology in the planning system, reviewing: categories of development; Departmental Directions and the Department's approach to call in notifications; and aspects of the appeals system around restricting new material at appeal and the variation of proposals at appeal. A summary list of the actions/recommendations is provided at paragraphs 12.12 of this report.

Background

1. In 2007 the then Minister of the Environment, Arlene Foster MLA, announced a programme to reform the Northern Ireland planning system. Following extensive stakeholder engagement, the Department of the Environment consulted in 2009 on a wide range of proposals to ensure a modern, efficient and effective planning system to support the Northern Ireland Executive in delivering on its key priorities. The consultation also outlined the changes required to implement the decisions taken under local government reform which would see responsibility for the majority of planning functions returning to local government. Taken together the proposals would represent the most fundamental change to the planning system in Northern Ireland in over 30 years.
 - 1.1. The Planning Act paved the way for implementing the reforms. In parallel with local government reform, many of the provisions of the Act came into operation on 1 April 2015 when responsibilities for the majority of planning functions transferred to the newly formed councils.
 - 1.2. In addition, in May 2016 The Departments Act (Northern Ireland) 2016, reduced the number of government departments from 12 to 9. This was the culmination of discussion going back a number of years on the shape and size of the Northern Ireland Executive.
 - 1.3. As part of this restructuring, the majority of departmental planning functions of the former Department of the Environment were transferred to the Department for Infrastructure, while responsibility for the Planning Appeals Commission under Part 9 of the 2011 Act was transferred from the Office of the First and deputy First Ministers to the Department of Justice. In addition a number of historical built environment functions of the 2011 Act were transferred to the Department for Communities. These included the:
 - power to list buildings under sections 80 to 84;
 - power to designate conservation areas under section 104; and
 - listed building enforcement powers under sections 158 to 161.
 - 1.4. While the Planning Act received Royal Assent in May 2011, the operation of the vast majority its provisions did not commence until 2015, in parallel with the reform of local government and transfer of planning functions. This occurred via the following orders:
 - The Planning (2011 Act) (Commencement No.1) Order (NI) 2011;
 - The Planning (2011 Act) (Commencement No.2) Order (NI) 2015; and
 - The Planning (2011 Act) (Commencement No.3) and (Transitional Provisions) Order (NI) 2015 (as amended).

The aim / objectives underpinning the Planning Act

2. The key aims of the reform of the planning system were to:-

- deliver Northern Ireland Executive decisions to transfer the majority of planning functions to the newly formed councils thus creating a two tier planning system; and
- bring forward short, medium and long term process improvements to modernise the system.

2.1. The main objectives were:-

- the continued formulation and co-ordination of planning policy by the Department;
- councils preparing local development plans;
- councils determining the majority of planning applications for development and additional planning related consents; and
- councils taking appropriate enforcement action where a breach of planning control may have taken place.

2.2. The main reform objectives were further underpinned by actions to:-

- further sustainable development;
- enhance community involvement in the planning process;
- make more timely decisions in ways which are transparent and demonstrably fair;
- allow higher fines for planning offences; and
- bring forward reforms to the planning appeals system.

Introduction

Review of the Implementation of the Planning Act

3. Section 228 of the Planning Act (Northern Ireland) 2011 (the Planning Act) requires the Department to review and issue a report on the implementation of the Act 3 years after the commencement of Part 3 of the Act, and at least once in every 5 years after that. Part 3 commenced on the date of transfer of planning functions to district councils on 1 April 2015. The Department is required to make regulations setting out the terms of the review.
- 3.1. The delay in meeting the initial timeframe set out in the Act for making the regulations and publication of the associated report, stems from decisions (not to proceed) made under the NI (Executive Formation & Exercise of Functions) Act 2018. These decisions determined that in the absence of a Minister or functioning Assembly, it would not be appropriate to make the regulations, and to publish the subsequent report on the implementation of the Planning Act. The Regulations were, however, subsequently made in October 2020.

The Planning Act 2011 (Review) Regulations (Northern Ireland) 2020

- 3.2. The Planning Act 2011 (Review) Regulations (Northern Ireland) 2020² specify that the review must:-
 - consider the objectives intended to be achieved by the Planning Act;
 - assess the extent to which those objectives have been achieved; and
 - assess whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act or subordinate legislation made under the 2011 Act, in order to achieve those objectives.

Purpose and Scope

- 3.3. The requirement to review and publish a report on the implementation of the Act is to ensure the Department monitors and reports on the coming into operation of the provisions within the Act, to provide a level of assurance that the legislative framework for the delivery of a reformed two-tier planning system has been implemented and in a timely fashion.
- 3.4. The focus of the review is, therefore, on the implementation of the legislative provisions of the Act itself and the extent to which the original objectives of the Act have been achieved. This will then inform whether there is a need to **retain, amend or repeal** any provisions of the Act. The review also provides an opportunity to consider any improvements or 'fixes' which may be required to the way in which the Planning Act has been commenced and implemented in subordinate legislation. Issues with the planning system that have surfaced as a result of the Coronavirus pandemic will also be examined as part of this review.

² <https://www.legislation.gov.uk/nisr/2020/218/made>

- 3.5. It is important, however, to highlight that the review is not envisaged as a fundamental root and branch review of the overall two-tier planning system or the principles behind the provisions. It is still relatively early days in the delivery of the new system, compared with other jurisdictions. The review will look at how the provisions of the Act are working in practice and whether there are any changes that could be implemented to further improve the system for all stakeholders – including councils, developers, and the wider public. The focus is not just on planning decisions, but also on the delivery of new local development plans which will provide certainty for the longer term. Changes and ‘fixes’ may not always require legislative change.
- 3.6. The Review Report is structured in two parts:
- **Part I** deals with the technical and legislative implementation of the Planning Act, and its supporting subordinate legislation and directions against the stated aim / objectives to determine if what was intended to be achieved, has indeed been accomplished; and
 - **Part II** examines and assesses the outworking of the Act, and it’s supporting subordinate legislation and directions, to determine whether, in considering the objectives, it is appropriate **to retain, amend or repeal** any of the provisions of the Act to better achieve those objectives. This includes examination of potential amendments or ‘fixes’ to various elements of the planning system.

Call for Evidence

- 3.7. To assist the review and to better understand stakeholders views on how the Act has been implemented, the Department issued a Call for Evidence (CfE) in February 2021. The CfE formed part of the process of gathering additional information which helped to inform the preparation of the review report, particularly the assessment under **Part II**. The evidence submitted improved the Department’s understanding of where there may be a need to retain, amend or repeal particular parts or sections of the Act, or associated subordinate legislation. The questions in the CfE were structured within the context of the terms of the review set out in the associated Review Regulations.
- 3.8. The CfE sought to target and engage with key stakeholders in the planning system including, councils, statutory consultees, professional bodies, community, business and environmental interests, however, it was open to anyone to respond. It was undertaken over an 8 week period ending 16 April 2021 and attracted 55 responses. While comments were principally sought on those parts of the Act covering local development plans, development management and enforcement, the Department was happy to receive comments on any element of the Act, or associated subordinate legislation.

3.9. In summary, almost two-thirds of the Act (162 sections) were not remarked upon. As had been anticipated, the vast majority of comments focused on sections with regard to Local Development Plans (LDPs), development management and planning enforcement. Comments were also received with regard to the functioning of the planning system within the context of the COVID 19 pandemic and post pandemic recovery. Following analysis of responses, the broad themes to emerge included calls:

- for the planning system as a whole, to take account of other strategies on for example: climate, environment, renewable energy;
- to streamline, and address perceived obstacles / inefficiencies in local development plan-making;
- for greater clarity in the role of the Department in plan-making, development management / decision-taking, and planning enforcement;
- for quicker and more streamlined decision-taking on planning applications and to address perceived obstacles at various stages including, pre-application consultation, and pre-determination hearings;
- to better utilize digitization across the planning system, including a review of planning application and advertising requirements;
- to uplift and broaden the scope of planning fees to better match costs;
- for greater and more regular use of powers to assess a council's performance;
- to future-proof planning against potential emergencies, for example: extending extant planning permissions, and suspending in-person engagement;
- for greater powers to councils in relation to conservation areas and trees;
- to commence the Review of mineral planning permissions;
- to prioritise 'green infrastructure' projects in post-COVID 19 recovery.

3.10. While the above comments provide a broad summary of the responses received to the individual CfE consultation questions, a more detailed consideration of individual proposals, from respondents is set out at Part II of this report. It aims to address the primary issues raised and proposed actions where appropriate, while recognising more detailed consideration of the issues raised will be necessary as policy responses are considered and developed. While we have made every effort to reflect the broad range of opinion, the analysis of evidence gathered from the CfE is not intended to be a comprehensive examination on every single comment received; rather it aims to provide a broad indication of the level and diversity of representations made.

- 3.11. In some instances contributors in their responses to the CfE made comparisons between the planning systems here with those in other jurisdictions. While there are similarities across the various jurisdictions, there are also significant differences in how each planning system works, how performance is measured, and the political and administrative contexts. It is, therefore, difficult to assess the functionality and performance of the planning system in the North against that of other parts of this island or in GB.
- 3.12. It is important to mention however that the performance of the system has been impacted by the COVID 19 pandemic. Nevertheless, the Department has continued to bring forward a number of work streams to address process improvements. A Planning Forum has been established, the key focus of which is to oversee the implementation of recommendations made in an independent report on the role of statutory consultees in the planning process. This work has a particular focus on improving processes and timeframes for major and economically significant planning applications. Statutory consultees have a legislative requirement to respond to planning consultation requests within 21 calendar days and the latest annual statistics show that they responded to 76% of all planning application requests in 2020-21 within 21 days, which was an improvement of 7% over the previous year, despite the impacts of the pandemic.
- 3.13. Furthermore, the Minister convened a Planning Engagement Partnership (PEP) whose purpose is to look at enhancing the quality and depth of community engagement in the planning process at both regional and local planning authority levels. The Partnership is currently preparing its report with recommendations for improvement, which is due to be published early in 2022.
- 3.14. Officials also regularly meet council heads of planning to discuss matters of policy and practice which may be affecting performance in various areas of the planning system. In addition, the Department and 10 councils are working together to take forward a new regional Planning IT system to provide a more modern planning service to the public, consultees and staff, including the ability for the public to submit planning applications on-line. This is expected to be operational in late summer 2022.

PART I

The Legislative Implementation of the Planning Act

4. The Planning Act, which received Royal Assent on 4 May 2011, is the primary legislative vehicle for the modernisation and reform of the planning system. It made the necessary provision for the transfer of responsibility for the majority of planning functions from central government to the newly formed district councils on 1 April 2015. The Act and the Explanatory Notes are available on the government's legislation website (www.legislation.gov.uk).

Commencement of the Planning Act

- 4.1. The Act consists of 15 Parts, 255 sections and seven schedules. Amendments to timeframes for taking enforcement action and also a number of increased penalties were introduced from 1 December 2011, however, as previously indicated, the majority of provisions came into operation on 1 April 2015. The provisions of the Act which have been implemented are:
 - Part 1 Functions of the Department for Infrastructure with respect to the development of land
 - Part 2 Local development plans
 - Part 3 Planning control
 - Part 4 Additional planning control (except Chapter 4)
 - Part 5 Enforcement
 - Part 6 Compensation
 - Part 7 Purchase of estates in certain land affected by planning decisions
 - Part 8 Further provisions as to historic buildings
 - Part 9 The Planning Appeals Commission
 - Part 10 Assessment of council's performance or decision making
 - Part 11 Application of Act to crown land
 - Part 13 Financial provisions
 - Part 14 Miscellaneous and general provisions
 - Part 15 Supplementary
 - Schedule 1 Simplified planning zones
 - Schedule 4 Amendments to the Land Development Values (Compensation Act (Northern Ireland)
 - Schedule 5 The Historic Buildings Council
 - Schedule 6 Minor and consequential amendments
 - Schedule 7 Repeals

4.2. A small number of the provisions of the 2011 Act have not yet been commenced, these are:

- Part 4 – Chapter 4 Review of Mineral Planning Permissions;
 - Schedule 2 – Review of old mineral planning permission;
 - Schedule 3 – Periodic review of mineral planning permissions;
- Part 12 – Correction of Errors; and
- Section 63(1)(d) – permission deemed to be granted under paragraph 3(1) of Schedule 8 to the Electricity (NI) Order 1992³.

Review of Old Minerals Permissions

4.3. Whilst the introduction of the legislation relating to the Review of Minerals Permissions (ROMPs) in Northern Ireland has not been commenced, no decision has been taken not to implement ROMPs. Officials are continuing to examine a number of options in relation to the commencement of ROMPs legislation. The Minister intends to consider options on the way forward early in 2022. In the meantime, councils have a broad range of enforcement powers available under the Planning Act where they believe a developer is operating outside the terms of a permission. Councils remain best placed to investigate such planning matters and have a responsibility to do so. The planning system together with other environmental and pollution control legislation will continue to facilitate improvements in the operational requirements of mineral facilities as well as limiting potential adverse environmental effects.

Correction of Errors

4.4. Part 12 of the Planning Act is intended to allow a council to correct minor miscellaneous and typographical errors in certain planning decision documents that it has issued. For example, where the name of the applicant has been misspelt. Correctable errors are errors which do not form part of any reason given for the decision and cannot change the decision. The Department did not commence Part 12 because of an anomaly at section 221, where the effect of a correctable error would change the original date of the decision document to the date of the correction. If commenced in its current form, this would be problematic in that it would affect the date on which planning permission was granted or refused and would have an effect on the duration of the planning permission or the time within which an appeal may be made to the Planning Appeals Commission. The Department proposes to make a minor technical amendment at an appropriate legislative opportunity to remove this anomaly and subsequently commence Part 12.

³ <https://www.legislation.gov.uk/nisr/2015/25/article/3/made>

- 4.5. However, in the meantime as in other jurisdictions, a council can correct minor errors administratively providing there is a clear and recorded audit trail of that correction.

Deemed Permission under the Electricity (NI) Order 1992

- 4.6. Section 63(1)(d) of the Planning Act has not yet been commenced because the provision to which it relates, namely, paragraph 3(1) of Schedule 8 to the Electricity (NI) Order 1992 has itself not yet been commenced.
- 4.7. Paragraph 3(1) of Schedule 8 to the 1992 Order was inserted by Article 2 of the Electricity Consents (Planning) (NI) Order 2006. This Order amends the Electricity (Northern Ireland) Order 1992 to enable the Department for the Economy (DfE) to grant deemed planning permission and deemed hazardous substances consent on an application for its consent under Schedule 8 to that Order. Article 2 of the 2006 Order is to be commenced on such day as is appointed by DfE. No such day has been appointed by DfE, and as such the Department does not consider it appropriate to commence a provision that does not have any effect.
- 4.8. Once a policy decision is taken by DfE to commence the relevant provisions of the 2006 Order this Department will make a further order under the Planning Act to commence this section.

Subordinate Legislation

- 4.9. The Department initially made 22 statutory rules and four directions under the Planning Act to facilitate the transfer of planning powers and the introduction of the two-tier planning system in 2015. This subordinate legislation was the subject of two public consultations during 2014 and may be viewed on the [Planning Portal](#). It underpins the Planning Act and sets out the detailed statutory requirements for key processes such as the preparation of local development plans and the submission of planning applications. These ensure certain statutory functions are carried out and provide a level of conformity throughout the NI planning system. There are currently almost 40 statutory rules in place.

Legislative Directions

- 4.10. The Department currently has six [Legislative Directions](#) in place which are a means of modifying the detailed application of the legislation. For example The Planning (Notification of Applications) Direction 2017 requires councils to notify the Department of certain applications which allows the Department to consider if the application should be called-in for the Department's determination.

Other Legislation

4.11. The planning system is also supported by a substantial amount of extant legislation relating to matters such as planning blight, compensation, etc.

Legislative Implementation

4.12. The vast majority of provisions within the Planning Act have been commenced and are being implemented, resulting in the successful introduction and operation of the reformed two-tier planning system, in parallel with local government reform.

4.13. The following sections of this review, will report on how the transfer and reform objectives are being delivered in the key areas of formulating policy, preparation of local development plans and in the exercise of development management.

Functions of the Department for Infrastructure

Planning Policy

5. Part 1 of the Planning Act sets out the Department's functions with respect to the development of land. In anticipation of the two-tier planning system the reforms proposed that Departmental planning policy should move away from providing detailed operational guidance and advice and concentrate on providing strategic direction and regional policy advice to be interpreted locally in the preparation, by councils, of local development plans and in decision-taking. The aim was to move to shorter, more focused documents prepared in a shorter timescale. Under section 1 of the Planning Act the Department must carry out its policy formulation functions with the objective of furthering sustainable development and promoting or improving well-being.

The Strategic Planning Policy Statement

- 5.1. In September 2015 the Department of the Environment published The Strategic Planning Policy Statement, prepared under section 1 of the Act. This sets out the Department's regional planning policies for securing the orderly and consistent development of land in Northern Ireland under the reformed two-tier planning system. The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of local development plans and are material to all decisions on individual planning applications and appeals. The Department keeps the SPPS under review and brings forward updated policy as required. It is currently taking forward a review of strategic planning policy for renewable and low carbon energy and a separate review in relation to oil and gas development.

Departmental Guidance

- 5.2. As well as developing policy the Department provides additional advice and guidance to assist the effective and efficient operation of the planning system as appropriate. This includes DFI Rivers Guidance, DFI Roads Guidance, Chief Planner's letters as well as Planning Practice Notes (PPN) for councils and the public. The PPNs relate to advice and guidance post-April 2015. They are designed to guide planning officers and relevant users, including the community, through the drafting of a Local Development Plan, the legislation and procedures associated with development management and planning enforcement. To date a series of PPNs have been produced and published which can be added to or amended as and when required. The PPNs can be viewed at the links below.

- [local development plans;](#)
- [development management; and](#)
- [planning enforcement.](#)

Department's Statement of Community involvement

- 5.3. The objective of enhancing community involvement in the planning system has seen significant gains since the transfer of planning powers. Section 2 of the Act required the Department to prepare and publish a Statement of Community Involvement (SCI) setting out its policy as to the involvement of the community in the Department's planning functions under Part 3: Planning Control. The Department first published its SCI on the [Planning Portal](#) in March 2016 with a revision in 2021.
- 5.4. The publication of Departmental and council SCIs fully enables the community to understand how they can become involved in the planning system. Commentary on council SCIs is included at paragraph's 6.2-6.3.

Department's oversight and intervention powers

- 5.5. As is the case in GB, the Department has a number of powers to oversee and intervene in the planning system if, for example, it believes a council is failing or omitting to carry out its planning functions. These include powers to intervene in the preparation of development plans, the determination of planning applications, exercising other planning controls and assessing council's performance or decision making. The Department has consistently indicated that it intends to use the powers only in exceptional circumstances and this has been the position to date.

Local Development Plans

6. Part 2 of the Act transferred development planning to councils and aims to provide an effective, up to date development plan system. The Planning Act sets the framework for a new development plan system with provisions to:
 - speed up the development plan preparation process (programme management);
 - ensure more effective participation from the community and other key stakeholders early in plan preparation (statements of community involvement, Preferred Options Paper);
 - create a faster more effective approach to examining plans at independent examination moving away from objection based examination to testing the soundness of the plan; and
 - create a more flexible approach that is responsive to change and capable of faster review (sustainability appraisal, annual monitoring and review).
- 6.1. This is intended to provide more clarity and predictability for developers, the public and other stakeholders. In conjunction with community planning it will also assist the new 11 district councils to target action to tackle social need and promote social inclusion.

Councils Statements of Community Involvement

- 6.2. Under section 4 each council is required to prepare and publish a statement of community involvement (SCI). The council SCI is a statement of the council's policy for involving interested parties in matters relating to development in its district. The statement applies to both the preparation and revision of a development plan and to the exercise of a council's functions in relation to planning control. A council must prepare its local development plan in accordance with its SCI.
- 6.3. All 11 councils have published their SCIs in accordance with section 4 of the 2011 Act. The SCIs can be viewed on the council websites through the links below.
 - [Antrim and Newtownabbey](#)
 - [Ards and North Down](#)
 - [Armagh, Banbridge and Craigavon](#)
 - [Belfast](#)
 - [Causeway Coast and Glens](#)
 - [Derry City and Strabane District](#)
 - [Fermanagh and Omagh](#)
 - [Lisburn and Castlereagh City Council](#)
 - [Mid and East Antrim](#)
 - [Mid Ulster](#)
 - [Newry, Mourne and Down](#)

Preparation of Local Development Plans

- 6.4. Each council is required to prepare and adopt a local development plan (LDP) for its district. The LDP is made up of two development plan documents (DPD), the Plan Strategy and the Local Policies Plan. When adopted these DPDs will replace the extant development plans adopted by the Department under the Planning (Northern Ireland) Order 1991.
- 6.5. The preparation of a LDP consists of three main processes:
 - publication and public consultation of a Preferred Options Paper;
 - publication, public consultation, independent examination and adoption of the Plan Strategy; and
 - publication, public consultation, independent examination and adoption of the Local Policies Plan.
- 6.6. The Department's Development Plan Practice Notes for LDPs are available on the [Planning Portal](#).

Local development plan progress by the councils

- 6.7. Each council's progress with its LDP can be viewed on its website (web links are provided below). Each council must also publish the following documentation on its website:
 - LDP timetable for the preparation and adoption of the LDP;
 - the Preferred Options Paper;
 - the DPDs;
 - copies of valid representations received during the public consultations;
 - details of the independent examination;
 - the report of the independent examiner; and
 - the Department's Direction to adopt the DPD.
- 6.8. All 11 councils are advancing new local development plans and the Department has oversight of the LDP programme. As of the date of this report, 7 councils have now published and consulted upon their draft Plan Strategies which is the first formal stage of the LDP preparation process. Draft Plan Strategies will be subject to Independent Examination (IE) before the PAC (or independent examiner) prior to being adopted.
- 6.9. The PAC forwarded the IE Report of Belfast City Council's Draft Plan Strategy to the Department on 29th September 2021. Officials are in the final stages of considering the recommendations. Fermanagh and Omagh District Council draft Plan Strategy is now with the PAC for IE, and hearing sessions commenced on 18th January 2022 for 2 weeks, with further sessions scheduled for February and March 2022. The Department has also caused the IE's for Antrim and Newtownabbey Borough Council, Mid and East Antrim Borough Council and Lisburn and Castlereagh City Council. It is anticipated hearing sessions for these three Councils will be conducted by the PAC during 2022, and Commissioners for all have now been appointed. The Department are currently in receipt of the Mid Ulster draft Plan Strategy submission, and it is anticipated Derry City and Strabane District Council will

submit a draft Plan Strategy for Independent Examination in line with the Council's agreed timetable in February 2022.

6.10. Current progress on each of the councils' LDPs can be viewed via their respective website provided at the following links:

- [Antrim and Newtownabbey](#)
- [Ards and North Down](#)
- [Armagh, Banbridge and Craigavon](#)
- [Belfast](#)
- [Causeway Coast and Glens](#)
- [Derry City and Strabane District](#)
- [Fermanagh and Omagh](#)
- [Lisburn and Castlereagh City Council](#)
- [Mid and East Antrim](#)
- [Mid Ulster](#)
- [Newry, Mourne and Down](#)

6.11. Part 2 of the Planning Act also contains a number of departmental oversight and scrutiny powers as well as powers for the Department to intervene in the plan making process, if necessary. The preparation of the new local development plans by all councils is progressing and the Department has established a team to liaise with councils at various stages to review and where appropriate agree key documents such as plan timetables and, progression of development plan documents. Discussions have also been ongoing with the PAC as preparations move towards independent examinations.

Planning Control

7. Parts 3, 4 and 5 of the Planning Act set out a range of powers from processing planning and other consent applications through to enforcement against potential breaches of planning control. They also include powers for the Department to intervene, if appropriate.

Determination of planning applications by councils

7.1. As was the intended objective, councils now determine local and major planning applications, which represent the vast majority of all planning applications, while the Department determines a small number of regionally significant development proposals (RSD) and other 'call-in' applications. The thresholds for the three categories of development are set out in [the Planning \(Development Management\) Regulations \(Northern Ireland\) 2015](#). Performance targets for the determination of planning applications are set out in [The Local Government \(Performance Indicators and Standards\) Order \(Northern Ireland\) 2015](#).

7.2. The following table sets out the number of all planning applications, local, major and regionally significant determined each year from April 2015.

(Web-links to all planning statistics are available at paragraph 7.4 of this report):

Planning Applications Received and Decided⁴

2015/16	12,220	11,034	10,341	93.7%
2016/17	13,037	12,957	12,180	94.0%
2017/18	12,933	12,314	11,548	93.8%
2018/19	12,541	12,156	11,330	93.2%
2019/20	12,207	11,747	11,044	94.0%
2020/21	12,833	10,483	10,029	95.7%
Total	75,771	70,691	66,472	94.0%

Determination of planning consent applications by councils

- 7.3. In addition to the determination of applications for planning permission, councils are also responsible for determining applications for listed building consent, conservation area consent, hazardous substances consent, display of advertisement consent and applications for works to trees protected by tree preservation orders.

Access to Planning Statistics

- 7.4. The quarterly and annual planning statistics may be viewed on the Department's website at [Planning Statistics](#).

Department's Development Management Functions

Determination of regionally significant planning applications by the Department

- 7.5. Under [section 26](#) of the Planning Act the Department is responsible for determining regionally significant development (RSD) applications. RSD is development which if carried out would:
- (a) be of significance to the whole or a substantial part of Northern Ireland or have significant effects outside Northern Ireland, or
 - (b) involve a substantial departure from the local development plan for the area to which it relates.
- 7.6. If a developer proposes to carry out development which may fall into the RSD category then the developer must, before submitting an application, enter into discussions with the Department to determine if that proposed development is RSD. If the Department considers that the proposed development is RSD the application must be submitted to the Department, but if the Department considers that the proposed development is not RSD then the application should be submitted to the relevant council.

⁴ <https://www.infrastructure-ni.gov.uk/articles/planning-activity-statistics>

Determination of called in applications by the Department

- 7.7. Under Section 29 of the Planning Act the Department may call in planning applications for its own determination. Councils are required to notify the Department of certain applications in accordance with the Department's three notification directions. Once notified the Department will consider whether or not to call in the application for its own determination or allow the council to continue and determine the application itself.
- 7.8. The notification directions⁵ apply to applications where a council is of the opinion to grant planning permission, in the following cases:
- a government department or statutory consultee has raised a significant objection to a major development application;
 - a major development application which would significantly prejudice the implementation of the local development plan's objectives and policies;
 - a major development application which would not be in accordance with any appropriate marine plan adopted under the Marine Act (Northern Ireland) 2013;
 - planning applications for both major and local development in which the council has an interest and the proposal would be significantly contrary to the development plan for its district; or
 - where a council proposes to grant planning permission for petroleum development.
- 7.9. The Department may also receive requests from other interested parties that an application is called in. A small number of planning applications relative to the total number of applications have been called in by the Department since April 2015. The following table sets out the number of call-in applications, together with those for regionally significant development received and decided by the Department each year, since April 2015. [These figures do not include legacy applications retained by the Department at the point of transfer, details of which are available at the web-link provided at paragraph 7.4].

Departmental Planning Applications Received and Decided⁶

2015/16	6	8	14	0	0
2016/17	2	13	15	11	11
2017/18	2	5	7	4	4
2018/19	0	4	4	2	2
2019/20	0	5	5	2	2
2020/21	1	2	3	5	4
Total	11	37	48	24	23

⁵ <https://www.infrastructure-ni.gov.uk/publications/planning-legislative-directions>

⁶ <https://www.infrastructure-ni.gov.uk/articles/planning-activity-statistics>

Enhanced Community Involvement

Pre-application community consultation

8. Section 27 of the Act places an obligation on the developer to consult the community in advance of submitting an application if the development falls within the major development category. This includes those major developments which the Department will determine because they are of regional significance.
- 8.1. Where developers engage in meaningful pre-application consultation, local communities can be better informed about development proposals and have an opportunity to contribute their views before a formal planning application is submitted. In so doing, it is hoped this will subsequently improve the quality of planning applications received; mitigate negative impacts where possible; address community issues or misunderstandings; and provide for smoother and more effective decision making. The developer must submit a pre-application community consultation report with the application. The purpose of the report is to confirm that pre-application community consultation has taken place in line with the statutory minimum requirements. The report should contain details of the steps that have been taken to comply with the requirements for consultation. Developers are required to demonstrate how they have considered any representations made during the consultation and any steps they have taken to address any issues raised in the representations.
- 8.2. Pre-application community consultation (where required) is now an established part of the planning process. The Department's guidance on pre-application community consultation is available on the [Planning Portal](#).

Pre-determination hearings

- 8.3. The introduction of pre-determination hearings (PDH) has also allowed the community the opportunity of appearing before and being heard by the council's planning committee before the committee makes its determination on the application. Section 30 of the Act and Regulation 7 of the Planning (Development Management) Regulations (Northern Ireland) 2015 requires councils to hold a PDH where the Department has decided not to call-in an application that was notified to it by the council. The council also has the discretion to carry out a PDH for any application that it determines.
- 8.4. The council must give the developer and those who submitted representations on the application an opportunity of appearing before and being heard by the planning committee. The format and attendance at the hearing is left to the council's discretion. The council also has discretion to consider if they require further representation from statutory consultees. Councils have published their own guidance on their policies for PDH which are now an established part of the planning system.

Planning Enforcement

9. Under Part 5 of the Planning Act councils have primary responsibility for planning enforcement in their administrative areas. It is the responsibility of a council to investigate all alleged breaches of planning control.
- 9.1. As well as transferring enforcement powers and amending time limits within which action may be taken in respect of planning control, the Act contains provisions for the imposition of potential fines which were increased from £20,000 to £100,000 on summary conviction for a range of offences:
 - the unauthorised works to a listed building;
 - the unauthorised demolition of a building in a conservation area;
 - the contravention of a hazardous substances consent; and
 - the breach of a stop notice.
- 9.2. Whilst the fines have been increased it is a matter for the courts to decide the amount of the fine levied on the offender in any particular case.
- 9.3. The performance targets for enforcement cases are set out in The Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015.
- 9.4. The Department's enforcement powers are only intended to be exercised in exceptional circumstances. An overview of enforcement responsibilities is set out in the advice document ["Overview of Planning Enforcement Responsibilities"](#)

Planning Appeals

10. Planning appeals are determined by the Planning Appeals Commission (PAC). The PAC is an independent and appellant body, it is not part of any Government Department. It receives financial and administrative support from its sponsor body, the Northern Ireland Courts & Tribunals Service. Information on appeals and Inquiries/Hearings for RSD and called-in applications may be viewed by visiting [Digest | Planning Appeals Commission](#).
- 10.1. In relation to appeals, the Planning Act reduced the time limit for submitting appeals from six months to four months, extends the non-determination period for major development applications; aims to restrict the introduction of new material at appeal; and provides for the award of costs. The following tables set out figures for the number of appeals received and decided from 2016/17 (by appeal type).

Appeals received, by appeal type⁷

Appeal Type	2016/17	2017/18	2018/19	2019/20	2020/21
Refusal or conditional grant of planning permission	221	207	204	215	139
Non determination of planning application	4	4	9	9	7
Enforcement Related	53	53	67	69	56
Other *advertisements, roads, listed buildings consent	22	45	43	34	7
Total	300	309	323	327	209

Appeals decided, by appeal type⁸

Appeal Type	2016/17	2017/18	2018/19	2019/20	2020/21
Refusal or conditional grant of planning permission	221	198	179	175	126
Non determination of planning application	11	7	1	11	5
Enforcement Related	36	44	56	51	35
Other *advertisements, roads, listed buildings consent	28	27	42	40	17
Total	296	276	278	277	183

Award of Costs

10.2. The power to award costs was a significant reform aimed at improving the behaviour of all parties in the appeal process. The PAC now has the power to make an order requiring the costs of one party to be paid where another party's unreasonable behaviour has put it to unnecessary expense. The following table set out a brief overview of the number of costs awards from 2016/17. Further details as to the PAC's guidance on the award of costs is available on their website [Award of Costs](#).

Costs Awards⁹

Type of Decision	2016/17	2017/18	2018/19	2019/20	2020/21
No Award	40	29	20	34	11
Partial Award	4	2	7	6	1
Full Award	1	10	8	8	1
Total	45	41	35	48	13

⁷ https://www.pacni.gov.uk/sites/pacni/files/media-files/Annual%20Review%202020-21_2.pdf

⁸ https://www.pacni.gov.uk/sites/pacni/files/media-files/Annual%20Review%202020-21_2.pdf

⁹ https://www.pacni.gov.uk/sites/pacni/files/media-files/Annual%20Review%202020-21_2.pdf

Assessment of the extent to which the objectives of planning reform and the Planning Act have been achieved.

11. The Planning Act 2011 (Review) Regulations 2020 require the Department to: consider the objectives intended to be achieved by the Planning Act; and assess the extent to which those objectives have been achieved. Within this context the review is not a detailed examination of the operation, effectiveness or performance of the overall new two-tier planning system.
- 11.1. The main objectives to the introduction of the Act were: the continued formulation and co-ordination of planning policy by the Department; the preparation of local development plans, and determination of most planning applications by councils, together with responsibility for taking enforcement action where deemed appropriate.
- 11.2. As has been evidenced, the vast majority of provisions within the Planning Act have been commenced, resulting in its successful implementation. The transfer of responsibility for the majority of planning functions to locally accountable councils has been achieved, together with the establishment of the two-tier planning system. The Act has also been supported by around 40 pieces of subordinate legislation and 6 Directions which provide the detailed legislative framework for the overall operation of the planning system.
- 11.3. Significant progress has also been made in implementing certain reforms. In September 2015 the Department published the [Strategic Planning Policy Statement](#) setting out the Department's regional planning policies for securing the orderly and consistent development of land in Northern Ireland in a shorter more focused document. Extensive guidance including by way of Practice Notes on the new system has also been provided¹⁰.
- 11.4. Councils are preparing local development plans for their areas and have published statements setting out how they will involve the community in delivering their planning functions. Councils now determine the vast majority of planning applications with only a very small number determined by the Department including regionally significant development or those called-in by the Department. Changes to the decision making process including pre-application community consultation and pre-determination hearings further enhance community engagement and have allowed greater public involvement and transparency in the determination of planning applications. Councils are also investigating alleged breaches of planning control and taking action as appropriate. Throughout, the Department has maintained its position to only intervene in the system in exceptional circumstances.
- 11.5. Reforms have also been made to the planning appeals system and a Planning Monitoring Framework has been developed. This Framework and other evidence will be used to ascertain if the objectives of reform and

¹⁰ <https://www.infrastructure-ni.gov.uk/articles/planning-practice-notes>

transfer are being achieved and how the planning system is evolving over time.

Conclusion

- 11.6. Within the context set out above and overall, the Department is satisfied that the stated objectives of the implementation of the Planning Act have been achieved.

PART II

Assessment of whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act.

The Planning Act

12. The Planning Act 2011 (Review) Regulations 2020 further require the Department, in considering the objectives intended to be achieved under the Act, to assess whether it is appropriate **to retain, amend or repeal** any of the provisions of the Act or subordinate legislation made under it to achieve those objectives.

Amendments made or currently being made to Subordinate Legislation.

- 12.1. As with any legislative framework changes can be made to subordinate legislation to refine its detailed operation, or in response to changed circumstances. The Department has made a number of amendments to subordinate planning legislation since the transfer of planning functions. These include the:

- Planning (Hazardous Substances) Regulations (Northern Ireland) 2015;
- Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015;
- Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (which brought forward changes to reflect relevant EU Directives);
- The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2019;
- The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020;
- The Planning (General Permitted Development) (Amendment) Order (Northern Ireland) 2020;

- 12.2. Other minor technical amendments were made through the:

- The Planning (2011 Act) (Commencement No.3) and (Transitional Provisions) (Amendment) Order (Northern Ireland) 2016;
- The Planning (Listed Buildings) (Amendment) Regulations (Northern Ireland) 2016;
- The Planning (Local Development Plan) (Amendment) Regulations (Northern Ireland) 2016;
- The Planning (Development Management) (Temporary Modifications) (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020
- The Planning (Development Management) (Temporary Modifications) (Coronavirus) (Amendment) Regulations (Northern Ireland) 2021
- Planning (Development Management) (Temporary Modifications) (Coronavirus) (Amendment No.2) Regulations (Northern Ireland) 2021;
- The Planning (Environmental Assessments and Miscellaneous Amendments) (EU Exit) (Northern Ireland) Regulations 2018; and

- The Planning (Environmental Assessments and Technical Miscellaneous Amendments) (EU Exit) Regulations (Northern Ireland) 2020.

Call for Evidence – Key Messages

12.3. The broad themes to emerge from the call for evidence are set out at paragraphs 3.7-3.9 of this report which form the basis of the Department's considerations of respondent's calls for legislative, or other change. Conversely, a resounding message to emerge was that almost two-thirds of the Act (162 sections) drew little or no comment and the Department considers these provisions should be retained as structured. In particular, no substantive comments were made in relation to the following:

- Part 7 – Purchase of Estates in Certain Land Affected by Planning Decisions;
- Part 8 – Further Provisions as to Historic Buildings;
- Part 9 – The Planning Appeals Commission; (Department of Justice)
- Part 11 – Application of Act to Crown Land; and
- Part 15 – Supplementary.

12.4. As had been anticipated, the vast majority of comments and suggested improvements focused on the following parts of the Act and associated subordinate legislation:

- Part 2 – Local Development Plans;
 - The Planning (Local Development Plan) Regulations (NI) 2015
- Part 3 – Planning Control;
 - The Planning (Development Management) Regulations (NI) 2015
 - The Planning (General Permitted Development) Order (NI) 2015
 - The Planning (General Development Procedure) Order (NI) 2015
 - The Planning (Fees) Regulations (NI) 2015
- Part 4 – Additional Planning Control; and
- Part 5 – Enforcement.

12.5. To a lesser degree, further additional comments and suggestions were made in relation to:

- Part 1 – Functions of the Department
- Part 6 – Compensation;
- Part 10 – Assessment of a Council's Performance or Decision Making;
- Part 12 – Correction of Errors;
- Part 13 – Financial Provisions; and
- Part 14 – Miscellaneous and General Provisions

12.6. The tables at **Annex A** to this report set out the Department's detailed consideration of proposals for changes to existing legislation and guidance which have been informed by the call for evidence. This includes a series of recommendations/actions which the Department believes could assist towards better achieving the objectives of the Planning Act.

Key recommendations

- 12.7. Under Part I of this report the Department concluded that the stated objectives of the implementation of the Planning Act have been achieved.
- 12.8. The Department recognises that the planning system, in some parts, hasn't achieved the level of performance envisaged. For instance, indicative timeframes for bringing forward LDPs have not been achieved and while targets have largely been met for processing local planning applications, targets for processing major planning applications have not. There are various factors which have contributed to this and the Department is seeking to address these through a range of measures, which are largely outside the scope of this review. Nevertheless, the Department has considered whether amendments to legislation have the potential to make the system more efficient and in turn, bring forward performance improvements.

Local Development Plans

- 12.9. While the Department estimated all councils would have LDPs in place by 2019 this was an indicative timeframe which sought to provide an estimate for the preparation of an untested system. Legislation does provide for amended timetables to be submitted and agreed by the Department reflecting and acknowledging that timeframes may be subject to change.
- 12.10. While there have been some calls for a fundamental review of the LDP system, the Department is of the view that any fundamental review of the current approach is best undertaken following adoption of a number of LDPs to evaluate and better understand 'perceived' obstacles in plan-making. The Department is of the view that the current approach remains appropriate, but considers some practical measures may assist the process. The Department intends to add/amend development plan guidance as required by the review of current processes following adoption of a number of LDPs. The Department will undertake to review the statutory list of consultees in plan-making to determine whether it remains relevant / appropriate to reduce unnecessary consultation. In addition, the Department will work with councils and other stakeholders to determine whether there are ways in which to enhance online / digital means of communication in plan-making to improve accessibility for citizens.

Development Management

- 12.11. In relation to development management, while the Department considers the existing framework of roles and responsibilities remains appropriate, there are a number of areas which merit further review and potential legislative change. This includes a review of existing thresholds and categories of development to determine if they remain fit for purpose. The Department will bring forward proposals to provide for both in-person and on-line/electronic pre-application community consultation (PACC) public engagement. This will include consideration of any recommendations to

emerge from the work of the Planning Engagement Partnership. The Department will also review the policy approach in terms of clarifying call-in criteria and will seek to improve the efficiency of the process going forward. The Department also intends to bring forward proposals to improve the information requirements / quality of planning applications entering the system through statutory “validation check-lists”. Notwithstanding current work-streams aimed at improving statutory consultee response times, the Department will explore further and give consideration to the legislative requirements around statutory consultations including timeframes for consultations responses, penalties for late responses and how councils can proceed if statutory consultees do not respond within the required timeframes. The Department will also bring forward proposals to make pre-determination hearings discretionary for councils. In terms of appeals, the Department will bring forward proposals to supplement existing s.59 provisions which would disallow the variation of a development proposal at appeal. In addition, the Department will undertake a general review of current Departmental Directions and will undertake a general review of planning fees including proposals for an automatic annual inflationary uplift, and multiple fees for retrospective applications. Further recommendations are made in relation to additional planning controls and enforcement (fixed penalty notices).

12.12. The following table summarises these key recommendations. (The issue references correlate with those in the Annex).

Table of Recommendations/Actions

Part 2 - Local Development Plans	
Issue Ref	Action
PT2-2	<u>Local Development Plan Guidance</u> The Department will add/amend development plan guidance as required by the review of current processes following adoption of a number of LDPs.
PT2-4	<u>Consultation Bodies in Plan-Making</u> The Department will undertake to review the statutory list of consultees in plan-making to determine whether it remains relevant / appropriate to local planning authorities.
PT2-6 PT3-17 PT5-2	<u>Digitization in the Planning System</u> The Department will work with councils and other stakeholders to determine whether there are ways in which to enhance online / digital means of communication in plan-making, development management, and in the planning system generally to improve accessibility for citizens.

Part 3 - Planning Control	
Issue Ref	Action
PT3-1	<u>Categories of Development</u> The Department will review existing thresholds and categories of development to determine the need for revisions.
PT3-3	<u>Pre-Application Community Consultation (PACC) and Notice</u> The Department will bring forward proposals to provide for both in-person and on-line/electronic PACC public engagement. This will include consideration of any recommendations to emerge from the work of the Planning Engagement Partnership. Clarity on the PAN process could be provided in expanded guidance if appropriate.
PT3-4	<u>Call-In Applications</u> The Department will review the policy approach in terms of clarifying call-in criteria and will seek to improve the efficiency of the process going forward.
PT3-5	<u>Incomplete Applications and Validation Check-Lists</u> The Department will bring forward proposals to introduce statutory 'validation check-lists' and will seek to advance policy development at the earliest opportunity.
PT3-7	<u>Time period for consultation responses</u> The Department will explore further and give consideration to the legislative requirements around statutory consultations including timeframes for consultations responses, penalties for late responses and how councils can proceed if statutory consultees do not respond within the required timeframes.
PT3-10	<u>Pre-Determination Hearings (PDH)</u> The Department will bring forward proposals to make PDH discretionary for councils in the exercise of their functions.
PT3-14	<u>Matters Raised at Appeal</u> The Department will bring forward proposals to supplement existing s.59 provisions which would disallow the variation of a development proposal at appeal.
PT3-19	<u>DFI Directions</u> The Department will undertake a general review of current departmental directions.

PT3-20	<u>Commencement of Development</u> The Department will review this provision to establish if any technical amendments are appropriate.
Part 4 – Additional Planning Control	
Issue Ref	Action
PT4-3	<u>Tree Preservation Orders (TPO)</u> The Department will review current requirements around TPOs with a view to bringing forward proposals to permit councils to vary or revoke TPOs. The Department will also consider whether there is a need for guidance to clarify certain TPO terms or definitions.
PT4-4	<u>Review of Old Mineral Permissions (ROMPs)</u> The Minister is to consider options on the way forward with regards to ROMPs early in 2022.
Part 5 – Planning Enforcement	
Issue Ref	Action
PT5-3	<u>Fixed Penalty Notices (FPN)</u> The Department will explore the possibility of applying FPNs to advertisement control.
Part 13 – Financial Provisions	
Issue Ref	Action
PT13-1	<u>Planning Fees</u> The Department will undertake a general review of planning fees including an automatic annual inflationary uplift, and multiple fees for retrospective applications as part of a wider review of planning fees.

Any proposed change to legislation will require further policy development, public consultation on potential amendments to primary and/or subordinate legislation, Assembly scrutiny and preparation of associated guidance, as necessary. Amendments are likely to be proposed to:-

- The Planning Act (Northern Ireland) 2011
- The Planning (Local Development Plan) Regulations (Northern Ireland) 2015.
- The Planning (Development Management) Regulations (Northern Ireland) 2015
- The Planning (General Development Procedure) Order (Northern Ireland) 2015

- Planning (Fees) Regulations (Northern Ireland) 2015

Conclusions and Next Steps

- 12.13. As a reminder, the purpose and scope of the review is to consider: the objectives intended to be achieved by the Planning Act; assess the extent to which those objectives have been achieved; and assess whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act or subordinate legislation made under the 2011 Act, in order to achieve those objectives.
- 12.14. The Department would conclude that the vast majority of the Act is to be retained as currently structured and that there is no case, in this first review report, to recommend the repeal of any of its provisions in order to achieve the objectives of the Act.
- 12.15. The report has, however, identified certain provisions / areas of the Act and subordinate legislation which, if amended or supplemented, could assist in improving the planning system and, therefore, better achieve the objectives of the Act.
- 12.16. The Department will, therefore, seek to develop these policy proposals with a view to bringing forward proposals for public consultation at the earliest opportunity. Actions which require amendment to current primary legislation will be taken forward through the NI Assembly Bill Process.¹¹ Actions which require secondary / subordinate legislation will also be undertaken in accordance with best practise, in conjunction with the Committee for Infrastructure and Assembly where appropriate. Other actions may be addressed through new or revised guidance. Actions falling to the next mandate will be subject to the views of an incoming Minister.

¹¹

https://education.niassembly.gov.uk/post_16/the_work_of_the_assembly/making_legislation/bill_act

ANNEX A

Consideration of Proposals for Change

Table 1

Part 1 Functions of the Department	Assessment
(PT1-1) Matters for the Department to take account of in the exercise of its functions. You said: - A small number of respondents, principally NGOs and some individuals, proposed that Departmental functions under Part 1 should be updated to include specific reference to other strategies e.g. climate change, net zero emissions, ecological protection and ecological restoration.	Our response: The objective of the planning system, consistent with Part 1 of the Act, is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. This means the planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland. In furthering sustainable development and improving well-being, the planning system supports the Executive's Programme for Government commitments and priorities as well as the aims and objectives of the Regional Development Strategy 2035 (RDS) which is its overarching spatial strategy for Northern Ireland. Section 1(3)(b) of the Planning Act gives latitude to the Department, in the formulation and co-ordination of policy to secure the orderly and consistent development of land, to take account of, "any other matter which appears to it to be relevant". Such other strategies will normally be relevant in the exercise of these functions. In light of this and given the current and ever increasing number of strategies aimed at assisting in improving the environment, economy and climate etc, it would not be pragmatic, nor necessary to explicitly cite all such strategies in the Act, or planning legislation in general. To do so would involve continually amending the Planning Act as other strategies come forward.

	Proposed Action: The Department will, in the exercise of its functions, continue to keep under review other strategies/policy/guidance to determine their relevance in the formulation and co-ordination of planning policy and is not persuaded of the need to amend legislation.
--	---

Table 2

Part 2 Local Development Plans (LDP)	Assessment
(PT2-1) The two document approach to LDP preparation You said – A cross-section of respondents including local government, business, some individuals and political parties put forward various suggestions to reform the current approach to include: a single LDP document; greater number of smaller plan documents; parallel preparation of development plan documents, a review within the context of retained Planning Policy Statements set out in the Strategic Planning Policy Statement.	Our response - Calls for a change to the overarching framework for preparing LDPs are considered premature within the context of current LDPs under preparation by councils. A move away from the current two document approach would likely cause significant disruption and greater delay to current efforts in developing draft plans, and would represent a fundamental change requiring extensive policy development and public consultation. The Department is of the view that any fundamental review of the current approach is better undertaken following adoption of a number of LDPs to evaluate and better understand ‘perceived’ obstacles in plan-making. The Department is of the view that the current approach remains appropriate. Proposed Action: The Department will, in conjunction with councils and key stakeholders, monitor and review current processes following adoption of a number of LDPs.
(PT2-2) Local Development Plan Guidance You said – A small cross-section of respondents including some local government, business and NGOs suggested that	Our response – Existing guidance on local development plan making processes is set out in the SPPS and other Departmental Development Plan Practice Notes (DPPN), and includes

the Department further clarifies in guidance its overall role in the plan-making process, including: the agreement of timetables, submission of documents for independent examination (IE), adoption and revision of an LDP etc. A small cross-section of councils, representative bodies and some business interests questioned the need for an LDP to be submitted to the Department for IE and suggested that councils should be permitted to submit plans directly to the examination body, saving time, cost and unnecessary burden.	clarification on the role of the Department at various stages. These are available on the DfI website: https://www.infrastructure-ni.gov.uk/publications/development-plan-practice-notes Extant practice notes will be reviewed as part of an overall review following adoption of a number of LDPs, to determine if guidance would benefit from further clarification. The Department is of the view that any review of the current approach to LDP preparation, including its own role in the overall process is better undertaken following adoption of a number of LDPs to evaluate and better understand 'perceived' obstacles in plan-making. The Department is of the view that the current legislative approach remains appropriate. Proposed Action: The Department will add/amend development plan guidance as required by the review of current processes following adoption of a number of LDPs.
(PT2-3) Matters to <u>take account of</u> in furthering sustainable development, and preparation of LDPs You said – A cross-section of respondents including renewables and business groups put forward the suggestion that the matters to take account of should be broadened to include the Programme for Government, and other NI Executive and Departmental strategies e.g. Environment, Energy / Renewables, Investment, Climate, Minerals, commitments to Net Zero emissions etc; and more robust connectivity with Local Community Plans; some also consider that the statutory requirement to 'take account of'	Our response - The objective of the planning system, consistent with Part 2 of the Act, is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. This means the planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland. In furthering sustainable development and improving well-being, the planning system supports the Executive's Programme for Government commitments and priorities as well as the aims and objectives of the Regional Development Strategy 2035 (RDS) which is its overarching spatial strategy for Northern Ireland.

such strategic guidance documents in legislation is too flexible, while a few considered it to be too rigid.	In light of this and given the current and ever increasing number of strategies aimed at assisting in improving the environment, economy, climate etc it would not be pragmatic to explicitly list in planning legislation those which must be taken into account by councils in the preparation of local development plans. The SPSS sets out additional policy/guidance on the matters to be taken into account of in the plan-making process. Also, the Local Government Act (NI) 2014 inserted into s.8 & 9 of the Planning Act, the requirement to also take account of a “council’s current community plan”. In furthering sustainable development, s.5(2)(b) of the Planning Act gives latitude to authorities exercising any function under Part 2, to take account of “any other matter which appears to that person to be relevant”, in addition to other policy and guidance issued by other Departments. Proposed Action: The Department is not persuaded of the need to amend legislation on matters to <u>take account of</u> in the preparation of LDPs.
(PT2-4) Consultation Bodies in plan-making You said – A majority of councils and other public bodies consider that the scope of consultation bodies is too wide ranging and laborious for a Council to consult at every stage. Those respondents were of the view that it may be better left to the discretion of a Council to filter / tailor the plan-making consultation lists, and to only maintain contact with those it considers, or those which have specifically asked to be consulted, to have a continuing interest in the Council’s plan preparations.	Our response - The consultation bodies for the purposes of preparing a LDP are set out at regulation 2 of the Planning (Local Development Plan) Regulations (NI) 2015. This is an established list of relevant consultees, taken forward from previous plan-making under the unitary planning system. The list of consultees includes all NI government departments, neighbouring councils, the Civil Aviation Authority, NIHE, water & sewerage undertakers, any person to whom the electronic communication code applies, and any person to whom a licence has been granted under either the Electricity (NI) Order 1992, or Gas (NI) Order 1996. The Department understands that this issue pertains principally with respect to those consultees listed at regulation 2(1)(f-h), which can

	be quite numerous and include some which do not wholly operate within NI. Proposed Action: The Department will undertake to review the statutory list of consultees in plan-making to determine whether it remains relevant / appropriate to local planning authorities. Changes to the consultee list arising from this review will require amendment of the Development Plan Regulations.
(PT2-5) Approach to LDP Timetabling You said – A cross-section of a number of councils and businesses are of the view that the LDP process spans too long a period of time and the timetables require continual updating, and suggest separate timetables for each stage. A cross-section of other respondents including NGOs, Renewables and business sectors suggested potential fines for failure to adhere to LDP timetables, including possible introduction of a maximum time period for adoption of a plan.	Our response - While the requirement to prepare and keep under review a timetable for the preparation of an LDP is a statutory duty, the dates a council indicates are indicative and estimated on the basis of the information available at that time. The duty to keep the timetable under review is to afford councils the opportunity to amend / adjust the timetable in the face of unforeseen delays. It would not be practicable to hold councils to strict adherence to an LDP timetable particularly when unforeseen events beyond their control may cause programme slippage. The Department anticipates that as councils work through their LDP processes, that future plan preparations including plan adjustments, should become more focused and efficient. Proposed Action: The Department is not persuaded of the need to amend current LDP timetabling requirements at this time. The Department will however consider this issue as part of a wider review of LDP processes.
(PT2-6) Digitization in the Planning System -	Our response - Calls to better utilise digital / online means of consultation and communication in plan-making, and development management featured strongly in the responses to the call for

You said – Overall, a broad cross-section of respondents proposed the planning system should enhance the use of online / digital availability of documents for inspection and comment in plan-making. Generally, most councils suggested that the need for advertisements in the local press and Belfast Gazette which is viewed as costly and ineffective, should be removed.	evidence. Regulation 4 of the LDP regulations, and Regulation 29 of the GDPO provides for the use of electronic means of communication which could be amended to expand the use of digitization in plan-making and development management. Removing the requirement for advertisement in the printed press and Belfast Gazette would need careful consideration particularly around its potential effects on some s.75 groups. Proposed Action: The Department will undertake a review of the publicity and advertisement requirements associated with plan-making to determine whether there are ways to enhance online / digital means of communication in plan-making specifically to approve accessibility for citizens. This will include consideration of any recommendations which may emerge from the work of the Planning Engagement Partnership.
--	---

Table 3

Part 3 Planning Control	Assessment
(PT3-1) Categories of Development You said - Overall, a broad cross-section of respondents including most councils, business and renewables sectors called for a review of the current hierarchy of development, and thresholds for major and RSD development, to also include consideration of the introduction a third 'Intermediate / Minor' category of development mirroring that in GB (Major, Minor and Other).	Our response - Section 25 of the Planning Act classifies development into two categories: 'major' and 'local', with section 26 providing for major development of regional significance (RSD) which is to be dealt with by the Department. The associated thresholds for major and RSD development, are set out in the Planning (Development Management) Regulations (NI) 2015. Any development below the major category threshold is classed as 'local', which represent the vast majority of planning applications received and determined by councils.

	Performance of a council's planning functions is principally measured against processing of major and local applications. The suggestion to introduce a third 'intermediate/minor' category is intended to sub-divide the current 'local' category which can currently range from, for example, a domestic porch to a large residential scheme comprising 49 units. Consequently, the processing requirements to determine these types of application can also vary within this category of development. The thresholds for regionally significant applications are tailored to meet regional needs and circumstances and particular planning pressures in Northern Ireland in comparison to other jurisdictions. The thresholds in each jurisdiction are also specifically designed to suit the respective political, administrative and legislative context of each of the administrations. Even in the event of changes to the thresholds, the Department is required to make a determination as to whether a proposed development is considered to be one of regional significance. Where the thresholds are met or exceeded it does not automatically equate that the application is to be dealt with by the Department. Equally, calls to review the major and RSD thresholds could examine the need to introduce new/revised categories of development including for example, energy storage and generation facilities. Such revisions could result in more or fewer applications categorised as major or RSD, also affecting the need for pre-application community consultation.
--	--

	Proposed Action: The Department will review existing thresholds and categories of development to determine the need for revisions.
(PT3-2) Pre-Application Discussions (PADs)- You said - A broad cross-section of respondents including some councils, NGOs, business and representative bodies suggested that PADs should be moved to a legislative footing particularly for major and RSDs proposals, with statutory consultees enabled to charge their own PAD fees with the income ring-fenced to improve capacity. Some developers suggested they would be willing to pay statutory consultees for PAD advice if it would improve the quality of their applications and significantly improve processing time. Some suggested Councils can take different approaches to pre-application discussions and this may benefit from a more standardised, formalised approach in subordinate legislation.	Our response - The PAD process is not a statutory requirement and is therefore optional. PADs are a separate activity from statutory pre-application consultation with communities, although they can inform the planning process and scope of the statutory consultation activity. Such consultation may also support the applicant's preparation of the statutory design and access statement. DM Practice Note 10 sets out the current guidance on PACC and PADs, and indicates that the PADs process will take a different form in each instance, and should be proportionate to the nature, scale and benefits of the application. The suggestion to move PADs to a legislative fee-based footing for major and RSD applications (in addition to PACC), could serve to add another layer of bureaucracy, and potentially put further pressure on the limited resources of statutory consultees. It is considered more effective to retain the current discretion planning authorities have to undertake proportionate PADs as appropriate. The Planning Forum is currently reviewing the regional approach to PADs to improve their effectiveness and efficiency. Proposed Action: The Department is not persuaded of the case for, or benefits of moving PADs to a legislative footing. However, the Planning Forum will continue to review the regional approach to PADs to improve effectiveness and efficiency.

(PT3-3) Pre-Application Community Consultation (PACC) and Notice – You said - A broad cross-section of respondents including some councils, NGOs, business and representative bodies suggested that provision should be made to allow for a 'blended' in person and online approach to PACC within the context of digital availability and COVID 19 restrictions. Meaningful engagement and a central register for PACC third parties to receive regular updates was also suggested as was a requirement for applicants to demonstrate how they have altered their proposals in light of issues raised during pre-application process. Some suggested reducing the 12 week period to 6 or 8 weeks. Others sought clarity on PAN process and timeframe for submission of a subsequent application.	Our response - Guidance on current PACC and PAN processes is set out in Development Management Practice Note 10. In response to the COVID 19 emergency, The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020 temporarily removed the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process associated with planning applications for major development. This applied where a proposal of application notice (PAN), which triggers the pre-application community consultation process, is given to a council / the Department before, or during, the defined emergency period (1 May 2020 to 30 September 2020). The regulations were subsequently amended (on several occasions) to suspend the PACC requirement, firstly to 31 March 2021, then 30 September 2021, and again to 31 March 2022. The Department will keep the latter date under review, taking account of any changes to the public health advice, to consider if an extension or reduction to the emergency period would be appropriate. It will also continue to encourage potential applicants to undertake alternative arrangements to engage with the community as set out in guidance which will be updated. It should also be noted that this does not prohibit developers, if they considered it appropriate and beneficial, to voluntarily hold a public event as part of the pre-application community consultation, provided they comply with the health regulations. The PACC process helps to underpin the front loading of an application by seeking to identify and address local community concerns prior to submission of an application. Any proposed reduction to the current 12 week period could negatively impact on
---	---

	pre-application community participation and may be viewed as an attempt to limit / curtail meaningful community engagement. The associated PACC report (s.28), prepared by the applicant, can outline any amendment(s) to a proposal arising from community consultation. While the legislation does not specify a period within which a planning application must be submitted (following service of a PAN), further evidence would be required to quantify this matter before recommending amendment to both primary and subordinate legislation. Calls to better utilise digital / online means of consultation and communication in plan-making, and development management featured strongly in the responses to the call for evidence. Regulation 29 of the GDPO provides for the use of electronic means of communication which could be amended to expand the use of digitization in the PACC process. A new Regional Planning IT System is currently being developed which will provide a modern system to the Department and 10 councils when it goes operational, which may help to address these issues. It will also deliver new services to the public who will be able to submit planning applications on-line as well as via the normal routes. The new system is due to be operational in summer 2022. Proposed Action: The Department will bring forward proposals to provide for both in-person and on-line/electronic PACC public engagement. This will include consideration of any recommendation to emerge from the work of the Planning Engagement Partnership. Clarity on the PAN process could be provided in expanded guidance if appropriate.
--	---

(PT3-4) Call-In Applications You said – A small cross-section of respondents suggested the Department clarify and simplify the call-in process and publish criteria and clarity on how this power will be exercised by the Department. Some are of the view that where a proposal which a council considers acceptable but is called-in, this only serves to elongate the time taken to determine the application.	Our response - Guidance on the call-in process is set out in Development Management Practice Note 13. Section 29 (1) of the 2011 Act allows the Department to direct that an individual application or applications be referred to the Department instead of being dealt with by a council. This provision allows the Department to call in any planning application for determination. The Department's direction may be given under Section 29(2)(a) to an individual council or to councils in general and, under Section 29(2) (b), may relate to either a particular application or a specific use class. There are currently several Departmental Directions in this regard, including: The Planning (Notification Of Councils' Own Applications) Direction 2015; and The Planning (Notification Of Applications) Direction 2017. These are important checks and balances in the planning system. Applications will be called in by exception, as the Department recognises the important role of councils in decision making on the future development of their areas. Furthermore, there may be circumstances where a proposed development raises issues of such importance that they could be considered to have a significant regional impact, regardless of falling below the threshold for regionally significant development, or it may be considered the Department is a more appropriate authority to determine the application. As there have been calls for clarity around the call-in process and there have been some delays in the process, the Department considers there is merit in reviewing the process. Proposed Action: The Department will review the policy approach in terms of clarifying call-in criteria and will seek to improve the efficiency of the process going forward.
--	---

(PT3-5) Incomplete Applications and Validation Check-Lists You said – A broad cross-section of respondents including most councils, some in the business sector and several political parties proposed that the efficiency and effectiveness of the planning system can be improved if the quality of applications coming into the system is improved. Most councils suggested the Department make statutory provision to permit councils to issue application ‘check-lists’ setting out all the necessary information needed to accompany various types of planning application when they are submitted.	Our response - Guidance on the different types of planning applications, including other additional supporting information which may be required is set out in Development Management Practice Note 04. The format of an application for planning permission is provided for by section 40 of the 2011 Act. The form and content of a planning application is specified in Article 3 of the GDPO. Validation requirements set out what information or evidence must be submitted with a planning application before it can be considered by the planning authority, and therefore deemed to be ‘valid’. Whenever a planning application becomes ‘valid’ the timeframe for processing a planning application commences. It is against this timeframe that a council’s performance is measured, and also for the purposes for appeals against ‘non-determination’ of an application. However, many applications when submitted do not contain all the information needed to determine them. This can result in further requests to the applicant and delays in processing. The move to a ‘validation check-list’ would permit a council to prepare and publish, against various types of planning applications and development, the additional information which must accompany applications (over and above the minimum requirements) which it considers as necessary to properly determine the application. Such provision is available in England and Wales and some councils in NI have already put similar arrangements in place on an administrative basis.

	In addition, a 2019 review into the efficiency and effectiveness of the planning system in NI with a particular focus on the role of statutory consultees concluded that “...<i>the efficiency and effectiveness of the planning system can be improved if the quality of applications coming into the system is improved.</i>” Evidence on the use of validation check lists on an administrative basis suggest there may be benefits on placing these on a statutory footing. Proposed Action: The Department will bring forward proposals to introduce ‘validation check-lists’ and will seek to advance policy development at the earliest opportunity.
(PT3-6) Advertisement / Notification of Applications You said - A small cross-section of respondents including several councils suggested that the requirement to publicise applications in the printed press should be removed in its entirety and substituted with a combination of electronic consultation, neighbour notification and site notices. Some respondents were of the view that a specified date for receipt of representations made in response to notifications should be imposed.	Our response - Guidance on publicity and neighbour notification requirements in planning is set out in Development Management Practice Note 14. Current advertisement, notification and inspection requirements for planning applications (and appeals) are set out at Article 8 of the GDPO 2015, (in exercise of powers conferred by s.41 & 42) which includes notice being placed in the printed press (locally), neighbour notification(s) and advertisement of a council's website, date for receipt of representations, but not site notices. These requirements would need to be repeated where a proposed scheme has materially changed before a planning application can be determined. Planning applications are publicised in the local press in order to bring the details of development proposals to the attention of the public. The statutory requirements placed upon councils or the Department to advertise planning applications and certain types of consents within local newspapers, and to carry out neighbour notification of ‘identified occupiers’ provides interested parties with an opportunity to consider and comment on development

	proposals. Publication of planning applications in the local press allows authorities to engage with a much broader range of interested parties or groups than simply through neighbour notification alone. There is also a requirement for developers to undertake pre-application community consultation before submitting an application for a major development, and as part of this process a developer must publish in a local newspaper a notice containing details of the proposed development and the arrangements for a community consultation event. Site notices are used in some other jurisdictions, in conjunction with (and not in substitution for) other on-line notification measures, and depending on the type of development may also require newspaper advertisement. While the Department can appreciate the views of respondents, particularly councils with regards to the costs associated with advertisement in the printed press, it is not persuaded that it can adequately be substituted with the proposals suggested. Any proposal to remove the requirement to advertise in the local printed press would also need added scrutiny given the potential impacts on certain s.75 groups etc. In addition, while the date for submission of a representation is not to be earlier than 14 days after the date on which a notice is sent, the consideration of any representation will depend on its substance and materiality to planning considerations. However, there is scope to examine the potential to use online/digital methods to improve the process. Proposed Action: The Department will undertake a review of the publicity and advertisement requirements associated with planning applications to determine whether there are ways to
--	--

	enhance online / digital means of communication. This will include consideration of recommendations to emerge from the work of the Planning Engagement Partnership.
(PT3-7) Time period for consultation responses You said - A broad cross-section of respondents including renewables, business, representative groups and some public interest bodies suggested that the statutory timeframes for consultations responses should be reviewed, with consideration given to introducing penalties for late responses. Some respondents also suggested that 'deemed consent' should apply where no consultation response is received within 21 days, and greater clarity given as to how councils can proceed if statutory consultees do not respond within the required timeframes.	Our response - Current requirements to consult and duty to respond are set out at s.229, and prescribed at Articles 13-16 of the GDPO 2015. These specify, amongst other things, that a consultee is to provide a substantive response within 21 days of it receiving notice, and that the application is not to be determined before 21 days (or 28 days for EIA development). A different (longer) period may be agreed in writing with the consultee. The 2019 review on the Role of Statutory Consultees in the Planning Process in NI, stated that: "Statutory consultees play an essential role in the planning process as planning authorities may not have the necessary expertise in-house to assess the technical and specialist issues of an application's merits. The consultation process is an important element of an open, transparent and democratic planning system where, ultimately, elected politicians oversee final decisions on planning applications." Where a consultee fails to respond within the timescale the planning authority is not obliged to await a response. However, it will wish to consider the potential impact of proceeding without the views of a consultee. Within this context the Department is not persuaded that 'deemed consent' would be appropriate in the absence of a substantive consultation reply, which may ultimately be critical to the proper determination of an application. It is recognised that there are many factors causing delays in the processing of planning applications, not just statutory consultees. These include the increased complexity of the system and regulatory requirements, risk of legal challenges, wider resourcing

	issues, case management issues, the culture of working with applicants to 'fix' poor quality applications etc. The issue of resources has also been raised by Minister Mallon with the Finance Minister. This was identified as one of the 'key conclusions' from the review on the role of consultees (see above) which states "...from a statutory consultee perspective, I have concluded that access to adequate resources is crucial to a more efficient and responsive system. I have, therefore, recommended that relevant departments review the resourcing requirements associated with their statutory consultee role against workloads and determine the need for any additional resource to ensure efficient and timely responses to planning consultations." It has also long been recognised that poor quality planning applications impact not only the performance of statutory consultees but also the performance of the entire planning system. To this end, the potential introduction of statutory 'validation check-lists' setting out the detailed information requirements to accompany planning application for most types of development, will assist towards an enhanced front-loaded planning system. The cross-government Planning Forum is also working on improving processes and timeframes for processing major and economically significant applications. The Forum is focusing on a number of areas including: statutory consultees reviewing existing practices, procedures and the resourcing requirements associated with their statutory consultee role against workloads, to ensure efficient and timely responses to planning consultations. The Forum recently developed and issued an advice note (see link below) on the key operating principles for planning consultations.
--	--

	The purpose of this is to encourage best practice around the consultation process to make it more efficient and effective for all. https://www.infrastructure-ni.gov.uk/publications/consultations-planning-application-process-operating-principles-planning-authorities-and-consultees The Department monitors and publishes quarterly and annual statistical reports on the performance of statutory consultees across the planning system (See link below to the latest annual report). https://www.infrastructure-ni.gov.uk/publications/ni-statutory-planning-consultations-annual-performance-report-202021 Notwithstanding the context set out above, the Department considers there may be some merit in reviewing the legislative requirements around statutory consultations, including timeframes for consultations responses, penalties for late responses and how councils can proceed if statutory consultees do not respond within the required timeframes. Proposed Action: While the Department is not persuaded of the case for the introduction of ‘deemed consent’ where a statutory consultee fails to respond in time, it will explore further and give consideration to the legislative requirements around statutory consultations including timeframes for consultations responses, penalties for late responses and how councils can proceed if statutory consultees do not respond within the required timeframes.
--	--

(PT3-8) Determination of applications You said – Some councils consider that additional information and/or amended plans (particularly at Committee stage) should only be accepted at their discretion, and that they should have the power to pause processing of applications / agree an extension of time to process. Some councils and the business sector are of the view that councils should also be able to decline representations which are made late in the planning process. <i>(See also PT3-9 below).</i>	Our response - Guidance on the different types of planning applications, including the additional supporting information which may be required to determine an application, is set out in Development Management Practice Note 04. The suggested proposals, including the ‘pausing’ of processing (of an application when awaiting additional information), could be addressed in part with the front-loading of planning applications through the introduction of ‘validation check-lists’ (see PT3-5 above). Such a provision would negate time lost awaiting additional information from applicants, or the need to pause processing. In addition, while the time period for decisions (See PT3-9 below) is set out at regulations 20(2)(a) and (b) of the GDPO 2015 for major and local development respectively, regulation 20(2)(c) allows for an extension to the specified periods where this is agreed in writing between the council and the applicant. The ability of an applicant to seek to amend/alter a development proposal before an application is submitted (pre-application community consultation), or during processing to overcome potential objections and reason(s) for refusal is an established part of planning practice and procedure. A planning authority can however, refuse any application where it determines that a proposal, even if amended, would be contrary to planning policy / development plan or other material planning considerations. An applicant does retain a right to appeal such decisions. (The issue of new material and variation of applications at appeal is considered at PT3-14 below).
---	---

	The issue of ‘late representations’ (which in the view of some respondents, are framed to frustrate the determination of a planning application) could be difficult to legislate against, and importantly, may interfere with a person’s (third party) right to be heard. This is not a straightforward matter as the issue of whether a representation to an application raises issues which are material to its determination must be considered and not just the time in which it is submitted to the planning authority. Similar considerations apply to amended plans / additional information from applicants. We are not aware of a relevant legislative approach in other jurisdictions, however it may be the policy / practice of planning authorities elsewhere not to accept amended schemes immediately prior to a decision. Proposed Action: The Department is not persuaded of the need to disallow the introduction of new information or pause, or amend a development proposal during the processing of an application. These matters could be significantly addressed with the front-loading of information accompanying planning applications via the introduction of validation check-lists and the issue could be revisited after that (See PT3-5 above).
(PT3-9) Statutory timeframes for determining applications You said – A cross-section of respondents including businesses and industry called for the Department to set more ambitious targets that are comparable to GB for RSD and major applications. Other respondents suggested the inclusion of statutory time periods for other determinations	Our response - Currently Article 20 of the GDPO sets out the statutory time periods for decisions, for the purposes of making an appeal under Section 60 of the 2011 Planning Act (non-determination appeal). The periods are: 16 weeks for a major development; and 8 weeks for any other case (local development). However, there is no right of appeal under Section 58 or Section 60 for decisions on applications made to the Department under Section 26, or called-in by the Department under Section 29.

including; s.54 applications, Discharge of Conditions; CLUDs; Non-Material Changes. At a technical level, some respondents considered there was currently ambiguity around the timeframes within which extensions to the decision making process on a planning application should be sought and agreed with a Council, and therefore, when a non-determination appeal could be sought.	There are currently 3 statutory planning indicators, one of which relates to major applications processed by councils – <i>‘to process major planning applications from the date valid to decision issued or withdrawal date within an average of 30 weeks’</i>. The Department monitors these indicators on a quarterly and annual basis. In addition to the 3 statutory planning indicators, the Department published the first planning monitoring framework in September 2019, which includes a number of non-statutory indicators. The second Planning Monitoring Framework was published in December 2020. It is envisaged that this framework will continue to evolve over time and will assist in ensuring we continuously improve the planning system going forward. The Department accepts that improvements to processing times must be made. However, it is also important that due process is followed when determining a planning application to avoid poor decisions being taken in order to meet mandatory targets. It is considered that focusing on the work of the Planning Forum, particularly in relation to the performance of statutory consultees is the most appropriate way of improving performance. With regard to non-determination appeals, the Department holds the view that the entitlement to appeal against non-determination arises "at once" upon the expiry of the determination period. In other words, if the applicant and planning authority do not agree to extend the determination period before it expires and then attempt to do so some time later the right of appeal against non-determination will expire at the end of the initial determination period. There must be no break in extending the determination period from the initial one if the right of appeal against non-determination is to be retained.
--	--

	Proposed Action: The Department is not persuaded of the need to amend existing provisions but will monitor and keep this issue under review.
(PT3-10) Pre-Determination Hearings (PDH) You said – Most councils and some business and professional bodies suggested that PDHs should be a solely discretionary function for councils to decide where, in their view, they would add value to the decision making process. There were also calls for the Department to issue guidance and direct councils regarding PDHs for greater consistency across councils.	Our response - Guidance on PDH processes is already set out in Development Management Practice Note 17. Section 30 sets out the process for PDHs. Generally PDHs are at the discretion of Councils and Sections 30(2) and (3) allow a council to choose the appropriate method for the hearing and who, in addition to the applicant or specified persons can also participate. There is, however, a mandatory requirement for a PDH in certain limited circumstances where a major application has been subject to a call-in notification and returned to the council for processing. Often in these major application cases a PDH will already have taken place before it has been notified to the Department and, therefore, a second PDH may not be necessary or appropriate. Consequently, a mandatory PDH in these circumstances could potentially add some delay and uncertainty to the planning process, hindering a Council's performance against statutory targets, with increasing costs for both applicants and councils. On this basis the Department believes there is merit in amending this provision so that all pre-determination hearings are wholly at the discretion of councils. Proposed Action: The Department will bring forward proposals to make all PDH discretionary for councils in the exercise of their functions. This will require amendments to subordinate legislation.

(PT3-11) Duration of Planning Permission You said – A small number in the renewables sector and other businesses interests suggested that extant planning permissions should be extended in emergency situations, for example, extending permissions for 10+ years for more complex approvals and regionally significant development.	Our response - Section 61 of the Act stipulates that every planning permission granted or deemed to be granted, will be subject to the condition that the development must begin within 5 years of the date on which permission is granted (<u>or such other period as considered appropriate</u> by the Department or council which granted the permission). In relation to outline permissions, section 62 states that unless provided otherwise reserved matters must be submitted for approval within 3 years of the grant of outline planning permission and development must be begun within 5 years of the grant of outline permission or 2 years from the final approval of reserved matters. Councils or the Department already have latitude under s.61 when granting permission, to allow for a period of more than 5 years within which development is to be commenced. The issue of extending permissions during emergency situations was raised several times to the Department, by various sectors during the current pandemic, and on foot of similar extensions provided in other jurisdictions. However, permissions in England and Scotland are granted to commence within 3 years, while those in NI and Wales are granted with a 5 year commencement condition, making the issue less acute in NI and Wales. Events such as the current COVID 19 emergency are very uncommon and the case for legislative change is not strong enough to proceed with such a proposal, especially given the various alternative options, including: commencement of development (See PT3-20); or making an application for renewal of permission, as was advised in Chief Planner’s Updates issued during the pandemic.
---	--

	Proposed Action: The Department is not persuaded of the need to amend existing provisions but will monitor and keep this issue under review.
(PT3-12) Notices of Opinion You said – Some within the business and industry sectors are of the view that there should be a presumption against the use of Notices of Opinion for regionally significant development applications (or applications to amend such schemes), and that the process could be streamlined with such applications sent directly to the Planning Appeals Commission (PAC) or other independent body for independent consideration / determination. Furthermore the Planning Appeals Commission would wish to see greater use of online arrangements for hearings or public local inquiries	Our response - Applications under Section 26 and Section 29 are dealt with and processed by the Department which is the relevant planning authority. Where a public local inquiry is not held, the Department must serve a notice of opinion (NOP) on the applicant and the Council indicating the decision it proposes to make. Upon receipt of the notice, the applicant or the Council can request a hearing before the PAC or other Examiner. The PAC is not bound by the NOP in preparing its report and the Department must take the PAC report into account in finally determining the application. Not every application requires a Public Local Inquiry (PLI) and equally not every NOP results in a hearing at the PAC. It should also be noted that going to PLI adds at least a year onto a timescale for processing more complex applications and, therefore, a planning application should only be taken to PLI when deemed necessary to consider particular matters. This should remain a matter for professional planning judgement. Where an applicant wishes to contest a NOP, they have a right to a hearing before the PAC. In terms of the PAC role, the recommendation to send all RSD and called-in applications directly to the PAC or other independent body would be a fundamental reordering of the Department's and PAC's roles. At present, under the Act the PAC is a statutory and independent appellate body set up and resourced to hear and determine appeals and conduct PLI/hearings, not to process and determine planning applications in the first instance. There is no clear evidence that moving this function from DfI Planning to the PAC or other independent body would result in significant process efficiencies. Indeed, such a move may cause further delay and

	confusion as arrangements would still need to be made to allow the Minister to determine such applications. It would also raise the question of how to facilitate the ability of councils or applicant to avail of a PL/hearing if they did not agree with the PAC decision. Finally, much work would be required to set up and resource the PAC as a first instance planning authority. The Department recognises the success throughout the pandemic in using online hearings and the associated efficiencies for the overall planning process. Proposed Action: The Department is not persuaded of the need to amend existing provisions with regard to notices of opinion or making the Commission or other independent body responsible for RSD applications but will monitor and keep the issue under review. The Department will explore further options to facilitate online / virtual hearings or public local inquiries (See 3-17).
(PT3-13) Retrospective Permissions You said – A small number of individual respondents, political parties and community groups voiced their opposition to provisions which permit applications which seek permission for development already carried out (retrospective permission). This opposition included calls to introduce fines and increased planning fees for such applications.	Our response - Section 55 of the 2011 Act allows for retrospective planning applications to be made i.e. where development has already been carried out without permission, and for applications for planning permission to authorise development which has been carried out without complying with a planning condition(s) to which it was subject. Such applications must seek full planning permission only. Currently, the fee for an application which relates to development carried out without planning permission, is calculated in accordance with the provisions of Part 2 of the Fees regulations as if the application were one for permission to carry out that development. Section 223(2) does allow for the charge of a fee for

	retrospective permission to be a multiple of the usual fee, however, this is not currently provided for in Part 2 of the Fees Regulations. Applications made to regularise permission for development already carried out is an established part of planning practice. Introducing fines or, increasing the planning fees for applications seeking retrospective permission, would need careful consideration and could be viewed as punitive as it often, but not always, relates to householder type development such as extensions. Councils do have discretionary powers to proceed with enforcement action against unauthorised development, which if not remedied, can result in the imposition of fines, or the alteration or removal of buildings as a remedy. Proposed Action: The Department will consider introducing multiple fees for retrospective applications as part of a wider review of planning fees (see PT13-1). The Department is not persuaded of the need to amend current provisions with regard to retrospective planning permission.
(PT3-14) Matters which may be raised at appeal You said - A majority of councils, and a small number of other respondents have sought clarity around section 59 of the Act to ensure that the legislative tests are fit for purpose. Respondents have further suggested that the wording of the legislation should be revisited and, if necessary, amended or guidance published to clarify the approach, for instance, section 59 should be amended to ensure that appeals can	Our response - Currently a party to the proceedings of a planning appeal will not be able to raise any matter that was not in front of a council or the Department when it made its original decision. The only exceptions will be if the party can demonstrate, to the satisfaction of the PAC, that the matter could not have been raised before that time or that it's not being raised was due to exceptional circumstances. While the NI approach is modelled on that in other jurisdiction, it does not go as far as in Scotland for example, where an appellant

only be determined on the basis of the application as originally refused by the council.	cannot change the terms of the proposed development – it must be the same as the proposal that was considered previously by the council, using the same plans¹². Such a measure, if introduced here, may encourage applicants to alter their development proposals where a council is minded to refuse permission on the basis of the application as made, knowing that it cannot be varied thereafter via an appeal mechanism. Proposed Action: The Department will bring forward proposals to supplement existing s.59 provisions which would disallow the variation of a development proposal at appeal. This will require public consultation, and amendments to primary and/or subordinate legislation.
(PT3-15) Third Party Right of Appeal You said – Most individual respondents, together with a broad cross-section of community and political representatives, NGO and some councils suggested the Department introduce a new appeals mechanism or provide for third party planning appeals / challenges.	Our response: The legislative and structural changes to the planning system which came into effect with the new two-tier system in 2015 are designed to deliver an inclusive, front-loaded system with stronger third party engagement and local democratic accountability. Concerns with the introduction of third party rights of appeal at the end of the development management process could undermine an applicant's commitment to community engagement at the start of a front-loaded system, and risks reducing certainty and the effectiveness and efficiency of the planning system at a time when it needs to be responsive to sustainable recovery from the pandemic. Proposed Action: The Department is not persuaded of the need to amend current provisions with regard to planning

¹² <https://www.legislation.gov.uk/ukpga/1997/8/section/32A>

	appeals but will continue to keep this matter under review. This will include consideration of recommendations to emerge from the work of the Planning Engagement Partnership.
(PT3-16) Non / Minor-material changes You said – A broad cross-section of respondents including some councils, professional bodies, business and renewables sectors suggested the Department consider introducing a proportionate approach to minor material changes, in addition to non-material changes, and that the Department should retain authority for such changes with regards to permissions it has granted.	Our response - Guidance on the non-material change mechanism and procedures as well as good practice is set out in Development Management Practice Note 25. The 2011 Act has introduced a mechanism by which a council will have a formal method of dealing with small changes ('non-material') to approved schemes (s.67 and Regulation 7 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. In deciding whether a change is material, a council will have regard to the effect of the change, together with previous changes on the original permission. This provision allows a council to impose new conditions, or remove or alter existing conditions. Whether or not the proposed amendment(s) are considered to be 'non-material' (rather than 'material') will depend on the specific details of the existing planning permission. A change which may be considered 'non-material' in one case could be 'material' in another. There is no statutory definition of 'non-material', it is down to the Local Planning Authority to be satisfied that any amendment(s) sought are 'non-material' in order to be eligible for this type of application.

	Some respondents are of the view that there is value in introducing a legislative provision allowing an applicant to make a ‘minor-material’ modification to a current extant permission. The basis being that it would assist in cases where numerous acceptable changes are made to a core permission over time but resulting in multiple layers of individual permissions arising. In addition, minor amendments to planning permissions can require a new application, (possibly including full PACC and PAN), which in the view of some respondents, is rather onerous and has an impact on delivery. There is no statutory definition of ‘minor-material’, however other jurisdictions suggest that ‘minor material’ amendments are likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved (and recommends that pre-application discussions should be used to determine whether an amendment is a ‘minor material amendment’ before an application is submitted). Some amendments may, if appropriate, be taken forward under Section 54 of the Act, allowing conditions associated with the existing permission to be varied. A local planning authority can use its discretion to decide who should be consulted about such an application and the approach that should be taken to notification. In relation to the point that the Department should retain authority for changes to permissions it has granted, the approach here mirrors that in other jurisdictions, where the local planning authority has principal responsibility for the vast majority of planning functions, including subsequent applications and changes to those previously granted by the Department.
--	--

	Proposed Action: The Department is not persuaded of the need to amend current provisions with regard to non-material or, minor-material amendments, but will continue to keep these matters under review.
(PT3-17) Digitization in the Planning System You said – Overall, a broad cross-section of respondents proposed the planning system should allow for the electronic submission of planning applications, fees and inspection of other documents.	Our response - Calls to better utilise digital / online means of consultation and communication in plan-making, and development management and enforcement featured strongly in the responses to the call for evidence. Regulation 4 of the LDP regulations, and Regulation 29 of the GDPO provides for the use of electronic means of communication which could be amended to expand the use of digitization in plan-making and development management. Removing the requirement for advertisement in the printed press and Belfast Gazette would need careful consideration particularly around its potential effects on some s.75 groups. A new Regional Planning IT System is currently being developed which will provide a modern system to the Department and the 10 councils when it goes operational. It will also deliver new services to the public who will be able to submit planning applications on-line as well as via the normal routes. The new system is due to be operational next summer. Proposed Action: The Department will work with stakeholders to determine whether there are ways in which to better utilise online / digital means of communication in plan-making, and the planning system overall (See also PT2-6 and PT3-6). This may require public consultation, and amendments to primary and/or subordinate legislation
(PT3-18) Permitted Development	Our response - Certain elements of The Planning (General Permitted Development) Order (NI) 2015 have been reviewed and

You said – A majority of councils and a cross-section of other NGOs, individuals and industry suggested that the department undertakes a review of current permitted development rights in a number of areas, particularly in relation to: minerals, utilities, agriculture, forestry, and householder development. Some councils also requested the introduction of permitted development rights specific to the use of land for COVID 19 related purposes such as test centres.	amended since its introduction. Changes include provisions in relation to minerals, telecommunications, electric vehicle charging points, and shops, financial and professional services. A more comprehensive review covering other matters raised by respondents such as agriculture, forestry, and householder development would be a significant and resource intensive undertaking, and not achievable in the short or medium term. Proposed Action: The Department will continue to keep permitted development rights under review and will bring forward amendments to extant PD provisions as and when appropriate in line with Ministerial priorities and Departmental resources.
(PT3-19) DFI Directions You said – A small cross-section of respondents including some councils and industry are of the view that existing Notification Directions should be amended or repealed, particularly The Planning (Notification Of Applications) Direction 2017. Some respondents also consider the Department consider the introduction of a new Direction to deal with applications for electricity transmission lines.	Our response – Councils are required to notify the Department, either through certain Notification Directions or requirements of the Planning Act, of certain specified matters with regard to major development, listed building consent, councils own planning applications, and control of demolition in Conservation Areas. A council cannot proceed to determine such applications or grant consent until such time as the Department has had opportunity to consider the application. The Department has 28 days to consider the matter, or may issue a holding direction pending a decision whether or not, to call-in the application. Given that departmental directions have been in place for several years now, the Department considers there is merit in undertaking a general review of their operation to determine if they remain appropriate going forward.

	Proposed Action: The Department will undertake a general review of current departmental directions. This may require public consultation, and amendments to primary and/or subordinate legislation.
(PT3-20) Commencement of Development You said – A small cross-section of respondents including some councils, business and private sector suggested that further guidance is needed on what constitutes a lawful start to development, and that s.63(2) should make specific reference to ‘laying out or constructing a road’ & ‘demolition’ to avoid applicants losing their permissions.	Our response - Section 61 of the Act imposes a statutory condition on the grant of planning permission that development must be begun within 5 years of the date on which permission is granted or such other period as the council or the Department considers appropriate. Additionally, where outline planning permission is granted, development must be begun within 5 years of the date on which the permission is granted or within 2 years of the final approval of the reserved matters. Commencing development means undertaking some limited works on site to commence a planning permission and thus keep it alive. A material operation can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land. The works must be done within the time period expressed on the permission. In order to lawfully commence development it is necessary to satisfy the legal requirements in section 63(2) of the Act. This says that “<i>development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out.</i>” Section 63(2) specifies the operations which can constitute the start of development. The meaning of ‘development’ is set out at section 23 of the Act, as too is the meaning of ‘building operations’, and includes demolition, and rebuilding.

	Proposed Action: The Department will review this provision to establish if any technical amendments are appropriate.
(PT3-21) Planning Agreements You said – A cross-section of respondents including some councils, business, NGOs and private sector interests suggested that further guidance / clarification could be provided on the circumstances in which section 76 planning agreements will be implemented including the use of conditions and covenants to secure developer contributions and other benefits. Some considered that legal fees associated with formulating planning agreements should be inclusive of the planning application fee, and that any variation to planning conditions should not result in the need for a Deed of Variation to a Section 76 agreement. Some also suggested that developers should be able to submit a 'Unilateral Undertaking' as a substitute to a Bi or Multi Party planning agreement under Section 76.	Our response – Section 76 of the Planning Act (NI) 2011 enables any person who has an estate in land to enter into a planning agreement with either a council or the Department (whichever is the relevant authority). A planning agreement may facilitate or restrict the development or use of the land in any specified way, require operations or activities to be carried out, or require the land to be used in any specified way. An agreement may also require a sum or sums to be paid to the relevant authority or to a Northern Ireland department on a specified date(s) or periodically. The relevant authority has the power to enforce a planning agreement by entering the land and carrying out the operations itself. Any expenses incurred in doing so are recoverable from the person or persons against whom the agreement is enforceable. A planning agreement may not be modified or discharged except by agreement between the relevant authority and the person or persons against whom the agreement is enforceable. A planning agreement can play a meaningful role in the development management process as a valuable mechanism for securing planning matters arising from a development proposal. An agreement may mean that development can be permitted whilst potentially negative impacts on land use, the environment and infrastructure could be reduced, eliminated or mitigated. Most of the comments and suggestions in relation to planning agreements revolve around their use and practice or seeking

	clarification on technical aspects of them. The matter of recoverable costs associated with planning agreements under the Act, is similar to that in other jurisdictions, e.g. for planning obligations in Scotland, under section 75 of the Town and Country Planning (Scotland) Act 1997. These are matters that can and should be addressed by planning authorities adopting best practice approaches and do not require legislative change. Proposed Action: The Department is not persuaded of the need to amend existing provisions but will continue to engage with Councils on practice through the normal mechanisms.
--	---

Table 4

Part 4 Additional Planning Control	
(PT4-1) Temporary Listing / Building Preservation Notice (BPN) You said – Some councils and professional bodies are of the view that the Department for Communities (DfC) should retain powers to enforce / issue a BPN and be liable for compensation (not a council). These respondents have also requested that consideration be given to providing DfC with a power to issue a BPN, including liability for compensation.	Our response - Responsibility for certain functions under the Planning Act with respect to Listed Buildings and Conservation Areas transferred from the Department of Environment to the Department for Communities in 2016¹³. Councils however are responsible for the issuing of BPNs, (temporary listing where considered necessary), to be confirmed (or not) by DfC. Councils are currently liable for compensation (s.186) where a BPN ceases to have effect without the building having been listed by DfC. Proposed Action: As these functions are the responsibility of another department, DfI will continue to liaise with DfC on these matters.

¹³ <https://www.legislation.gov.uk/nisr/2016/76/contents/made>

(PT4-2) Conservation Areas (CA) You said – A number of councils, together with other professional bodies and a political party, propose that councils be given the authority to vary / repeal a CA designated by the Department, and that The Planning (Northern Ireland) Act 2011 Planning (Control Of Demolition In Conservation Areas) Direction 2015 should be rescinded. Respondents also contend that the requirement for councils to refer an application for Conservation Area Consent to the Department, where it intends to grant permission, is completely heavy handed, disproportionate and an unnecessary administrative burden.	Our Response - Responsibility for certain functions under the Planning Act with respect to Listed Buildings and Conservation Areas transferred from the Department of Environment to the Department for Communities in 2016. Councils and DfC can designate CAs, however such designation can only be varied or cancelled by the authority which made the designation. In effect, councils are currently unable to vary or cancel a CA designated by the Department prior to the transfer of planning functions in 2015. Proposed Action: Given these functions are the responsibility of another department, DfI will continue to liaise with DfC on these matters. The Department intends to review the Conservation Area consent notification requirements (See also comments at PT3-19)
(PT4-3) Tree Preservation Orders (TPO) You said – A number of councils and political representatives have requested that the Department provides the power for councils to vary or revoke TPOs, including those made by the Department and its predecessors, and to also clarify the meaning of 'amenity' and 'abatement of a nuisance' within guidance. Some further contend that such protections should be extended in other designated areas such as ATCs.	Our response - Planning powers with respect to Trees are set out at sections 121-128, Chapter 3, Part 4 of the Planning Act (NI) 2011 and are primarily the responsibility of local councils. The Department has a power to make, amend or revoke a tree preservation order (TPO) under section 124, in consultation with the local council. In effect, should a council wish to amend or revoke a TPO, it currently must make a request that DfI do so on its behalf. In addition, while trees in a CA are offered protection under section 127 of the Act, those in other designated areas such as ATCs are not. ATC's are, however, identified and designated through the LDP process which does not currently provide statutory protection of trees.

	Proposed Action: The Department will review current requirements around TPOs with a view to bringing forward proposals to permit councils to vary or revoke TPOs in their areas. The Department will also consider whether there is a need for guidance to clarify certain TPO terms or definitions.
(PT4-4) Review of Old Mineral Permissions (ROMPs) You said – A broad cross-section of respondents including councils, NGOs, individuals, political parties and some business interests requested that the Department commence legislation around ROMPs and that the Department provide the necessary resources to allow implementation.	Our response - Officials are continuing to examine a number of options in relation to the commencement of legislation for the review of old mineral permissions (ROMPs). Councils do, however, have a broad range of other enforcement powers available under the Planning Act (NI) 2011 where they believe a developer is operating outside the terms of a permission. Councils remain best placed to investigate such planning matters and have a responsibility to do so. Proposed Action: The Minister is to consider options on the way forward with regards to ROMPs early in 2022.

Table 5

Part 5 Enforcement	Assessment
(PT5-1) Relevant authority for Enforcement You said – A cross-section of councils, business and academia are of the view that planning enforcement should rest with the authority which granted the relevant approval, while several individuals contend that enforcement should not be a discretionary function, nor where it is only expedient to do so. Some also believe that cost recovery	Our response – Guidance on planning enforcement is set out in Enforcement Practice Notes 1-4. The vast majority of planning functions, including that for planning enforcement rests with local councils. The Department has parallel powers with regards to certain functions, including issuing of enforcement notices (section 139). The Department's parallel enforcement powers can be used where it is considered expedient

could further incentivise appropriate action by planning authorities. Councils have suggested that the Department should take responsibility for enforcement action where necessary (extending to applications for Reserved Matters approval, and discharge of conditions) where it was the determining authority, and these should not rest with councils.	in circumstances where, for example, a council has failed to issue enforcement or stop notices (and not before consulting the appropriate council). The potential need for the enforcement of matters connected to decisions previously issued by the Department, is a discretionary function of councils, taking account of the merits of the case, and other relevant planning matters, and is only likely to extend to a small number of cases. The approach to planning enforcement here is modelled on that in other jurisdictions, where planning enforcement is exercised as a discretionary function. Planning authorities will, in deciding to take appropriate action, be guided by the key enforcement objectives, as set out in the SPPS¹⁴, and will do so having regard to the provisions of the Local Development Plan and any other material considerations. In its considerations, a council may include matters such as: whether the breach of planning control would be clearly contrary to planning policy or unacceptably affect public amenity (including road safety and nature conservation issues) or the existing use of land and buildings meriting protection in the public interest; the extent of the breach; the willingness of the offender(s) to remedy the breach of control voluntarily or through negotiations; and the statutory time limits for taking enforcement. Enforcement action against a breach of planning control may be taken when a council regards it as expedient to do so. Whilst not formally defined, expediency is taken as a test of whether an unauthorised development or activity is causing unacceptable harm
---	--

¹⁴ These key objectives are as stated in paragraph 5.57 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) September 2015

	to the environment and / or public amenity, having regard to the provisions of the local development plan and to any other material considerations. It would be appropriate for councils, in determining what (if any) enforcement action is to be taken, to give priority to those breaches where in a council's opinion the greatest harm is being caused. It is considered good planning practice that any action taken against a breach of planning control shall be proportionate to the breach.¹¹ Proposed Action: The Department is not persuaded of the need to change the approaches to planning enforcement but will keep these matters under review.
(PT5-2) Digitization in the Planning System You said – Some councils and academia suggested that legislation should permit the electronic service of enforcement and other similar notices.	Our response - Calls to better utilise digital / online means of consultation and communication in the planning system overall featured strongly in the responses to the call for evidence. Section 239 of the Act provides for the service of notices and documents by means of electronic communications however this currently excludes enforcement notices, stop notices, planning contravention notices etc (see section 239(3)). This matter could be considered within the context of a broader examination of enhanced digitization in the planning system. Such a proposal if taken forward would require policy development, public consultation and amendment to primary and/or subordinate legislation and guidance. A new Regional Planning IT System is currently being developed which will provide a modern system to the Department and the 10 councils when it goes operational. It will deliver new services to the

	public who will be able to submit planning applications on-line as well as via the normal routes. The new system is due to be operational summer 2022. Proposed Action: The Department will work with stakeholders to determine the potential use of online / digital communication in planning enforcement. This can be undertaken within the context of a broader examination of enhanced digitization in the planning system.
(PT5-3) Fixed Penalty Notices (FPN) You said – A majority of councils and some individuals suggested that FPNs are punitive only, and would be better applied to unauthorised signage/advertisements.	Our response - Sections 153 and 154 enable a council to issue a fixed penalty notice for the offences of failure to comply with an Enforcement Notice or Breach of Condition Notice, offering the offender an opportunity to discharge any liability for the offence without having to go to court. FPNs are intended to provide planning authorities with an alternative process, in addition to the current option to seek a prosecution, to address situations where a person has failed to comply with the requirements of an enforcement notice (EN) or a breach of condition notice (BCN).The majority of ENs and BCNs issued by planning authorities are complied with; however there are occasions where they are not. By paying the penalty imposed by the FPN, the person will discharge any liability for prosecution for the offence. They will not however discharge the obligation to comply with the terms of the EN or BCN and the planning authority will retain the power to take direct action to remedy the breach and recover the costs of such work from that person.

	This approach to FPN mirrors that in other jurisdictions and provides councils with an alternative means of remedy. Advertisements Section 175 of the 2011 Act allows a council to deal with enforcement of advertisement control. On conviction for display of an advertisement contravening regulations made under section 130 (i.e. control of advertisements), a person is liable to a fine not exceed level 4 of the standard scale (£2500). In the case of a continuing offence, the fine will not exceed one tenth of level 4 (£25) for each day during which the offence continues after conviction. Within this context, respondents are of the view that the application of FPN to advertisement controls would be a proportionate response to potentially better address the issue. Proposed Action: The Department will explore the possibility of applying FPNs to advertisement control. Any changes, if taken forward will require amendment to primary and/or subordinate legislation.
PT5-4 Unadopted Roads / Private Streets Determinations (PSD) You said – Some councils suggested the introduction of a mechanism so councils can take enforcement action to deal with un-adopted roads. Alternatively, the planning process should not be used to deal with matters that are for other regulatory regimes.	Our response: - The Department would not be in favour of removing the PSD from the planning process. The Private Streets (NI) Order 1980 is inter-linked to the Planning Act, and separating the two would create a two stage approval process. While doing so may shorten the process time for relevant planning applications, it would likely lengthen the overall time required by developers to subsequently obtain the requisite PSD approval and begin development. There is also a risk that some developers may not submit a Private Streets Determination post-planning, meaning an agreement and road bond cannot be put in place. On balance it is considered that maintaining the existing link between the planning and PSD process is best for the efficiency of the end to end

	development process, and in terms of ensuring that road layouts are completed in a timely manner. Proposed Action: The Department is not persuaded of the need to amend existing provisions however, it will continue to explore ways of improving the PSD aspect of the process.
--	--

Table 6

Part 6 Compensation	Assessment
(PT6-1) Liability as to Compensation You said – A small number of councils consider that they should not be held liable for compensation for any actions or decisions taken by the Department e.g. if the Department decides to revoke or modify a planning permission then councils should not be liable for any costs.	Our response: The approaches to planning enforcement, including modification, revocation, and compensation here follow those in other jurisdictions, for example: In England, the local planning authority has the power to revoke planning permissions under section 97 of the 1990 Planning Act, but this has to be confirmed by the Secretary of State. In England and Wales the Secretary of State also has the power to revoke planning permission under section 100 of the 1990 Planning Act, and where this is done the liability to pay compensation still falls on the local planning authority, as though it had made the revocation order. Also, the revocation or modification of an unimplemented planning permission is not a routine or common exercise, and a planning authority can take into account the matter of compensation payable should it seek to proceed with such an order.¹⁵ Proposed Action: The Department is not persuaded of the need to change the approaches to compensation.

¹⁵ Health and Safety Executive (Appellant) v Wolverhampton City Council (Respondent) [2012] UKSC 34, 18 July 2012

Table 7

Part 7 Purchase of Estates in Certain Land Affected by Planning Decisions	Assessment
You said – No comments.	

Table 8

Part 8 Further Provisions as to Historic Buildings	Assessment
You said – No comments.	

Table 9

Part 9 The Planning Appeals Commission	Assessment
You said – No comments.	

Table 10

Part 10 Assessment of a Council's Performance	Assessment
(PT10-1) Exercise of powers You said – A small cross-section of respondents including NGOs, business, housing, and other professional bodies requested the Department exercise greater and more regular use of its powers to undertake regular reviews of a council's performance, which in their view would allow shortcomings to be identified and recommendations for improvements to be made. Others, including some councils suggested that the way in which councils planning performance is measured should be reviewed with an emphasis on quality decisions rather than the speed at which an application can be moved through the process.	Our response: Part 10, sections 207- 209 of the Act enables the Department to conduct an assessment of a council's performance or decision making, including an assessment of how a council deals with applications for planning permission and the basis on which determinations have been made. Since the transfer of the Planning function to councils in 2015 the Department has not carried out any assessments under Sections 207-209, however it does monitor the performance of councils through a number of mechanisms including 3 statutory planning performance indicators, which are reported upon quarterly and annually and also a number of non-statutory planning indicators, contained within the Planning Monitoring Framework, which is published annually. All information relating to these indicators is published on the DfI website (see attached links). https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-2019-march-2020 https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-october-december-2020 The Department continuously works in collaboration with Councils and other planning stakeholders across a range of planning issues to discuss and bring forward improvements to the efficiency and effectiveness of the planning system. The issue raised by respondents is about the exercise of these powers and not the structure of powers themselves. The use of powers available to the Department will however, be kept under review as a means to deliver improvements, if appropriate.

	Proposed Action: The Department is not persuaded of the need to change the approaches to the assessment of a council's performance, but will keep this matter under review in the exercise of its functions.
--	---

Table 11

Part 11 Application of Act to Crown Land	Assessment
You said – No comments.	

Table 12

Part 12 Correction of Errors	Assessment
(PT12-1) Correction of Errors You said – Most councils together with a small cross-section of other respondents suggested that Part 12 should be commenced, to include additional provisions to correct errors in conditions.	Our response: See paragraphs 4.5 – 4.6 of this report. Proposed Action: The Department proposes to make a minor amendment at an appropriate legislatively opportunity to remove this anomaly and subsequently commence Part 12

Table 13

Part 13 Financial Provisions	Assessment
(PT13-1) Planning Fees	Our response:

You said – Councils were unanimous in their call for a review of existing fees structure, to include an automatic uplift of fees annually and that they should have the power to apply fees for the discharge of conditions, non-material changes, PADs and other similar consents/applications.	The Department considers 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). Such a review would consider the introduction of new fees with regard to applications to discharge conditions, PADs, non-material changes, retrospective permission etc and would require amendment to the Fees Regulations. Proposed Action: The Department will undertake a general review of planning fees including an automatic annual inflationary uplift, and multiple fees for retrospective applications as part of a wider review of planning fees.
--	---

Table 14

Part 14 Miscellaneous and General Provisions	
(PT14-1) Duty to respond to consultation You said – A small number of respondents consider that the consultation process continues to remain open ended and is impacting on the ability of councils to meet their statutory targets.	Our response: Refer to commentary at Table 3 (PT3-7) – ‘Time period for consultations’. Proposed Action: In conjunction with the recommendation at issue PT3-7 above, the Department will keep under review any consequential changes to this duty.
(PT14-2) Planning Register	Our response: Section 45 of the Planning Act (NI) 2011 (“the 2011 Act”) sets a requirement on the Department and councils to

You said – A small number of respondents including some councils suggested the introduction of provisions similar to Article 40(13) (a) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 with regards to Finally Disposed of Applications which allows planning authorities to “Finally Dispose” of applications where it has not been determined and the statutory time limit for lodging an appeal has expired.	determine an application for planning permission. Article 20 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (“the GDPO”) sets out the periods for determination of council planning applications [16 weeks for ‘major’ applications and 8 weeks for ‘local’ applications]. If a determination has not been made within that period then under sections 58 and 60 (2011 Act) the applicant may appeal to the Planning Appeals Commission. Whilst a council or Department can issue a decision notice to refuse a development proposal on the basis of insufficient information to determine the development proposal, it does not have any legislative framework in place to dispose of ‘old’ applications where both the statutory timeframe and appeal timeframe have passed without a determination being made. As of September 2021, less than half of all councils are dealing with a small number of live, legacy planning applications which over time, will continue to diminish. On the basis of the evidence, the Department is not persuaded of the need for any change to existing legislative provisions. Proposed Action: The Department is not persuaded of the need to amend these provisions.
---	---

Table 15

Part 15 Supplementary	Assessment
-----------------------	------------

You said – No comments.	
--------------------------------	--

Table 16

Other Matters	Assessment
(OM-01) Resources / Training You said – A broad cross-section of respondents including some councils, NGOs, business and renewables sectors have suggested that the Department ensures that adequate resources and training are made available for statutory consultees, PAC, councillors etc, to help in the exercise of their planning functions, to include resources for specialist and shared services with regard to minerals and waste, urban design, habitats assessments, EIA etc.	Our response: The issue of resources and training for consultees and others, is out-with the scope of this review. At the time of transfer of planning functions and the reform of local government necessary resources were made available together with appropriate training with regards to the exercise of planning functions by councils and associated committees. Councils are responsible for resourcing, training and operational performance. Furthermore, the PAC is resourced through the Department of Justice.
(OM-02) Biodiversity Net Gain principles, Net Zero, and Nature Recovery Networks You said – A small number of respondents including NGOs business and renewables sectors have suggested that the Department look to develop additional bespoke environmental legislation, such as is proposed within the Environment and Nature Restoration Private Members Bill including Biodiversity net gain.	Our response: While the Department is of the view that this matter is out-with the scope of this review, furthering sustainable development is at the heart of the planning system and regional planning policy. The Department is committed to ensuring that the planning system plays its part in responding to the climate crisis and that resources are actively focused on measures and actions to support a green recovery from the pandemic. The Planning Act (NI) 2011 and existing regional planning policy and guidance already provide councils with the flexibility to bring forward bespoke local policies for the development of their areas, where appropriate. The matter of additional bespoke environmental legislation is however out-with the scope of this review.

(OM-03) Review extant planning policy You said – A small cross-section of councils, renewables, and professional bodies have suggested that the Department should review the Regional Development Strategy (RDS), Strategic Planning Policy Statement (SPPS) and address the ongoing review of existing planning policy statements (PPSs), on the countryside, minerals etc, as these may have an impact on future local policy development / LDP preparation. Consider allowing the retention of PPSs until such time as a Local Policy Plan is adopted.	Our response: The Department is of the view that this matter is out-with the scope of this review. The RDS is prepared under the Strategic Planning (Northern Ireland) Order 1999. Under that Order the Department is responsible for formulating “in consultation with other Northern Ireland departments, a regional development strategy for Northern Ireland, that is to say, a strategy for the long term development of Northern Ireland”. The RDS provides an overarching strategic planning framework to facilitate and guide the public and private sectors. It does not redefine other Departments’ strategies but complements them with a spatial perspective. The SPPS has a statutory basis under Part 1 of the Planning Act (Northern Ireland) 2011 which requires the Department to formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development. The existing suite of Planning Policy Statements and the remaining provisions of ‘A Planning Strategy for Rural Northern Ireland’ will be cancelled when all eleven councils have adopted a new Plan Strategy for the whole of their council area. Both the RDS and SPPS are subject to periodic reviews to ensure they remain appropriate over time and can respond to new and emerging issues or challenges. Proposed Action: The Department will, in the exercise of its functions, continue to keep extant planning policy under review.
(OM-04) Measurement of Planning Performance (Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015)	Our response: This issue is out-with the scope of this review. The Department monitors the performance of Councils through a number of mechanisms including 3 statutory planning performance

You said – A small number of councils, together with some from the business and professional sectors consider that the way in which planning application performance is measured should be reviewed. Respondents suggested that the approach in GB of measuring the percentage of applications determined within the statutory target should be adopted, and that Statutory Performance Indicators should be reviewed to take account of quality decisions rather than the speed at which an application can be moved through the process.	indicators, which are reported upon quarterly and annually and also a number of non-statutory planning indicators, contained within the Planning Monitoring Framework, which is published annually. All information relating to these indicators is published on the DfI website (see attached links): https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-2019-march-2020 https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-october-december-2020 Any changes to the way in which council's performance is measured would require amendment to the Measurement of Planning Performance (Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015. Proposed Action: The Department will keep this matter under review.
(OM-05) Infrastructure Commission / Independent Planning Body or Regulator You said – A small number of respondents from business, renewables and political spectrums suggested the establishment of an independent body to decide on regionally significant planning applications. Some individual respondents further contend that such a body should not pre-exist a commission with regards to climate and biodiversity, and that the Department should also establish a 'Planning Regulator' to operate an independent oversight role of the planning system.	Our response: While such matters are out-with the scope of this review, the Minister has for some time now, been engaging with Executive Colleagues on the need for a better, longer term approach to infrastructure planning and delivery here and is pleased that the recommendation of her own Ministerial Advisory Panel on Infrastructure, that an Infrastructure Commission should be established here and a key action in the Executive's Covid-19 Recovery Plan will now be progressed in a positive way via a cross-departmental working group, led by TEO (see link below). Minister Mallon continues to offer her support and that of her officials to this group and hopes that rapid progress can be made with this work.

	https://www.infrastructure-ni.gov.uk/news/ministerial-advisory-panel-infrastructure-present-report-minister Part 9 of the 2011 Act provides for the continued governance arrangements of the Planning Appeals Commission including its senior structure, impartiality and administration. These provisions were transferred to the Department for Justice by the Departments (Transfer of Functions) Order (NI) 2016. With regards to the small number of planning applications deemed regionally significant and dealt with by the Department, the independent PAC may consider these, if requested, by way of either a public local inquiry, or notice of opinion called / served by the Department.
(OM-06) Belfast Metropolitan Area Plan (BMAP) Status You said – A small number of respondents including some councils and political representatives requested the department provide clarification on the status of the BMAP, (and Joint Ministerial Statement on prematurity) with clear guidance as to how competing area plans should be weighted by each local authority.	Our response: Such matters are out-with the scope of this review. Draft BMAP and all representations received to it, together with the Planning Appeals Commission inquiry reports, continue to be material considerations to be weighted by the decision maker in the determination of planning applications. Draft BMAP also provides a more up to date evidence base for the creation of local development plans by councils. The Minister is exploring with officials the most appropriate way forward with draft BMAP. The Joint Ministerial statement issued in 2005 by the then DOE and DRD Ministers on the importance of emerging development plans in deciding planning applications, has not been superseded or rescinded.
(OM-07) New Strategic Infrastructure Order – Some respondents within the renewables / electricity sectors requested the introduction of ‘Strategic Infrastructure Order’, to deliver energy projects which contribute to or	Our response: This matter is out-with the scope of this review. [Please see comments above in relation to an Infrastructure Commission].

connected with the delivery of renewable energy or net zero carbon targets, via an accelerated / simplified planning process.	
(OM-08) Planning Judicial Reviews You said – A small cross-section of public representatives and business suggested the establishment of a dedicated Court to deal with planning related Judicial Reviews.	Our response: This matter is out-with the scope of this review. Consideration of the need for, and establishment of a new dedicated court for planning related judicial reviews would be for the NI Executive to determine in conjunction with the Department of Justice and Department for Infrastructure (as it would involve more than one NI department).
(OM-9) Planning Processing Agreements (PPA) You said – A cross-section of respondents including business, renewables and private practice suggested the introduction of PPAs into legislation. Respondents are of the opinion that an agreed PPA between Councils / the Department and applicants would set out the roles and responsibilities of all parties, possibly including penalties for failure to adhere to the pre-agreed schedule for determination of an application.	Our response - A planning processing agreement is a project management tool. It sets out the key processes involved in determining a planning application, identifying what information is required from all stakeholders' involved and setting timescales for the delivery of various stages of the process. Processing agreements set out a route to a decision on an application, not necessarily to an approval. These are available to planning authorities in Scotland in relation to major applications or for local developments that are complex, involve legal agreements, or are likely to be contentious or require amendments to be made to the proposals during their processing. The main purpose of the agreement is to provide clarity to all parties involved in the determination of the application of their responsibilities and to establish realistic timescales for processing the application. The Scottish Government has actively promoted the use of processing agreements as a project management tool for planning applications for a number of years

	PPAs are linked with PADs and other forms of early engagement between applicants and the planning authority. As a management tool it would not require statutory provision, however introducing PPAs in NI would require significant engagement and consultation amongst all stakeholders, particularly agreement with statutory consultees. The introduction of processing agreements would involve additional administrative burdens to councils and the Department. Councils would therefore need to be consulted on this option. While they may be encouraged elsewhere they are not mandatory, and would likely only be particular to a relatively small number of applications in Northern Ireland. Furthermore, the Department does not consider the introduction of fines or penalties to be beneficial for what would be a non-statutory management process tool. Proposed Action: The Department will keep under review.
(OM-10) Consistency between terrestrial planning and Marine Planning regimes You said - The Planning Act should be amended to ensure consistency with marine legislation (Marine and Coastal Access Act 2009 and the Marine Act (Northern Ireland) 2013) with regard to decisions affected by marine plan/marine policy documents.	Our response – The UK Marine Policy Statement (MPS) acknowledges that in achieving integration in marine and land-use (terrestrial) planning systems, policy and development plan documents already include policies addressing coastal and estuarine planning. Marine policy guidance and plans seek to complement rather than replace these, recognising that both systems may adapt and evolve over time. It should be noted that in many cases the policies reflected in this MPS are already taken into account in the terrestrial planning system (including land-use planning decisions) and other consenting regimes which affect or might affect the marine area unless relevant considerations indicate otherwise¹⁶.

¹⁶ <https://www.legislation.gov.uk/nia/2013/10/section/8>

	The draft Marine Plan for NI has been developed to support and complement other existing legislation, policies, plans and strategies, also taking account of Local Development Plans (LDPs). Equally, the Planning Act 2011 requires councils in preparing LDPs to take account of such other matters as the Department may prescribe or direct, and to have regard to such other information and considerations as appear to the council to be relevant which can include a Marine Plan affecting the particular area. In this respect, there exists a degree of integration between both regimes. Proposed Action: The Department is not persuaded of the need to amend the Planning Act in this way. (See also to PT2-3)
(OM-11) Retrofit / Reuse of existing buildings You said - Rather than demolishing and rebuilding new, the Department should consider promoting the reuse of existing buildings to assist towards a reduction in carbon emissions and to reduce the construction industry's consumption of resources.	Our response – The reuse and retrofitting of existing buildings as opposed to new builds, falls outside the scope of the this review. Existing policy (SPPS) makes provision for the re-use and adaptation (or 'retrofitting') of existing buildings and specifies that the planning system should help to mitigate and adapt to climate change by, among other things, <i>"promoting sustainable patterns of development, including the sustainable re-use of historic buildings where appropriate"</i>. It also makes specific provision for the conversion and re-use of existing buildings in the countryside for residential and a variety of other non-residential uses; and, for certain farm diversification

	schemes where proposals involve the re-use or adaption of existing buildings. In addition, regional policy supports the re-use of existing buildings in a number of scenarios, including listed buildings, where redevelopment would “secure the ongoing viability and upkeep of the building”. Also, the Planning (Use Classes) Order (NI) 2015 can help by prescribing the circumstances where a change of use is not regarded as involving development, where the former use and new use are both within the same class specified in the Order.
--	--



Regional Planning Governance & Legislation

To:
Council Heads of Planning

James House
2-4 Cromac Avenue
The Gasworks
BELFAST
BT7 2JA

Tel: 0300 200 7830

Email: rosemary.daly@infrastructure-ni.gov.uk
julie.maroadi@infrastructure-ni.gov.uk

Your Ref:
Our Ref: DFIPG 018/26

22 January 2026

Dear Colleagues

SECOND REVIEW OF THE IMPLEMENTATION OF THE PLANNING ACT (NI) 2011

The Department for Infrastructure has commenced preparatory work with regards to its second report on the review of the implementation of the Planning Act (NI) 2011 (the Act) as required by section 228(1)(b) of the Act. The purpose of this review (like the first) is to ensure continued oversight of the legislative framework underpinning the two-tier planning system, and to assess whether it remains appropriate and fit for purpose going forward in accordance with the associated Review Regulations¹.

The Department is required to publish the second review report within 5 years of the first report, which was published in January 2022². The second review report is therefore to be published before end of January 2027. The report deals with the implementation of the Act and is not an examination of the performance of the overall two-tier planning system.

The Review Regulations specify that a review must: consider the objectives intended to be achieved by the Planning Act; assess the extent to which those objectives have been achieved; and assess whether it is appropriate to retain, amend or repeal any of

¹ [The Planning Act 2011 \(Review\) Regulations \(Northern Ireland\) 2020](#)

² [Review of Planning Act \(NI\) 2011 | Department for Infrastructure](#)

the provisions of the Planning Act or subordinate legislation made under the 2011 Act, in order to achieve those objectives.

Given the councils' role in the implementation of the much of the Planning Act (NI) 2011 and associated subordinate legislation, I would very much appreciate your assessment, (in accordance with the Review Regulations), as to whether it would be appropriate to, amend or repeal any of the existing provisions, supported if possible, with additional information and/or evidence where available, including operational experience. A response at your earliest convenience but by 20th February 2026 would be very much appreciated.

In engaging with you at this time, the Department is seeking to build upon its existing body of evidence to assist the review, with a focus on supplementing that provided by Heads of Planning in response to the 2021 call-for-evidence associated with the first Review Report. Therefore, the focus of this second review is to bring forward any additional comments you wish to make.

For information, the Department has written similarly to other NI Departments and the Planning Appeals Commission which have responsibility for and/or exercise certain functions under the Act.

Regarding the broader picture and looking to the future, I can advise that the Department has commenced a scoping exercise to consider what the future of the planning system will look like in terms of regional and strategic planning policy, and a potential future Planning Bill. The former will explore whether our strategic 'framework', including the Regional Development Strategy, remains fit for purpose, while the latter will seek to advance issues that have emerged in recent years, through various reports and processes (including the planning improvement agenda and first review report), that can only be addressed through a change to primary legislation. In line with best practice, the Department will be looking to the other jurisdictions and their recent legislative and policy reforms for shared learning, and perspective on what is the best fit for our regional planning system.

I would also be happy to meet with you on this matter should you feel, this would be beneficial.

I look forward to hearing from you.

Yours faithfully



ROSEMARY DALY
Chief Planner & Director



Regional Planning Governance & Legislation

Ann McCullough
Chair Councils' Heads of Planning
ann.mccullough@ardsandnorthdown.gov.uk

James House
2-4 Cromac Avenue
The Gasworks
BELFAST
BT7 2JA

Tel: 0300 200 7830

Email: rosemary.daly@infrastructure-ni.gov.uk
julie.maroadi@infrastructure-ni.gov.uk

Your Ref:
Our Ref: DfIPG - 018/2026

04 February 2026

Dear Ann

SECOND REVIEW OF THE IMPLEMENTATION OF THE PLANNING ACT (NI) 2011

I refer to previous correspondence to Councils Heads of Planning (HoP) in relation to the above and the timeframe for receipt of a response. A number of councils have also queried the timeframe for responses.

I would like to take this opportunity to clarify that the suggested timeframe referred to was intended to help maintain momentum and keep the process focused. That said, the Department fully recognises that councils will need sufficient time to engage with relevant Directors and Members, as appropriate. We understand the need for flexibility and are more than happy to accommodate this, as we very much value your input. In this respect a collective response from the HoP by the end of March would suffice.

Similarly, I would also like to reassure councils that any response at this stage does not need to restate issues or aspects already identified during preparation of the first Review Report. These remain fully documented, continue to be relevant and will be carried forward as part of this review. This current process is intended to focus only on any new matters that may have emerged since the first review and the intervening period.

Please feel free to keep us updated in due course, and I look forward to hearing from you.

Yours sincerely

A handwritten signature in cursive script that reads "Rosemary Daly".

ROSEMARY DALY
Chief Planner & Director

cc Shane Mathers