

ARDS AND NORTH DOWN BOROUGH COUNCIL

20 March 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 31 March 2026 (April 2026 Committee)** commencing at **7.00pm**.

Yours faithfully

Susie McCullough
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 March 2026 (Copy attached)
4. Planning Applications (Reports attached)

4.1	LA06/2021/1476/F	<p>Residential development comprising 29 No. dwellings (comprising 25no. detached and 4no. semi-detached dwellings), including garages, open space, and landscaping, access, internal road network and all other associate site and access works.</p> <p>Lands to the NW of Kiltonga Industrial Estate, SW of Belfast Road and South of Milecross Road, Newtownards</p>
4.2	LA06/2020/0844/F	<p>Upgrade to existing football ground to include the replacement of the existing grass pitch with synthetic surface, fencing and floodlighting along with replacement changing pavilion, additional car parking spaces and associated siteworks. Widening of existing vehicular access lane. partial demolition</p>

		and making good of garage at No. 8, relocation of vehicular entrance to No. 8 and construction of new perimeter walls to match existing at 4, 6 and 8 New Harbour Road to provide visibility splays Football ground to the rear of no. 8 and 10 New Harbour Road, Portavogie
4.3	LA06/2025/0992/F	12no. Dwellings (Change of house type E from approval W/2003/1085/F) Site approximately 75m North of 62 Green Road, Conlig, Bangor
4.4	LA06/2024/0222/F	Demolition of existing dwelling and erection of 2no. dwellings and 1 no. detached garage 31 Old Cultra Road, Hollywood
4.5	LA06/2025/0405/F	Retrospective change of use from bookmakers to hot food unit. Proposal includes retrospective installation of extraction vent to rear, alterations to the front and rear elevations and increase in ridge height of rear return Bet Smith Bookmakers, 61 Castle Street, Comber
4.6	LA06/2023/2108/F	Two agricultural buildings (retrospective) and erection of one agricultural building (proposed). 50m West and 88m NW of 17 Abbacy Road, Portaferry

Reports for Approval

- 5. Report on the Second Review of the Implementation of the Planning Act (report attached)
- 6. Request for Monies for Emergency Repairs to property in Millisle (report attached)

Reports for Noting

- 7. Planning Appeals Update (report attached)

- 8. Quarterly Update on Tree Preservation Orders and Works Requests (report attached)

*****In Confidence for Noting*****

- 9. Quarterly Update on Enforcement Proceedings (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)

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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 March 2026 at 7.00 pm.

PRESENT:

In the Chair: Councillor McClean

Aldermen: Graham McAlpine
McDowell (Zoom, 19:38) McIlveen Smith

Councillors: Cathcart Harbinson
Hennessy (20:08) McKee (Zoom) Morgan
Kendall (Zoom, 19:02) Smart Wray

Officers: Director of Place and Prosperity (B Dorrian), Head of Planning and Building Control (A McCullough), Senior Professional and Technical Officer (C Rodgers) Senior Planner (A Todd) and Democratic Services Officer (S McCrea)

1. APOLOGIES

Apologies for lateness had been received from Councillor Hennessy. An apology for inability to attend had been received from Councillor McCollum.

2. DECLARATIONS OF INTEREST

No Declarations of Interest were made. Members were reminded of their ability to make a declaration at any time during the meeting.

3. MATTERS ARISING FROM THE PLANNING COMMITTEE MINUTES OF 03 FEBRUARY 2026

PREVIOUSLY CIRCULATED:- Copy of the above.

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

[Councillor Kendall joined the meeting via Zoom at 19:02]

4. PLANNING APPLICATIONS

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4.1. LA06/2021/1476/F – ITEM WITHDRAWN**4.2. LA06/2024/0104/F – NEW FOOTBALL STADIUM FOR ARDS FOOTBALL CLUB, 100M EAST OF NEWTOWNARDS AIRPORT, 61 PORTAFERRY ROAD, NEWTOWNARDS**

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Newtownards

Committee Interest: Major Application

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.

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

Recommendation: Grant Planning Permission

The Senior Professional and Technical Officer advised that the application sought full planning permission for a new stadium for Ards Football Club at 61 Portaferry Road in Newtownards. The application was before committee as it was a Major application. The recommendation was to grant planning permission.

As shown on the extract from the Development Plan, the site was within the settlement limit of Newtownards, and was zoned as existing amenity open space and recreation. The site location plan identified the site outlined in red. The route of the community Greenway extended through the site to connect to the Floodgates walking path.

Surrounding land uses included Ards Airport; leisure facilities, multiple sports pitches, retail development and a nursing home. Overall the site was located within an established recreational and urban setting.

The stadium had been designed to meet NI Football League Premiership standards, and would provide facilities for players, officials, and spectators.

The development included:

- Two new spectator stands,
- Matchday facilities,
- Offices,
- Function space,
- 2X Vehicular entrances
- Car parking, and
- A 3G Pitch with 24m-high Floodlights.

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The stadium would have capacity for up to 2000 spectators. Under the terms of the Club's lease with the Council, the car park would be made available for general public use when not in use for senior matches.

The elevations of the main stand illustrated its overall scale, massing and architectural design. The stand had a contemporary profile with a maximum height of 10.6metres. Officers were satisfied that the scale and design were appropriate within this established recreational and urban context.

The internal layout included matchday facilities; hospitality and administration areas. Elevations of the away-stand showed its modest scale, with a height of approximately 4.2metres. A conceptual image had been provided for illustrative purposes, to help Members visualise the completed development.

In addition, a series of photomontages had been prepared to demonstrate how the stadium would appear within its surrounding context. The first photomontage showed the approach when travelling along Portaferry Road towards the town centre whilst the following image illustrated the view of the stadium when travelling south along Portaferry Road.

Existing roadside vegetation was to be retained, with additional new structural planting to soften views of the development and further integrate it into its surroundings.

Finally, the view from Floodgates public path illustrated how the development would appear from the shore of Strangford Lough. The visual impact of the proposal had been carefully assessed and was considered acceptable. Officers were satisfied that the development would not result in unacceptable visual harm.

Principle of Development

The site was designated as amenity open space and recreation. The proposed stadium aligned with this designation and enhances the existing recreational value of the site. The development complied with Policy OS 4 of PPS 8, which supported intensive sports facilities within settlements, subject to environmental and amenity considerations.

Residential Amenity

The nearest dwelling was approximately 120m from the site. Noise and lighting assessments had been carried out and Environmental Health had raised no objection subject to mitigation being secured by condition. Officers were satisfied that, subject to conditions, the development would not result in unacceptable harm to residential amenity.

Nature Conservation

The site was hydrologically linked to designated sites associated with Strangford Lough. NIEA Natural Environment Division and Shared Environmental Service had considered the application and raised no objections, subject to mitigation relating to pollution prevention, water quality monitoring, and habitat protection. The proposal

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was compliant with natural heritage policy subject to planning conditions to secure this mitigation.

Access, Traffic and Parking

The site was highly accessible, located close to public transport routes, pedestrian footpaths and the community Greenway. A detailed Transport Assessment had been submitted, including baseline traffic surveys, junction analysis and modelling based on a worst-case scenario. The assessment concluded that the surrounding road network had sufficient capacity to accommodate traffic generated by the development.

Right hand turning lanes at both access points would assist traffic flow. A total of 268 car parking spaces with additional coach parking were to be provided. The development would operate in accordance with a Travel Plan to promote sustainable travel. It included event management mitigation for high attendance fixtures, including additional off-site parking, matchday stewarding and signage. DfI Roads had reviewed the supporting information and had provided no objection to the proposal subject to mitigation being secured by condition.

The flood risk and drainage assessment had been reviewed by DFI Rivers and no objection had been raised. Drainage measures, including attenuation tanks and filtration systems, were proposed to mitigate flood risk and prevent environmental harm.

Representations

One letter of objection was received, raising concerns about visual impact, traffic and parking. These matters had been addressed in detail in the Case Officer Report, with mitigation measures secured through conditions.

Conclusion

The proposal represented the delivery of a new, purpose built stadium that would allow the Ards Football Club to return to its hometown. The stadium provided modern, fit for purpose facilities which would encourage wider participation in sport.

The proposal would deliver meaningful sporting benefits while addressing key planning considerations such as residential amenity, nature conservation, visual impact, access, parking and flood risk.

RECOMMENDED that planning permission is granted, subject to the conditions set out in the COR.

Alderman McIlveen noted that the travel plan and parking impacts had been a focus for him when reading the report. He recalled that the plan had been submitted to the Department for Infrastructure, which had raised no concerns. Although the Council had not received the Department's response before the meeting, confirmation had since been provided that they were content with the proposals. He highlighted that maximum-capacity parking demand would occur only on certain match days and that

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the travel plan referred to stewarding arrangements for those busier occasions. He asked for further detail on how traffic would be redirected and where any overflow parking would be located.

The Senior Professional and Technical Officer confirmed that the travel plan included a range of mitigation measures and identified several potential parking sites, including local schools whose principals had agreed in principle to participate. She emphasised that the plan did not rely on a single measure but a combination of approaches and also advised that an enforcement mechanism had been incorporated. If ongoing monitoring showed that the plan's objectives or targets were not being met, no further events exceeding 800 spectators could proceed until a revised travel plan with additional mitigation had been agreed with the Council. She stated that this provided an important safeguard. Alderman McIlveen added that the club would be motivated to minimise any inconvenience to local residents as they returned to playing within the town, and he indicated his willingness to make the proposal.

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

Alderman McIlveen remarked that the application had been awaited for quite some time and that it was important to ensure it met the relevant policy requirements. He again referenced the key considerations related to its traffic and travel plans, both of which had addressed the concerns previously raised. He expressed his satisfaction that the proposal had reached this stage with a recommendation to grant approval and hoped it would progress to development.

Councillor Smart agreed with Alderman McIlveen's comments regarding the development and the robustness of the traffic plan. He noted that the area was busy and was likely to become even busier in future. He reflected on the long history of the application and the strong support it had received. He welcomed the opportunity to see the site brought back into use for the benefit of the town, recalling that it had historically been a landfill site and had remained unused for a considerable period. There had been indications that the area might once again be used for household recycling, which several members had felt was not the best use given its scenic setting and the development of the incoming greenway.

Councillor Smart recalled how both he and Councillor Kennedy had previously proposed a park for the site, and that this proposal had been amended when interest in the current scheme emerged and was glad to see this had been cited. He thanked officers for their work on the application, noting that the proposal blended well with the environment, was limited in scale, and represented a valuable opportunity with several elements coming together.

Councillor Cathcart sought clarification regarding the function room, noting that the addendum referred to concerns about floodlighting and asking what activities were proposed to take place in the room at night. The Senior Professional and Technical Officer explained that the function room was located internally within the main home stand and was of a small scale, with a corporate area included but ancillary to the primary sporting and recreational use. She stated that it was not envisaged that the room would be used outside those purposes and confirmed that the floodlighting

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related to the pitch, with columns of 24 metres, and that two conditions had been included to control their use: one requiring a verification report demonstrating compliance with the mitigation measures, and another controlling illumination levels throughout the operational period of the development.

Councillor Cathcart sought clarification regarding the proposed function room, noting that the addendum referred to concerns about floodlighting and asking what activities were expected to take place in the room at night. The Senior Professional and Technical Officer explained that the function room was located internally within the main home stand and was of a small scale, with a corporate area included but ancillary to the primary sporting and recreational use. She stated that it was not anticipated that the room would be used beyond those purposes. She confirmed that the floodlighting related solely to the pitch and comprised 24-metre-high columns. Two conditions had been attached to control their use: one requiring a verification report demonstrating compliance with the mitigation measures set out in the lighting assessment, and the other regulating illumination levels during operational hours throughout the lifetime of the development.

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

4.3. LA06/2024/0945/F – SINGLE STOREY DETACHED DWELLING AND ASSOCIATED ENTRANCE, SITE IMMEDIATELY SE OF NO.1 CRAIGANTLET ROAD, NEWTOWNARDS

PREVIOUSLY CIRCULATED:- Case Officer's report.

DEA: Hollywood & Clandeboye

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

Proposal: Single storey detached dwelling and associated entrance

Site Location: Site immediately south and east of No. 1 Craigantlet Road, Craigantlet, Newtownards

Recommendation: Refuse Planning Permission

The Senior Planner explained that Item 4.3 was an application that sought full planning permission for a dwelling immediately southeast of 1 Craigantlet Road, Newtownards. The application had been recommended for refusal on the grounds that it was contrary to policies CTY1, 2A, 8 and 14 of PPS21 and insufficient information had been provided to address Environmental Health concerns regarding the site's proximity to Craigantlet Quarry. The application had been called in by Alderman Graham to allow Committee to further consider the proposal in the context of Policy CTY2a and the issues surrounding the proximity to the quarry.

Site

The site was located in the countryside between 81 Hollywood Road and 1 Craigantlet Road, Newtownards with Craigantlet Quarry located approximately 50m to the south-east.

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The site was visible from both the Hollywood and Craigtantlet Roads with its topography rising up in a southeasterly direction. The first image showed the site at the time of the officer's initial inspection and the second image showed the site as of yesterday (2nd March 2026). As could be seen, excavation and ground works had already commenced on site prior to any planning permission.

Slide 04 showed the site layout for the proposal with access taken from Hollywood Road. Due to the rising topography, ground works would be required to cut into the site and retaining banks were proposed along the southern and eastern boundaries.

Slide 05 showed the floor plan and elevations of the proposed dwelling with the extent of excavation required indicated by the red hatched line on the rear elevation.

The application had been assessed against policies CTY8 - Ribbon Development and CTY2A - New Dwellings in Existing Clusters. The proposal failed to meet Policy CTY8 as there was not a substantial built-up frontage of three or more buildings with only the ancillary building at No.1 Craigtantlet Road and the shed at 81 Hollywood Road having a frontage to the road.

Policy CTY2A allowed for a dwelling at an existing cluster of development provided all six of the listed criteria had been met. The Planning Department was of the opinion that the proposal failed to meet the second criterion which required the cluster to appear as a visual entity in the landscape, the fourth criterion which required the site to have a suitable degree of enclosure and be bound on two sides and the fifth criterion requiring that the development should not alter existing character or visually intrude into the open countryside.

Slide 08 showed an extract from the guidance document for development in the countryside 'Building on Tradition'. This showed examples of clusters of development. All of these were made up of tight cohesive collections of buildings with development on both sides of the road. The area around the application site did not exhibit these features, consisting of a ribbon of four dwellings on the south-eastern side of the road. While there was a shed to the south-east and a church to the north-east, these were each physically separated from the ribbon by over 50m and were therefore not considered to form part of a cluster. There was also no other development on the north-western side of the crossroads and for these reasons, the Planning Department did not consider that the existing development appeared as a cluster which was a visual entity in the landscape as required by criterion 2.

The consideration of whether or not there was a cluster of development that read as a visual entity in the landscape required a visual assessment. The next few slides showed the views towards the crossroads from different approaches. The first view was on approach from the north-east. From here, only the church could be seen with the dwellings at the crossroads partially visible in the distance. Due to the physical separation between the church and the dwellings, there was no sense of a cluster from this viewpoint. Approaching closer to the crossroads, while the dwellings become visible, these represented a single ribbon of development on one side of the road with no development at all on the opposite side of the road which could be said to make up a cluster.

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On approach from the south-west at 60 Dunlady Road, there was also no sense of a cluster, again due to the significant physical separation between this dwelling and the ribbon of dwellings at the crossroads.

Closer to the crossroads on Dunlady Road, the existing dwellings were intervisible with the church in the distance, however this appeared as a ribbon of development on one side of the road with the church physically separated over 50m away on the opposite side of the road. From here, the existing buildings did not represent a cohesive visual cluster of development. From the Holywood Road, the Industrial shed was also not directly intervisible with the dwellings at the crossroads due to the topography and intervening vegetation and there was also no impression of a cluster from this viewpoint.

The final views at the crossroads itself showed the ribbon of development on the southern side of the road rather than a cluster of development around the crossroads. As the Planning Department did not recognise there to be a cluster at this location, it was also considered that the proposal failed to meet criterion 4 of the policy in that the proposal could not be said to be bound on two sides by other development in a cluster.

The site's open field setting, framed by mature trees, also offered a valuable visual relief along the road frontage and within the landscape contributing to the rural character. The site also lay within a Local Landscape Policy Area as proposed in Draft BMAP with the one of the key features being the stand of trees which could be seen in the photographs. These trees were identified in the plan as being locally significant as a feature that contributed to the character of the area. The construction of the proposed dwelling on this site would remove the landscape setting of the trees and obstruct views towards them.

Slide 14 showed an extract from Draft BMAP with the LLPA shaded green. The site was also located immediately outside the settlement limit of Craigtlet as proposed in Draft BMAP and as also included in the adopted quashed BMAP. During the Public Inquiry into BMAP, the PAC considered an objection to the proposed Craigtlet Settlement Limit seeking the inclusion of the land between the Dunlady Road node and the Holywood Road node within the settlement limit, the area in which the proposed dwelling was located. The PAC considered that this would lead to ribbon development along the Holywood Road, that the site was exposed and prominent and therefore it was not included within the settlement limit. Draft BMAP clearly set out that the reason for the settlement limits being drawn around the separate nodes within Craigtlet was to prevent further encroachment into the countryside. The proposal would definitively be at odds with this, resulting in further encroachment into the countryside and would also fail to meet criterion 5 of CTY2A in this regard

As it was likely that the settlement limit would be included in any future adopted plan, significant weight was attributed to this. Given that the existing dwellings were located within the proposed settlement limit, they could not be considered as part of a cluster of development in the *countryside* for the purposes of policy CTY2A.

Regarding matters relating to residential amenity, in its response of 6th October 2024, Environmental Health raised significant concerns in relation to the proximity of the

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proposed dwelling to Craigantlet Quarry. A Noise and Vibration Impact Assessment, Air Quality Impact Assessment and Contaminated Land Impact Assessment were requested, however none of these had been submitted by the applicant. Northstone Quarries had also submitted several representations raising similar concerns with regard to the lack of proper assessment of the potential impact of the established operations of the Quarry on the proposed dwelling. The aerial image on the slide showed the distance of the site from the edge of the Quarry at approximately 50 metres; significantly closer than the other existing dwellings which had separation distances ranging between 82-192 metres. The Health and Safety Executive was also consulted on the application and advised that the site was less than 100 metres from the boundary of an active quarry. The Vibration and Blasting Guidelines (NI) stated that no blasting should take place within 100 metres of any occupied dwelling which was outside the ownership or control of the quarry operator. While the part of the quarry closest to the application site was not currently subject to extraction, there was no evidence to suggest that extraction could not take place again in future within this area. The Planning Department therefore agreed with Environmental Health colleagues that the impact on future occupants must be properly considered prior to any decision being made.

Since the publication of the planning report, a further 28 letters of support had been submitted from acquaintances of the applicant bringing the total number to 41. One letter of objection had also been received from the occupants of No. 1 Craigantlet Road and the concerns raised had been considered in detail in the planning report.

Summary

In summary, the Planning Department did not consider this site to meet the requirements of either policy CTY8 as an infill site or policy CTY2A as a dwelling within a cluster. The existing development at the crossroads comprised a ribbon of development on one side of the road rather than a cluster of development that reads as a visual entity in the landscape. The existing dwellings were also located within the settlement limit of Craigantlet as defined in draft BMAP and therefore did not constitute a cluster of development in the countryside. The acceptance of a cluster would also be likely to open up further opportunities for development at this location resulting in further encroachment into the countryside. Furthermore, the proposal would result in development outside of the proposed settlement limit, creating urban sprawl and a ribbon of development along this stretch of the Hollywood Road. Finally, the applicant had also failed to provide the required assessments to allow proper consideration of the potential impact of the adjacent Quarry operations on the dwelling.

RECOMMENDED that planning permission is refused.

Alderman Graham referred to points made during the Senior Planner's presentation and noted that there appeared to have been an approval for planning permission on the opposite side of the road and asked whether any further information could be provided on that matter. The Senior Planner explained that the approval in question was a historical permission dating back to 2011, which had subsequently been renewed, and that the site lay within the proposed settlement limit of Craigantlet.

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Alderman Graham observed that although the existing quarry was some distance away, the presence of that approval suggested the quarry could potentially shift. The Senior Planner confirmed that the extent of the historical quarry came within 50 metres of the site, and that without further evidence, additional extraction could not currently be carried out there. However, she noted that the planning authority had to assume that such activity could occur and that future planning applications to the north were also possible.

Alderman Graham asked whether any extension of the quarry would require planning permission and requested that the slide showing the surrounding properties at the crossroads be displayed again. The Senior Planner located the relevant photograph from the report and presented it. Alderman Graham then queried whether, if a quarry extension did not require planning permission, a dwelling on Craigantlet Road would also be placed at risk. The Senior Planner responded that the Committee could only consider the proposal before it and assess its specific impacts.

At 19:33, the applicant, Mr Black, represented by Mr Donaldson, joined the meeting and were reminded by the Chair that they would have five minutes to present.

Mr Donaldson stated that the application had been recommended for refusal on two principal grounds: that the site did not fall within a recognised cluster, and that the proposed dwelling would be unsafe for future occupants. He explained that Mr and Mrs Black were local residents who operated a business, and he argued that the first issue had been incorrectly assessed. He referred to Policy CTY 2A, introduced in 2010, which he said made, good sense and which he believed the proposal fully met.

He maintained that the site formed part of a cluster of four buildings close to a crossroads and that it would not harm the character of the countryside. He noted that the proposal would be well screened and not visually prominent, and that it sat slightly apart from the core of the cluster, meaning only the tight grouping at the crossroads needed to be considered. He added that the policy did not require buildings to be located on all sides of a crossroads, arguing that the draft BMAP report had been prepared before the construction of the industrial shed, which he described as a key feature contributing to the cluster's integration. He referred to slide 13, noting that the existing trees would remain.

Turning to the second issue, Mr Donaldson addressed the environmental health concerns. He said the applicant had been asked to provide surveys, but Mr Black was reluctant to incur the associated costs when officers were already recommending refusal on policy grounds. He argued that such surveys were unnecessary in this case. He stated that Mr Black had long worked alongside the quarry, was familiar with its operations, and was content to build beside it. He also pointed out that there were already ten houses in the area, six of which were closer to the quarry than the proposed dwelling. He highlighted that 61 and 69 Hollywood Road lay within 180 metres of the plant and advised that it was the responsibility of the quarry operator to ensure its activities did not harm existing properties. He referred to noise and air-quality information provided by the operator in 2022, which he said confirmed that quarry operations could be carried out without affecting nearby homes. He stated that no exceedances of noise limits were predicted at

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adjacent properties and that air-quality concentrations at nearby houses were below the relevant thresholds and considered not significant. He noted that the plant was already subject to conditions, including a 40 dB daytime limit at No. 1 Craigantlet Road, beside the application site.

Mr Donaldson concluded that the proposed dwelling would be of high-quality materials and design, that Craigantlet was clearly a cluster, and that the adjacent quarry was already required to operate in a way that did not adversely affect existing houses. He argued that the proposal would allow a local business to live beside its place of work and should therefore be supported.

Councillor Cathcart referred to the PAC's decision on the draft BMAP and, noting the visual test for identifying a cluster, highlighted the contention around whether development needed to exist on both sides of the crossroads. He asked for a response to that point and acknowledged that while Mr Black might be content with the proposal, once a house was built it would remain long after the applicant, raising a longer-term concern for planners that stretched beyond the lifetimes of those present.

Mr Donaldson addressed the cluster issue first, stating that the relevant development comprised four houses and the shed on the southern side of the crossroads, with no development immediately opposite on the northern side. He said it was a matter of judgement whether the church was included, but the policy required only that a cluster contain four or more buildings and be associated with a focal point such as a social building and be located at a crossroads. He maintained that Craigantlet clearly met that definition. He added that the policy did not require development on all sides of the crossroads.

Mr Donaldson then turned to the draft BMAP, noting that the examination had taken place in 2008–09 and that at that time, the PAC had not recommended any expansion of the settlement limit. However, he pointed out that the shed had been erected four or five years ago and now formed a strong physical feature adjacent to the group. He suggested that had it existed during the BMAP process, the PAC and others might have considered it as helping to frame the cluster. He also observed that BMAP remained unadopted and was unlikely to progress, with the expectation that the matter would instead be revisited through the Council's own Local Development Plan.

On the issue of safeguards, Mr Donaldson said that Mr Black had long experience of working alongside the quarry and understood its operations. While acknowledging that Mr Black would not be there indefinitely, he stressed that the proposal did not involve building a house in isolation beside a quarry. He noted that there were already ten houses in the vicinity, six of which were closer to the asphalt plant than the proposed dwelling, and that the plant generated the greatest activity. He emphasised that the quarry operator was already required to comply with conditions protecting residential amenity, including those attached to a 2023 permission covering noise limits for nearby properties such as No. 1 Craigantlet Road. He also addressed the suggestion that the quarry might excavate closer to the site, arguing that significant investment had been made in the plant, which lay some 600 metres

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away, and that it was unlikely the operator would move extraction closer to existing houses. He concluded that the proposal needed to be considered in its full context.

[Alderman McDowell joined the meeting via Zoom at 19:38]

Alderman Graham referred to a point in the report noting that, should permission be granted, a condition would require the design and finishes to remain as submitted. He asked whether this would present any difficulty. Mr Donaldson confirmed that it would not, explaining that the application was a full submission with all details before the Council, and that the proposal was for a modest, well-designed bungalow positioned behind 1 Craigantlet Road. He added that they were content with the proposed landscaping and the retention of trees on the higher ground.

Alderman Graham then asked, for the benefit of those less familiar with the location, how the Hollywood Road should be described when travelling from the crossroads towards the quarry, noting that policy sought to protect open countryside and querying how the terrain on the left-hand side should be characterised. Mr Donaldson responded that, for the purposes of the cluster policy, all that was required was the presence of four houses at the crossroads and the applicant's shed. He noted that Craigantlet not only contained this grouping but also included the church, the Orange Hall, six cottages further along, the quarry access, and development on the opposite side of the Hollywood Road. He described the area as one with substantial dispersed development focused around a busy crossroads, and said the proposed dwelling would sit within that context, positioned lower than the shed and adjacent to 1 Craigantlet Road.

Alderman McAlpine asked about the septic tank, noting that it appeared to be on higher ground than the proposed dwelling. Mr Black confirmed that he had already paid for the necessary water services and that the property was fully connected.

Mr Black and Mr Donaldson returned to the public gallery at 19:48. The Chair, Councillor McClean invited questions from members to the officer.

Alderman Graham referenced the issue of ribbon development, noting that the report identified this as a concern. He assumed it related to development along the Hollywood Road and asked whether the presence of the large industrial shed effectively acted as a bookend, making further ribbon development unlikely. On that assumption, he queried how the application site could be considered as contributing to ribboning. The Senior Planner explained that the application site provided a visual break between 1 Craigantlet Road and the shed. The PAC had previously expressed concern that if this land were developed, it would extend ribbon development, as the three buildings would then be visually read together. She added that the shed had been approved on the basis of an earlier Certificate of Lawful Use for a builder's yard, which placed no restriction on the amount or height of stored materials, and this had informed the decision on the shed.

Councillor Morgan asked for clarification on the distance between the proposed dwelling and the quarry, noting that a chart in the report appeared to show approximately 50 metres. The Senior Planner confirmed that the site lay 50 metres from the boundary of the established quarry.

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Alderman McIlveen raised the issue of visual break, noting that although the area plan identified one, the shed had since been constructed. He said that, looking at the maps, the break no longer appeared evident and asked to see the photographs of the area again, commenting that the definition of a cluster was a more important consideration. Following these images being shown to members, Alderman McIlveen asked whether anything in policy required development to be present on both sides of a crossroads, noting that the policy referred only to a cluster being located at a crossroads or associated with a focal point. The Senior Planner advised that while the policy did not explicitly require development on both sides, the test was a visual one; the cluster had to read as a single visual entity when approached from different directions. She stated that, in planning judgement, the pattern of development in this location, if the proposed build was granted, would clearly be ribbon in nature, and that this assessment guided the recommendation.

Councillor Morgan proposed, seconded by Councillor Harbinson, that the Council refuse planning permission.

Councillor Morgan observed that, while Members could debate whether the site constituted a cluster, she did not consider the example sufficiently met the criteria of a cluster. Her principal concern was the site's proximity to the quarry, noting it lay only 50 metres away. She highlighted that Environmental Health had requested further information, which had not been provided, and she considered this a reasonable requirement given the distance involved. Without that information, she felt the Committee could not make an informed decision.

Councillor Harbinson stated that he had nothing further to add other than to share Councillor Morgan's concerns, noting that the proposal failed Policy CTY 2A under criterion 4.

Alderman Graham regarded general opinions that the site was, "*not enough of a cluster but a bit of a cluster,*" as an erroneous position. He considered the proximity to the quarry to be largely irrelevant, explaining that the actual excavation area was significantly further away, closer to 300 metres, and that the asphalt plant sat between the quarry and the application site. He agreed with Mr Donaldson's earlier comments that the scale of investment in the plant made further excavation towards the site unlikely. He disagreed with the officer recommendation, arguing that the area could be treated as a cluster, with the required number of buildings, a crossroads, and a planning approval on the opposite side of the road. He described Craigtantlet as more than a simple crossroads, noting its community features such as the church and Orange Hall, and even referencing its local history. In his view, the area met the criteria for a cluster.

Councillor Cathcart referred to the PAC determination and noted that the shed, which had been built after that decision, materially changed the visual context of the site. He was confused how further information had been requested while the stance already had been for refusal. He felt that the visual test was important and that the shed significantly altered the appearance of the area, making it read more as a cluster. Councillor Cathcart added that drone images taken from height were not reflective of the actual visual experience on the ground. Based on the images from

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road level, he believed the proposal would be relatively well integrated and advised that he would be against the officer recommendation.

Alderman McIlveen agreed, stating that without the shed, the Committee would not even be discussing a cluster. He felt the shed fundamentally changed the dynamic and that the proposal would not contribute to ribbon development, as the site was effectively bookended by No. 1 Craigantlet Road and at the other end, the shed. He said the key question was the potential impact of the quarry. While initially persuaded by the officer’s explanation, he found Mr Donaldson’s presentation compelling, particularly the practical points and the existing reports on noise and air quality. He noted that the quarry’s impact on existing houses in the area was already understood and managed. On balance, he was more inclined to support the application than oppose it, though he acknowledged the finely balanced nature of the decision, concluding that he would vote against the officer recommendation.

Alderman Smith also agreed with Councillor Cathcart and Alderman McIlveen. He felt the shed created a clear boundary for the cluster and noted that planning permission had been granted for a dwelling opposite the site, which further contributed to the cluster effect. While acknowledging the distance between the shed and the proposed dwelling, he considered it a matter of judgement whether the development read as a cluster. Regarding the quarry, photographs and maps clearly showed the true proximity and that the area adjacent to the cluster functioned more as a transport and parking area than an active excavation zone. Given that some existing houses were as close or closer to the quarry than the proposed dwelling, he stated that, in context, he would be minded to support the planning application.

In summing up, Councillor Morgan explained that she was surprised colleagues were overlooking the fact that Environmental Health had requested additional information. She reiterated that the quarry boundary lay 50 metres from the site and that excavation could theoretically occur at that point. She stressed that the necessary information simply needed to be provided so that an informed decision could be made. As it had not been submitted, she believed the Committee had no option but to refuse the application.

The Chair, Councillor McClean asked Members to vote on the proposal to refuse planning permission.

On being put to the meeting, with 7 voting FOR, 4 voting AGAINST, 2 ABSTAINING and 3 ABSENT, the proposal was CARRIED.

The voting was as follows:

FOR (7)	AGAINST (4)	ABSTAINED (2)	ABSENT (3)
Aldermen	Aldermen	Aldermen	Aldermen
McAlpine	Graham	McDowell	
	McIlveen		
	Smith		

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Councillors

Harbinson
Kendall
McKee
Morgan
Smart
Wray

Councillor

Cathcart

Councillors

McClellan

Councillor

Hennessy
Kerr
McCollum

RESOLVED, on the proposal of Councillor Morgan, seconded by Councillor Harbinson, with 7 voting FOR, 4 voting AGAINST, 2 ABSTAINED and 3 ABSENT, that the Council refuses planning permission.

[Councillor Hennessy joined the meeting at 20:08]

5. NIW CLOSED CATCHMENTS

Report from the Director of Place and Prosperity advising that;

1. Subordinate Planning legislation required the Council to consult with Northern Ireland Water (NIW) where a development proposal was likely to significantly impact upon the availability of suitable water and sewerage infrastructure to service development proposals.
2. Members would have been aware of current issues with sewerage infrastructure as described by NIW across Northern Ireland caused by decades of under investment.
3. NIW provided 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 could 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 would have been 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 was 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 sought to boost town centre vibrancy, attract new tenants, increase

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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 had come to the attention of the Planning Service, and also via correspondence forwarded by Kellie Armstrong MLA, that there were a number of 'closed catchments' in the Borough for which no new connections could be permitted (see attached letter from NIW).
7. In relation to the particular property, NIW had advised that there was '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 was drawn to the other attached document which was 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 had been omitted from the download.
9. Members were asked to note that neither Cloughey WwTW nor Killinchy WwTW had any available capacity.
10. Regards information on Closed Catchments, Members were asked to note the information on UIDs. A UID referred to an Unsatisfactory Discharge. This occurred when the discharge from a sewage treatment works did not meet the required standards set by regulations. The Northern Ireland Environment Agency (NIEA) and the Department of Agriculture, Environment and Rural Affairs (DAERA) were responsible for enforcing compliance with these standards, and any failure to meet them could lead to enforcement actions.
11. In addition to the WwTW capacity issues, NI Water had also identified areas of the sewage network in Comber, Donaghadee and Newtownards where developer-funded solutions were no longer possible to achieve a connection to the sewer network. This meant that the Wastewater Impact Assessment process in these areas was no longer able to provide a solution that a developer could implement.
12. NIW had confirmed that the 'closed areas' did not cover all of the towns referenced above, and that it would continue to support developments in these areas where it could be proven that:
 - The site had extant planning with no conditions relating to capacity constraints or

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- The site was a redevelopment and there as 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 was one of the town centres identified in the Empty to Energised pilot grant scheme, with a significant number of vacant properties that the Council was 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 had just published its draft Plan Strategy within which was 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 would not likely meet its growth aspirations.
15. The following was an extract from NIW's 2021-2046 Strategy:

Tipping point

"We are therefore facing a tipping point a 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 vital investment but faces competing pressures from transport infrastructure. Unlike in the rest off 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 cris for this vital infrastructure.

16. Members would have recalled 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 had 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 was 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 have wanted to consider initiating further correspondence with NIW/DFI or inviting NIW representatives to present to Planning Committee on the matter.

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RECOMMENDED that Council Considers its approach in light of the information within the report.

The Head of Planning and Building Control explained that she wished to draw members' attention to issues arising from the recently launched Empty to Energise initiative, which had been prompted by an application brought to the Council's attention through Kellie Armstrong MLA's office. She reminded members that the Council had previously written to the former Minister, and subsequently to the Secretary of State and Permanent Secretary, regarding the position in which NI Water now found itself. Through further investigation, it had become clear that in closed catchments, NI Water would not renew previous connections unless there had been like-for-like use within the past five years or an extant planning permission within that period. She advised members to be mindful of this constraint. NI Water was scheduled to present to members on 5 May at 6pm. Although such presentations were normally made to the Corporate Committee, the matter had significant implications for planning. She noted that the issue related to historic price-control periods and the level of investment required. Members were asked if they would prefer to write again to NI Water or await the forthcoming presentation.

Councillor Smart stressed the importance of the matter, particularly as the Council sought to revitalise town and city centres only to encounter obstacles of this nature. He argued that a delegation should be made to meet the Minister, noting that the situation, combined with what seemed like a lack of awareness around the Local Development Plan and the restrictions on derelict properties, ran contrary to the aims of both central and local government. He suggested that a cross-party delegation would be appropriate.

Councillor Cathcart sought clarification on whether NI Water would refuse a like-for-like replacement where a shop had been vacant for some time, particularly in cases involving a change of use. The Head of Planning and Building Control explained that if a unit had been vacant and the proposed use differed from the previous one, for example, a retail unit changing to a hot-food takeaway, NI Water considered this a different use. If the previous connection had not been active within the past five years, they regarded it as lost. She noted that NI Water assessed whether the proposed use would discharge the same volume to the system, and if calculations showed an increase, the connection would not be permitted. Where no evidence of use within the past five years existed, NI Water were not issuing reconnections.

Councillor Cathcart asked whether a map was available. The Head of Planning and Building Control said a link was included in the report, though it did not allow for detailed zooming. She explained that the Council was discovering the extent of the issue on an ad hoc basis, dependent on the location of each application, and that it appeared to relate to discharges via South Street.

Councillor Cathcart referred to a case on North Street where permission had been granted for apartments on one side of the road, but when the applicant moved to the opposite side, no capacity remained. He noted that options were being explored for a neighbouring barber shop and emphasised the timing pressures involved, particularly for regeneration areas such as Bangor Main Street, where changes of

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use and subdivision of units would be essential. He asked whether the Head of Planning and Building Control was suggesting that the Council write again to NI Water and invite them to Committee.

The Head of Planning and Building Control clarified that NI Water's visit formed part of NIW's annual engagement, during which it normally presented an overview of the year to the Corporate Committee. It had requested to attend on 5 May. She also noted that Bangor was not within the affected catchment area.

The Chair confirmed that Councillor Smart had made a proposal. The Head of Planning and Building Control indicated she was content to agree the relevant subject matter for any correspondence or engagement.

Councillor Smart proposed, seconded by Councillor Morgan, that the Council notes the report and requests the Minister of Department for Infrastructure to accept a deputation of cross-party Members to discuss ongoing concerns.

Councillor Morgan described the situation as appalling, noting that while the Director was working to address derelict buildings and improve the appearance of Newtownards and Comber, NI Water's position meant such regeneration efforts could not progress. She said the situation was hopeless and urged the need for a meeting with the Minister.

Alderman McIlveen referred to an announcement made earlier that day by Andrew Muir regarding SORPI (Statement of Regulatory Principles and Intent) and NI Water, asking whether this would worsen the issue. He noted that although Bangor was not currently in an affected catchment, part of the announcement related to Belfast Lough, which could place Bangor in a similar position. He suggested writing to NI Water for clarification, particularly given the number of permissions already granted subject to NI Water agreement and those still in the system, and asked whether further difficulties were anticipated.

The Head of Planning and Building Control advised that she had read the press release that afternoon and suggested members might wish to refer back to previous papers on the Living With Water Programme and the situation in Belfast Lough. She explained that the scale of discharge entering the lough from the opposite side was significant, and that the lack of funding for upgrades at Kinnegar was a major factor. She noted that NI Water would proceed with connections where extant permissions met the necessary requirements and where developers could provide their own solutions, but some town centre sites could not do this. She was unsure whether the announcement was intended to prompt Executive action, but acknowledged that the issue appeared to be coming to a head.

Alderman Smith supported the proposal to seek a meeting with the Minister. He referred to the report's comments on development funding restrictions and expressed concern that the current Minister did not appear to have a clear plan for addressing the issue. He suggested that developer-funded solutions might be the only option being considered and it was essential to meet the Minister. He noted that NI Water would likely reiterate the scale of investment required and that no funding was currently being offered. He warned that the situation was preventing new

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housing and undermining efforts to support businesses seeking to rejuvenate local areas.

AGREED TO RECOMMEND, on the proposal of Councillor Smart, seconded by Councillor Morgan, that the Council notes the report and requests the Minister of Department of Infrastructure to accept a deputation of cross-party Members to discuss ongoing concerns.

6. WORKSHOP ON RENEWABLES

Report from the Director of Place and Prosperity advising that Members should note the attached letter which set out that as part of the Planning Improvement Programme, the Department, in conjunction with local councils and Renewables NI, was proposing to host a workshop on Renewable Energy on 11 March 2026 as part of capacity building and knowledge development.

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

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

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.

Councillor Harbinson proposed, seconded by Alderman McAlpine, that Council notes the letter and nominates Councillor Morgan to attend the Renewable Energy Workshop alongside Council Officers.

AGREED TO RECOMMEND, on the proposal of Councillor Harbinson, seconded by Alderman McAlpine, that Council notes the letter and nominates Councillor Morgan to attend the Renewable Energy Workshop alongside Council Officers.

[Councillor Wray left the meeting at 20:21]

7. PLANNING AND BUILDING CONTROL SERVICE UNIT PLAN 2026-2027

Report from the Director of Place and Prosperity explaining that Members will have been aware that Council was 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 had in place a Performance Management Policy and Handbook. The Performance Management Handbook outlined 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)

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Performance Improvement Plan (PIP) – published annually
Service Plan – developed annually

The Council’s 16 Service Plans outlined how each respective Service would 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 had been detailed within the attached Service Plan.

Next Steps

Attached was the 2026/27 Service Plan for Planning and Building Control in accordance with the Council’s Performance Management Policy and Handbook.

Plans were 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:

- Had been developed to align with the objectives of the Big Plan (2017 – 2032) and the Corporate Plan 2024 – 2028 and had been developed in conjunction with staff, officers and management, and in consultation with key stakeholders where relevant.
- Set out the objectives for the Service for 2026-27 and identified the key performance indicators used to illustrate the level of achievement of each objective, and the targets that the Service would try to attain along with key actions required to do so.
- Was 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.
- Would 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

RECOMMENDED that Council Approves attached Service Plan for 2026/27.

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

8. PLANNING APPEALS UPDATE

Report from the Director of Place and Prosperity advising of appeals decisions as outlined below.

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 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 is essential at this location.
- b) The proposal was 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 had not been demonstrated that the shed was necessary for the efficient use of the agricultural holding;
 - the shed would not be sited beside existing farm buildings;
 - it did not merit being considered as an exceptional case as it had not been demonstrated that there were no other sites available at another group of buildings on the holding, health and safety reasons existed to justify an alternative site away from existing farm buildings or that the alternative site away from existing farm buildings was essential for the efficient functioning of the business.
- c) The proposal was 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:
 - was a prominent feature in the landscape
 - the site lacked long established natural boundaries or was unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
 - it relied primarily on the use of new landscaping for integration
 - ancillary works did not integrate with their surroundings

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- it failed to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop
- d) The proposal was 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 was 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.

1. 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 <ul style="list-style-type: none"> 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

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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 was 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) did 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 dealt 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

2. 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.

RECOMMENDED that Council Notes this report and attachments.

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

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9. CONFIRMATION OF LISTING

Report from the Director of Place and Prosperity advising that a report had been 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 was to advise Members that the property had since been listed and the signed schedule and map were appended for information.

RECOMMENDED that Council Notes the report and attachments

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

10. SECOND REVIEW OF THE IMPLEMENTATION OF THE PLANNING ACT (NI) 2011

Report from the Director of Place and Prosperity as outlined below;
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 was 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

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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 specified that the Review must:-
 - consider the objectives intended to be achieved by the Planning Act;
 - assess the extent to which those objectives had been achieved; and
 - assess whether it was 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 had also identified parts of the planning system which could be improved, including the time it took for councils to bring forward their respective local development plans and the speed at which major planning applications were 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 could 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 had advised Heads of Planning that it had commenced preparatory work with regards to its second report on the Review of the

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Planning Act (see letter of 21 January 2026 attached), and was seeking input from the planning authorities accordingly.

13. Further to some concern being raised in respect of the timeframe for response, the Chief Planner had 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 was requested by the end of March, it was 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 would be sought from Council at its meeting of 25 March for Planning Committee to approve the response, subject to any amendments instructed.

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.

[Councillor Wray rejoined the meeting at 20:23.]

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

TERMINATION OF MEETING

The meeting terminated at 20:23.

2nd Addendum to LA06/2021/1476/F

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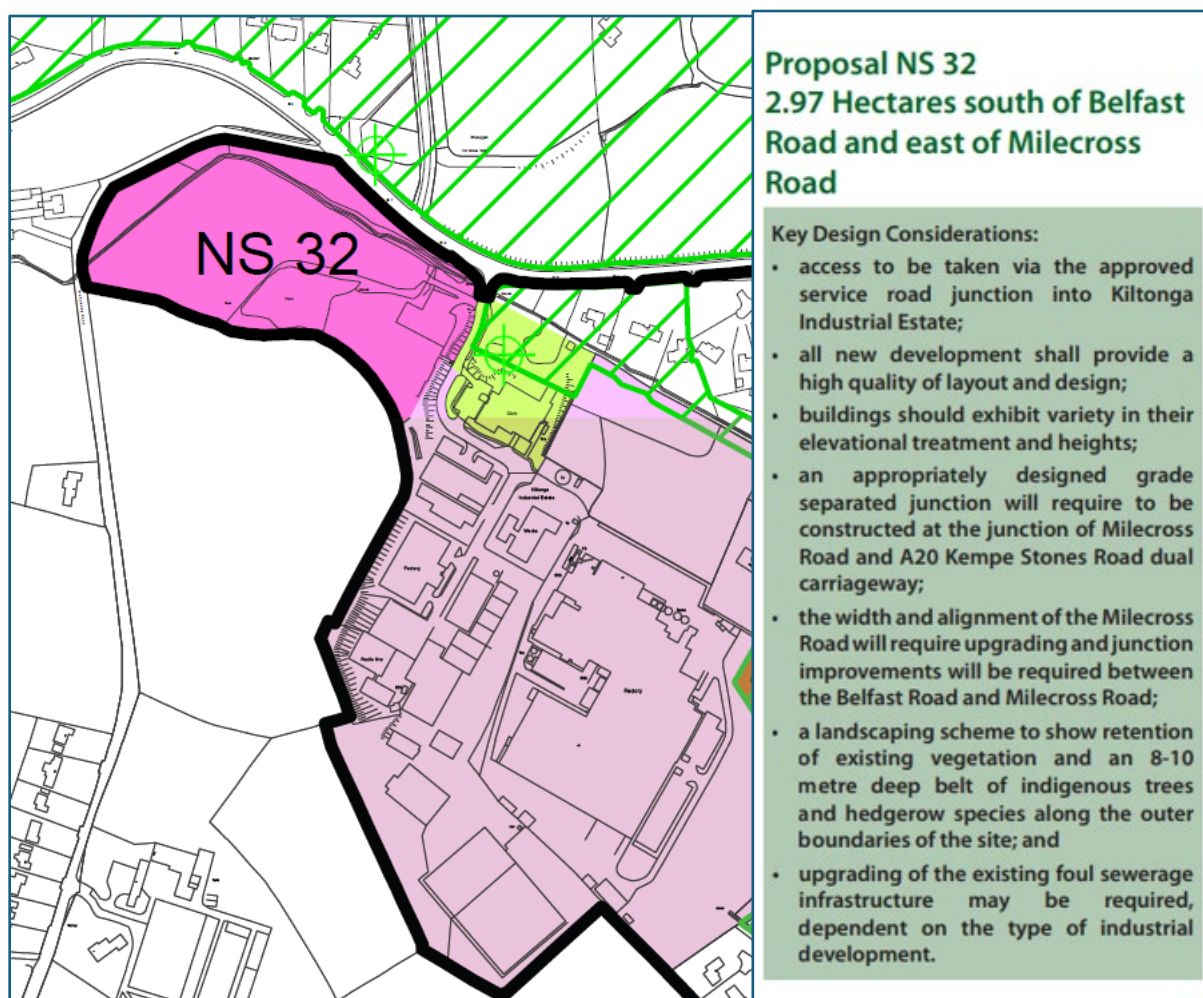
Background

1. This application was presented to Planning Committee on 04 March 2025 with an officer recommendation to grant planning permission.
2. At that meeting, Members resolved to defer determination of this application in order to obtain legal advice in respect of the following matters:
 - i. *the age-related condition and the implications of that condition and the Planning Appeals Commission (PAC) decision; and*
 - ii. *options open to the Planning Committee.*
3. Members also requested further assessment of potential noise and odour impacts arising from the adjacent industrial estate, along with matters relating to pond safety.
4. This addendum should be read alongside the original Case Officer Report and the previous Addendum. It has been drafted following receipt of legal advice, further submissions by the Applicant, and an updated assessment of amenity and safety issues.

Development Plan and Policy Context

5. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the Local Development Plan (LDP) insofar as it is material to the proposal, and to any other material considerations.
6. Section 6(4) of the Act further provides that, where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

7. The Ards and Down Area Plan 2015 (ADAP) is the extant Development Plan for the area. It was published in draft form in December 2002 and following a Public Inquiry into objections to the Draft, was adopted in March 2009.
8. The application site lies within the Newtownards settlement limit and is zoned for industry under Proposal NS 32 of the Plan. The Development Plan sets out key site requirements to support the zoning for industrial use, including the provision of an appropriately designed grade separated junction at the junction of Milecross Road and A20 Kempe Stones Road dual carriageway.



Extract from Newtownards Map / Ards and Down Area Plan 2015

9. ADAP Policy IND 2 supports development on industrial zonings where proposals comply with the Plan.

10. The SPPS (Edition 2) states that planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. There not considered to be any conflict or change in policy direction between the provisions of the SPPS and those of PPS 4 'Planning and Economic Development'. Therefore, PPS 4 remains applicable to the assessment of the application.
11. Policy PED 7 of PPS 4 seeks to safeguard land zoned for economic development and advises that development resulting in the loss of such land to alternative uses will not be permitted, except in limited and clearly defined circumstances.
12. The proposal seeks planning permission for residential development on land zoned for industry, with access taken via the Kiltonga Industrial Estate. As such, the proposal would result in the loss of land identified and safeguarded for industrial purposes. It does not fall within the exceptions set out in Policy PED 7 of PPS4. Accordingly, the proposal conflicts with, and is considered to be contrary to, prevailing regional planning policy. It is also considered to be contrary to the development plan read as a whole.
13. Section 6(4) of the Planning Act says that proposals should be determined in accordance with the development plan unless material considerations indicate otherwise. Accordingly, whilst it has been determined that the proposal is contrary to the development plan, the Council must consider whether there are material considerations which justify a departure from the plan. Such material considerations may include the planning history of the site and any realistic fall-back position.
14. The weight to be afforded to such considerations is a matter of planning judgement for the Council in reaching its final determination.
15. Planning history is a material consideration. The history of the site is detailed in the table overleaf.

Table 1. Planning History

X/1994/0147/O	Hotel	Approval 10/03/1995 Pre-dates ADAP
X/1998/0073/O	Hotel (renewal of outline permission)	Approval 11/12/1998 Pre-dates ADAP
X/2003/0575/F	Variation of Condition No 1 of X/1998/0073 - date of Reserved Matters application extended for 2 years until 11/12/03	Approval 16/10/2003 Post Draft ADAP Site outside Newtownards Development Limit
X/2003/1417/RM	Hotel (13 beds)	Approval 05/08/2005 Post Draft ADAP
X/2011/0347/F	Residential nursing home	Approval 20/09/2012 Post ADAP Adoption
LA06/2017/1029/LDE	Operational works as pre-conditions of X/2011/0347/F	Certificate Granted 14/09/2017
LA06/2018/0589/F	Development of 20 no single storey retirement living dwellings with associated landscaping and site works. Relocation of car park approved as part of adjacent care home permission	Approval 05/09/2019 Conditions 2 & 3 restricted dwellings to over 55's and for nursing home to become operational prior to dwelling occupancy, respectively
2019/A0149	Appeal against condition 3 attached to LA06/2018/0589/F - None of the approved dwellings to be occupied until adjacent Nursing Home, approved under X/2011/0347/F has been constructed and is operational.	Appeal Upheld 06/04/2020 Condition 3 requiring nursing home to be operational prior to occupancy removed on basis that proposal is for Class C1 Dwelling Houses and not Class C3 residential institutions

LA06/2025/0312/ CLOPUD	Commencement of dwelling on Plot 20 in form of excavation and pouring of concrete foundations pursuant to LA06/2018/0589/F	Certificate Granted 11/09/2025
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16. As set out in Table 1 the site has an extensive planning history relating to non-industrial development. The site benefits from extant, non-industrial planning permissions for a residential nursing home and 20 single storey dwellings.
17. Council granted planning permission on 05 September 2019 for 20 single-storey retirement living dwellings, subject to conditions. These included Condition 2, which restricted occupation of the dwellings to persons aged 55 years and over, and Condition 3, which required the nursing home to be operational prior to the occupation of the dwellings, extract from decision notice below.

<p>2. The dwellings hereby permitted shall not be occupied other than by persons who have attained the age of 55 years, or the spouse or partner of such persons, including a widow or widower.</p> <p>Reason: To ensure the scheme's contribution towards the provision of accommodation for older people and people in need of care in line with Class C3(a) of The Planning (Use Classes) Order (Northern Ireland) 2015.</p> <p>3. None of the approved dwellings shall be occupied until the adjacent Residential Nursing Home, approved under X/2011/0347/F has been constructed and is operational.</p> <p>Reason: To ensure the dwellings permitted under Class C3(a) of The Planning (Use Classes) Order (Northern Ireland) 2015 can benefit from relevant care services to be provided by the Nursing Home on site.</p>
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18. Condition 3 above was appealed to the Planning Appeals Commission and upheld under 2019/A0149, i.e. removing Condition 3 from the Approval. In reaching its decision, the Commissioner concluded that the approved dwellings fell within Use Class C1(a) 'Dwellinghouses' of the Planning (Use Classes) Order (NI) 2015 rather than Class C3 'Residential Institutions'. The Council did not challenge this decision. It is presumptively valid and must be respected.

19. A Certificate of Lawfulness of Proposed Use or Development has since confirmed the lawful commencement of Planning Permission LA06/2018/0589/F under reference LA06/2025/0312/CLOPUD.
20. Condition 2 was not appealed and has not been the subject of any application for its removal under Section 54 of the Planning Act (NI) 2011. Therefore, it remains in force.
21. The extant planning history of the site for a nursing home and 20 no. Class C1 (a) dwellings (with a restrictive occupancy condition) forms part of the planning history for the application site and is material to the determination of the current application. As set out previously, the weight to be afforded to the planning history is a matter of planning judgement for the Council.
22. In correspondence dated 12 January 2026, Counsel for the Applicant, William Orbinson KC, accepts that the condition remains material to the Council's decision on the current application, but contends that this must be carefully weighed against other material considerations, which, in his view, should logically prevail.
23. In direct reference to the stated reason for condition 2, the correspondence provides that:
 - The rationale for Condition 2 was intrinsically linked to the presence of the approved nursing home;
 - The PAC determined that the dwellings fall within Use Class C1(a) (Dwellinghouses) and not Class C3 (Residential Institutions); and
 - As the nursing home is no longer required to be constructed and become operational, the justification for Condition 2 no longer applies.
24. The Council's Planning Service, having carefully considered the PAC decision, accepts the position that the approved dwellings now appear to fall within category Use Class C1(a) Dwellinghouses and not Use Class C3(a) Residential Institutions. The approved development offers independent living for over 55's but with no requirement for a nursing home to be delivered. In accordance with the principles

set out in *ABO Wind (NI)* [2021] NIQB 96, the PAC decision is accepted and respected.

25. The Council's Planning Service, following receipt and consideration of legal advice, invited the Applicant to comment on six key issues. The Applicant's responses are set out below under the relevant topic headings. These matters will inform the assessment of the proposal and assist the Committee in determining the appropriate weight to be attributed to the relevant material considerations, thereby enabling a balanced and reasoned decision to be made.

Need for retention of economic development land

26. Counsel for the Applicant referred to the Council's Draft Plan Strategy evidence base to support its position that the land has been lost for business uses and does not form part of the potential employment land reserve for the Borough.

27. These Evidence papers include:

- Economic Development Technical Supplement 5
- Employment Land Review Report 2019 (Gravis Planning) 5A
- Industrial and Economic Land Baseline Monitor Report 2022 (prepared by the Council's Development Plan team) 5B
- Employment Land Review Update 5C; and
- Employment Land Review Supplementary Analysis (Jettora Consulting) 5D

28. Paragraphs 8.10 – 8.16 of Economic Development Technical Supplement 5 discuss the Ards and North Down Industrial and Economic Land Monitor Report 2022. The site is zoned as NS32, and this is referenced in paragraph 8.14, which states:

*“93% of the existing zoned lands have been developed, although there are a number of sites in both Bangor and Newtownards that have not been developed at all, such as BR06 in Bangor and NS28, NS29 and **NS32 in Newtownards**” (emphasis added).*

29. In the 2019 Gravis Report, the assessment of the subject site zoning is undertaken on pages 65 – 68 and 99, with emphasis added below:

“The c.29ha. of zoned employment land remaining available is made up of the following zonings:

NS28 – 5.9 ha.

NS29 – 4.5 ha.

NS30 – 7.2 ha.

NS31 – 3.4ha. (1.7ha. of former Invest NI lands)

NS32 – 3.0 ha.

NS33A – 0.2 ha.

NS33B – 3.6 ha.

NS33D – 0.9 ha.

*The owner of zoning NS32 asserts that previous planning permissions for alternative uses have been implemented on site. Whilst we cannot confirm or deny that this is the case, **it is clear that these lands are not being considered for economic development uses in the future and therefore cannot be relied upon for such development over the plan period. [...]***

Newtownards

The main retained zonings (i.e. NS33B and NS33D) fall within an existing business park and, as such, the main focus of retained zonings in Newtownards could be for general office provision and small business workshops. Again, the Council may wish to consider Key Site Requirements for those retained zonings to encourage such uses. Hotel and leisure uses may be better located within the town or as part of a ‘mixed-use’ zoning.

- *NS28 – de-zone, as lands cannot be relied upon to deliver economic development;*
- *NS29 – de-zone, as lands cannot be relied upon to deliver economic development;*
- *NS30 – de-zone, as lands cannot be relied upon to deliver economic development;*
- *NS31 – retain as economic development zoning;*

- **NS32 – de-zone, as lands cannot be relied upon to deliver economic development;**
- NS33A – retain and re-zone as ‘mixed-use’ zoning to reflect extant permission. Council to consider potential Key Site Requirements that would ensure a certain percentage of land delivered as economic development uses (i.e. between 40-50% of the site);
- NS33B – retain as existing economic development zoning or designate as a SEL; and
- NS33D – retain as existing economic development zoning.

Based on the above recommendations, Newtownards would have a total of **13ha.** zoned economic development lands remaining available for development. This is made up of zoning NS31, 50% of the overall zoning NS33A, zoning NS33B and NS33D.

Overall, if implemented, the recommendations would see a total of **38.4ha.** zoned land for future economic development in the Borough over the lifetime of the Local Development Plan.

The overall projected land requirement (based on a ‘strategy success’ scenario) is **25ha.** The oversupply of zoned lands can be justified as follows:

1. It would allow for unexpected growth over the plan period and ensures there is sufficient choice to accommodate changing market demand;
2. It ensures flexibility of choice across a number of locations and for various types of sectoral growth between both Bangor and Newtownards;
3. It ensures that an adequate supply and choice of economic development land exists should future development plans be delayed; and
4. It allows for the non-development of Invest NI lands over the plan period, should no development take place on these lands due to restrictive Invest NI criteria. In the unlikely event that all the proposed zonings are developed during the lifetime of the development plan, the Council could either consider the zoning of identified brownfield lands as contained in this report or undertake a ‘call for sites’ as part of their LDP process. Such considerations can be undertaken as part of the 5-year review for the development plan’.

30. The Industrial and Economic Land Monitor Report 2022 (Supplementary Document 5B) was prepared by the Local Development Plan (LDP) Team and

relates to the availability of land for industrial and economic development across the Borough. The subject site is addressed in Paragraphs 3.7 – 3.12.

‘NS32 – Milecross Road

3.7 This 2.97 hectare site is accessed via the main entrance to Kiltonga Industrial Estate, which is located to the south-east. It consists of an irregularly shaped agricultural field with a small pond, former car park at tennis courts at the north-western end. The site is bounded by Belfast Road to the north-east and Milecross Road to the north and west.

Map 22: NS32 Zoned Employment Lands

3.8 The site has a considerable planning history. In 1981, two planning applications for housing on the site were refused, however a hotel was approved in 1994. The reserved matters submission for a 13-bedroom hotel was approved in 2005. The draft Ards and Down Plan, which was published in 2002, originally excluded the site from the settlement development limit of Newtownards, however following the approval of the hotel proposal, the site was brought within the development limit and zoned for industry under zoning NS32. A number of key design considerations accompanied the zoning such as upgrades to the width and alignment of Milecross Road and improvements at Belfast Road.

In 2011, an application was received for a 60-bed residential care home on part of the NS32 site. It was determined that the hotel permission remained extant as a trench for foundations had been dug on site, the location of which was consistent with the location of the proposed rear wall of the hotel. This proved critical to the determination of the application as it was then considered that a nursing home would not constitute any additional loss of industrial zoned land and the principle of developing the site for a use that does not fall within the industrial use classes had therefore already been established. Approval for this development was granted in September 2012 and a certificate of lawfulness issued in 2017 confirmed that pre-commencement conditions had been complied with, the permission remains extant in perpetuity and can be built out at any time.

In 2018, an application was submitted for 20 single storey retirement living dwellings as a complement to the previously approved nursing home. In view of the planning history and extant approvals on site, planning permission was granted with a condition stating that the residential units were to be the over 55s only. The Council is currently considering another new proposal for the entirety of the site for 30 dwellings. [Proposal then amended to 29no. dwellings]

In view of all of the site history for non-industrial uses, plus the onerous nature of the industrial zoning key site considerations, it is considered that this zoning is lost. The site is vacant which means that industrial uses may come forward in the future, however this seems unlikely given the nature of the proposals that have come forward from as far back as 1994.

(emphasis and emboldening added).

31. There is no reference to this zoning in the Employment Land Review update published in 2025 which is to be read in conjunction with the previously referenced technical reports.

32. The final conclusions of the Jettora Employment Land Review Supplementary Analysis (September 2025) are that:

“The ELR identifies 63 ha of zoned employment land, leaving c22 ha headroom after meeting the forecast requirement. Many direct projects already have identified sites and indirect impacts reuse existing vacant premises and therefore do not draw on zoned land (section 3.4).

*It is important to reiterate that **the forecasts presented with this report are intentionally ambitious to reduce the potential for under-allocation of land zoned for employment.** This ensures flexibility while remaining grounded in documented project pipelines and conservative conversion assumptions”.*
(emphasis and emboldening added).

Housing land supply

33. The subject site is already counted as part of the Borough’s housing land provision. The Housing Monitor Report (latest available November 2024)

includes the site with a yield of 20no. dwellings. Development has lawfully commenced.

Suitability for Economic Development

34. The Applicant refers to the Council's own development plan evidence base which expressly recommended that the site be de-zoned for industrial purposes due to its established planning history. Reference is also made to the "onerous" nature of the industrial zoning key site considerations which is acknowledged in paragraph 3.11 of the Council's Industrial and Economic Land Baseline Monitor Report 2022. *[For the avoidance of doubt, it should be noted that the Council's LDP Team has not recommended de-zoning, rather the specific planning history of the site has been recorded. Any 'de-zoning' or zoning of land will be undertaken through the Local Plan Policies process]*

35. It is the position of the Applicant that the site is no longer suitable for economic development as *'the two separate extant permissions are likely to be developed out independent of each other, which means that there is likely to be a sensitive end use constructed on part of the site which would conflict with the potential employment uses on the remainder of the site.'*

Fall-back position

36. Caselaw confirms a legitimate fall-back position is a material consideration where there is legal entitlement to enact the fallback and a realistic prospect of implementation. The weight to be attributed to the fall-back is a matter of planning judgement and must be properly explained within the overall planning balance.

37. In relation to the materiality of the fall-back position for the current application site, the Applicant contends that:

- Economic development uses will not be pursued, due to the established planning history of the site and the “onerous nature” of the key design requirements for industrial development as acknowledged in the Council’s evidence papers;
- The developer is a long-established house builder with a prospect of implementing two separate planning permissions for a nursing home and dwelling houses and is likely to do so or sell the site onto another developer who is prepared to do so if permission is refused for the current proposal;
- The fallback position is compelling, and should carry substantial weight.

Benefits and disbenefits of this scheme compared with the fallback scheme

38. The Applicant asserts that the proposal will meet the housing needs of a wider section of society (including the over-55s) by removing a restrictive condition which in turn would make it easier to secure prospective end-users/purchasers.
39. Supporting information also highlights ecological benefits associated with the comprehensive restoration of the pond within the site required to preserve the local newt population, a species protected by law.
40. The submission includes a letter prepared by a senior property and land consultant acting for Templeton Robinson Estate Agents. The letter provides an analysis of the current proposal and the fall-back position in the context of prevailing market conditions. The Applicant advises that the subject lands would represent a more suitable location for general market housing as the site’s edge of settlement location limits convenient walking access to shops, services and health facilities for an older demographic. The consultant advises that demand for age-restricted bungalow schemes is limited, with comparatively stronger demand for larger apartments that require less external maintenance and offer a communal living environment.
41. The consultant concludes that:
 - The previously approved over-55 scheme is not well suited to the location and does not align with present-day market demands or local needs; and

- The proposed scheme provides a more appropriate housing mix, better reflects modern-buyer preferences, and is more deliverable, sustainable and viable in the current market context.
42. In addition, a supporting statement has been prepared by a Chartered Ecologist outlining the ecological implications of the proposed development relative to the previously approved development. The statement advises that the existing mature, semi-natural pond requires active management, including periodic de-silting to maintain water depth. In the absence of such intervention, the ecologist has concluded that the pond would likely deteriorate resulting in the loss of priority habitat and an established local breeding population of smooth newt (a legally protected species), together with adverse effects on other species reliant on the open water habitat.
43. NIEA Natural Environment Division (NED), in its consultation response dated 01/10/2024, confirmed it is satisfied that the revised Pond Restoration & Newt Mitigation document appropriately addresses its concerns in respect of smooth newt. NED further advises that, subject to full implementation of the mitigation measures, the development is unlikely to have a significant impact on the local smooth newt population. Accordingly, any approval should be subject to a condition to secure the proposed pond restoration and newt mitigation.
44. It is noted that the previous permissions only required the retention of the pond rather than its restoration.

Comparison with historic permissions

45. The Use Class of the 20no. approved dwellings is Class C1 - Dwelling Houses, as established by the Planning Appeals Commission. Whilst the restrictive occupancy condition remains in force, the Applicant contends that the proposed housing offers a better housing product geared to meet all sections of society.

Amenity Impacts and Pond Safety

46. In response to Elected Member's concerns, further assessment on amenity and safety issues has been undertaken. While the site is located in close proximity to the Kiltonga Industrial Estate, it benefits from an established planning history for residential development.
47. The Council's Environmental Health Service has carried out an additional review of the proposal and has raised no objection to the proposal in terms of noise and odour impacts arising from the adjacent industrial estate, subject to mitigation being secured through appropriately worded planning conditions.
48. The pond is an established feature of the site and its restoration would not materially increase risk beyond that typically associated with residential development near open water. The landscaping proposals provide a minimum 10-metre-wide vegetated buffer around the pond, with existing trees and vegetation retained and enhanced through native tree and woodland planting.
49. Accordingly, no unacceptable amenity or safety impacts are anticipated.

Recommendation

50. The proposal has been assessed against the provisions of the statutory Development Plan and relevant planning policy. It is acknowledged that the proposal for residential development on an industrial zoning (NS32) represents a departure from, and is contrary to, the Development Plan and relevant prevailing planning policy.
51. However, Section 6 (4) of the Planning Act (Northern Ireland) 2011 provides that planning permission may be granted for development that is not in accordance with the Development Plan where material considerations indicate otherwise.
52. The following material considerations are considered to be of particular relevance:
 - The Council's own development plan evidence base consistently concludes that zoning NS32 is effectively no longer viable for industrial use.

- This evidence base of the Council also indicates that there is no identified shortfall in industrial land.
 - The site has a complex planning history comprising extant non-industrial permissions.
 - A fall-back position for a residential nursing home and dwellings with an age-related occupancy condition exists on the site and carries material weight.
 - The Planning Appeals Commission confirmed the units are C1(a) dwellings and removed the requirement for the nursing home to become operational prior to occupation of the dwellings.
 - The functional and operational relationship between the dwellings and the care facility no longer forms part of the extant permission.
 - The site occupies an edge of settlement location with limited convenient access to services.
 - Environmental Health has raised no objection to the proposal on amenity grounds, and it is considered that the proposed development is compatible with adjacent land uses.
 - The proposal would not set an undesirable precedent having regard to the unique site-specific circumstances.
 - Ecological enhancement would arise through restoration of the pond, supporting the protection of the local smooth newt population.
53. When the permission for 20 dwellings on the site was granted, the Council considered that these dwellings fell within Use Class C3 (Residential Institutions) and would operate in association with the nursing home. Subsequently, the Planning Appeals Commission determined that the units fell within Use Class C1(a) (dwellinghouses) and removed the requirement for the nursing home to be operational prior to occupation of the dwellings.
54. As a result, the functional and operational relationship between the dwellings and the care facility no longer forms part of the extant permission. The age-related occupancy restriction operates solely as a limitation on the occupants and does not alter the land-use. Whilst the condition remains in force, it is acknowledged that the site's edge of settlement location restricts convenient access to day-to-

day services and healthcare facilities for the older demographic. Evidence from the Applicant's property and land consultant concludes that the previously approved over-55 scheme is not well suited to the location and does not align with present-day market demands or local needs. The consultant further concludes that the proposed scheme better reflects modern buyer preferences and is more deliverable and viable in the current market context.

55. Significant weight is attributed to the planning history of the site insofar as it establishes the acceptability of residential development land use on this site. Whilst the fall-back position attracts material weight in principle, more limited weight is attributed to the age-related occupancy condition for the reasons stated.
56. The site-specific findings within the Council's own Employment Land Review and Industrial and Economic Land Baseline Monitor Report, together with the established planning history are material planning considerations that must be weighed in the planning balance. The 2025 Jettora analysis indicates that there is significant headroom (approx. 22 ha) in employment land supply, even under ambitious economic growth scenarios. Significant weight is attributed to this evidence.
57. The proposal would secure ecological enhancement through restoration and active management of the existing pond and protection of the established smooth newt population. It is considered that these factors attract moderate positive weight.
58. While section 6(4) of the Act provides that decisions should be made in accordance with the plan unless material considerations indicate otherwise, it is considered that collectively, these material considerations attract substantial weight in the overall planning balance and outweigh the identified conflict with the Development Plan and planning policy. Therefore, it is recommended that planning permission is granted subject to the conditions listed below.

Recommended Planning Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 35C.

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

3. The access to the site including visibility splays of 4.5 metres by 90 metres at the junction of the proposed access road, shall be provided in accordance with the details shown on Drawing No. 35C prior to the commencement of development. The visibility 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. No development shall commence on site until the proposed footpath on Belfast Road has been provided in accordance with Drawing No. 35C.

Reason: In the interests of pedestrian safety.

5. Each dwelling hereby approved shall not be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

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

6. The development hereby permitted shall not be commenced until any highway structure, retaining wall, culvert requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance CG300 of the Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with CG300 of the Design Manual for Roads and Bridges.

7. Each dwelling hereby approved shall not be occupied until provision has been made within its curtilage for the parking of private cars at the rate of 2no. spaces. In-curtilage parking areas shall be permanently retained thereafter and 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 adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

8. All noise mitigation measures detailed in the Inward Sound Level Impact Assessment, prepared by Lester Acoustics, shall be incorporated into the development.

Reason: To protect the amenity of future residents from noise.

9. The minimum sound reduction performances (dBRTra) of all window and ventilation systems within the site shall satisfy those specified in Figure F of the Inward Sound Level Impact Assessment, prepared by Lester Acoustics.

Reason: To protect the amenity of future residents from noise.

10. Prior to the occupation of any dwelling hereby approved acoustic barriers, with a surface weight in excess of 10kg/m² and heights in accordance with details shown on Drawing No. 03C, shall be installed in accordance with Figure H of the Inward Sound Level Impact Assessment, prepared by Lester Acoustics. The barriers must be of solid construction (no holes or gaps).

Reason: To protect the amenity of future residents from noise.

11. Gas protection measures shall be installed into all dwellings located in Zone A, prior to the occupation of these dwellings, (as specified on Figure 5 of Preliminary and Generic Risk Assessment Version 2, prepared by Tetra Tech, referenced B027299 and dated 10 August 2021). The gas protection measures must meet the requirements of CS2 as prescribed in guidance within CIRIA C665 and British Standard BS8485: 2015 'Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings'.

Reason: Protection of human health.

12. On completion of the works required under condition 11 and prior to the occupation of the dwellings within Zone A, a Verification Report shall be submitted to and agreed in writing by the Council. This report shall demonstrate that all remedial measures required by Condition 10 above have been implemented. This report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use and that the identified pollutant linkages have been broken. The Verification Report shall be in accordance with current best practice and guidance as outlined by the Environment Agency and include as a minimum:

- Final designs of building gas protection measures
- Details of any specific products used
- CQA records from the installation process including photographic records of:
 - the installation of any under-floor void and venting
 - the construction of the concrete floor
 - membrane installation works
- Records of inspection of installed gas protection measures.

Reason: Protection of human health

13. In the event that contamination not previously considered is encountered during the approved development of this site, the development shall cease and a written report detailing the nature of this contamination, and its management shall be submitted to and agreed in writing by the Council and shall be subsequently implemented and verified to the satisfaction of the Council. This investigation and risk assessment must be undertaken in accordance with current best practice.

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

14. Prior to occupation of the development, two additional rounds of water sampling shall take place at the onsite pond and samples shall be analysed for a suitable range of contaminants of concern, including speciated Total Petroleum Hydrocarbons (TPH) and Polycyclic Aromatic Hydrocarbons (PAH). Concentrations determined shall be screened against Generic Assessment Criteria protective of the water environment in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and agreed in writing with the Council and be subsequently implemented and verified to its satisfaction.

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

15. After completing any remediation works required under conditions 13 and 14 and prior to occupation of any part of the development, a verification report shall be submitted to and agreed in writing with the Council. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. 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: Protection of environmental receptors to ensure the site is suitable for use.

16. In the event that piling is required, no development or piling work shall commence on this site until a piling risk assessment, 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”, has been submitted to and agreed in writing with the Council. All piling methods shall be in accordance with the agreed risk assessment.

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

17. Prior to the construction of the drainage network, a Final Drainage Assessment, compliant with Policy FLD 3 and Annex D of PPS 15, shall be submitted to and agreed in writing with the Council. The Final Drainage Assessment shall demonstrate the safe management of any out-of-sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1-in-100 year event. The drainage network for the development hereby approved shall be implemented in accordance with the approved details.

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

18. All hard and soft landscaping works shall be carried out in accordance with the approved details on Drawing No. 33B. All existing trees identified for retention on Drawing No. 33B shall be retained. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying, shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council. All hard surface treatment of open parts of the site shall be permeable or drained to a permeable area. All hard landscape works shall be permanently retained in accordance with the approved details.

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

19. The erection of a Tree Protection Barrier shall be undertaken in accordance with the details stated on Drawing No. 33B and in accordance with BS5837:2012 before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit, without the written consent of the Council.

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

20. Prior to the occupation of any dwelling, details of the proposed phased implementation of hard and soft landscaping works must be submitted to and agreed in writing by the Council. The hard and soft landscaping works shall be

implemented in accordance with the details and timings agreed in the approved phasing plan.

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

21. No more than 20 of the dwellings hereby approved shall be occupied on site until the areas of communal open space as indicated on Drawing No. 33B have been provided in accordance with the details shown on the plan. The open space areas shall be permanently retained and shall not be used for any purpose other than as open space.

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

22. The Landscape Management and Maintenance Plan dated December 2021 shall be permanently carried out in accordance with the approved details during the operational phase of the development to the reasonable satisfaction of the Council.

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

23. A final Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council prior to the commencement of development or ground preparation or vegetation clearance. The CEMP shall be implemented in accordance with the approved details, and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Council. The CEMP shall include details of:

- a) All mitigation detailed in the Outline CEMP and the Pond Restoration and Newt Mitigation Plan;
- b) Construction methodology and timings of works;

- c) Pollution Prevention Plan; including suitable buffers between the location of all construction works, 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;
- d) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- e) Environmental Emergency Plan;
- f) Final Protected Species Management and Lighting Plan;
- g) Final Pond Restoration and Newt Mitigation Plan including timetable for implementation of pond restoration works.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

24. No development activity, including ground preparation or vegetation clearance, shall take place until a Badger Mitigation Plan (BMP) has been submitted to and approved in writing by the Council. The approved BMP shall be implemented in accordance with the approved details, and all works on site shall conform to the approved BMP, unless otherwise approved in writing by the Council. As a minimum the BMP shall include the following:

- a) Details of updated surveys for badgers;
- b) Provision of 25m buffers between all development activity and all retained badger setts;
- c) Details of wildlife corridors to allow movement of badgers to and from setts and/or foraging areas;
- d) Details of appropriate fencing to protect badgers and their setts/wildlife corridors;
- e) Details of appropriate measures to protect badgers from harm during the construction phase;
- f) Details of the appointment of a competent ecologist to oversee the implementation of badger mitigation measures during the construction phase, including their roles, responsibilities and timing of visits.

Reason: To protect badgers and their setts

25. The long-term management and maintenance of the open space, as indicated on Drawing No. 33B, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, shall be submitted to and agreed in writing with the Council prior to the occupation of any dwelling hereby approved.

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

26. The first-floor gable windows as annotated by 'OG' on the approved elevational drawings, shall be finished with obscure glass and be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. These windows shall be installed prior to the occupation of each dwelling unit and permanently retained thereafter.

Reason: In order to preserve the amenity of the adjoining properties.

27. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted to and been approved in writing by the Council. 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; and
- 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.

28. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 27.

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

29. 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 27. 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.

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

Reason: To ensure there will be no adverse impact on the environment.

Development Management Case Officer Report	 Ards and North Down Borough Council
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Reference:	LA06/2021/1476/F	DEA: Newtownards	
Proposal:	Residential development comprising 29 No. dwellings (comprising 25no. detached and 4no. semi-detached dwellings), including garages, open space, and landscaping, access, internal road network and all other associate site and access works.	Location:	Lands to the NW of Kiltonga Industrial Estate, SW of Belfast Road and South of Milecross Road Newtownards
Applicant:	Jona Developments		

Date valid:	12/01/2022	EIA Screening Required:	Yes
Date last advertised:	01/02/2024	Date last neighbour notified:	06/01/2025

Consultations – synopsis of responses:

DFI Roads	No objection subject to conditions
DAERA Natural Environment Division	No objection subject to condition
DAERA Water Management Unit	Concerns initially raised over connection foul sewers by NI Water now advising that connection can be made
DAERA Regulation Unit	No objection
DAERA Industrial Pollution & Radiochemical Inspectorate	No objection
NI Water	No objection
Environmental Health	No objection subject to conditions
Rivers Agency	No objection subject to condition
Shared Environmental Service	No objection subject to conditions

Letters of Support	0	Letters of Objection	4 from 3 addresses	Petitions	0
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- Summary of main issues considered:**
- Principle of development
 - Design, Visual Impact and Impact on Character of the Area
 - Public Open Space/Private Amenity Space
 - Impact on Residential Amenity

- Access, Road Safety and Car Parking
- Archaeology and Built Environment
- Security from Crime
- Designated Sites/Other Natural Heritage Interests
- Other Planning Matters

Recommendation: Grant Planning Permission

Report Agreed by Authorised Officer

Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <https://planningregister.planningssystemni.gov.uk/>

1. Site and Surrounding Area

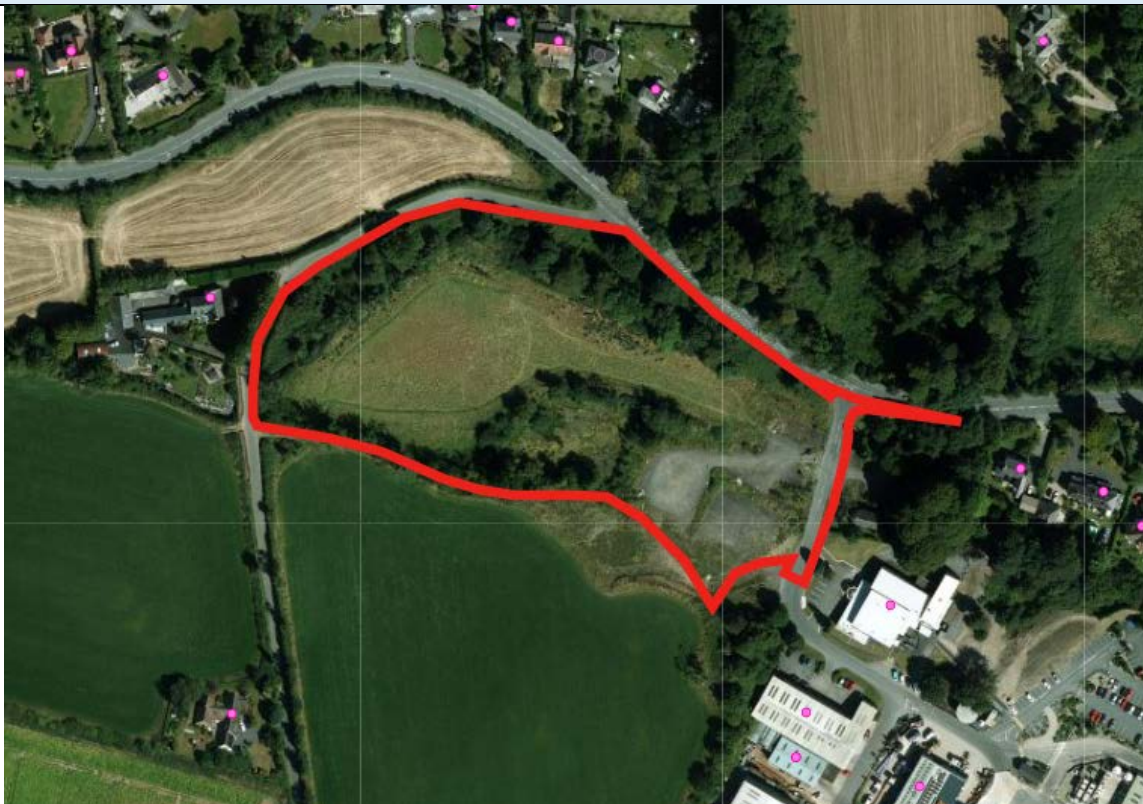
The application site is approx 3ha in area and located to the extreme west of Newtownards inside the settlement development limit as designated within the Ards and Down Area Plan 2015.

The site is zoned within the Development Plan for Industry. It is currently vacant, relatively level land comprising of two tennis courts, a pond, and an area of hard standing previously used for car parking. It is situated below the Belfast Road (to the north) and the Milecross Road (to the northwest/west). The north-eastern boundary is defined by mature hedgerows and a watercourse. The pond within the site is to be retained as part of the overall layout. The northwest boundary is defined by hedging.

The Kiltonga Industrial Estate is located to the immediate east of the site and is accessed off the Belfast Road (which also serves the application site). However, the site is separated from the Industrial Estate by the estate road. The estate comprises a number of industrial businesses, including Pritchitts, The Stove Yard, Patton's Bakery, and the former Kiltonga Leisure Centre.

The Kiltonga Hall (small stone church) and its car park are located to the east of the entrance to Kiltonga and directly opposite the site.

2. Site Location Plan



3. Relevant Planning History

X/1994/0147/O Site beside Kiltonga Squash Club, Belfast Road, Newtownards – Residential Hotel – Permission granted 10/03/1995.

X/1998/0073/O – Site adjacent to Kiltonga Squash Club, Old Belfast Road, Newtownards – Site for residential hotel (renewal of outline permission) – Permission granted 11/12/1998.

X/2003/0575/F - Site adjacent to Kiltonga Squash Club, Old Belfast Road, Newtownards - Variation of Condition No 1 of outline permission X/1998/0073 - date of Reserved Matters application extended for 2 years until 11/12/03 – Permission granted 16/10/2003.

X/2003/1417/RM – Site adjacent to Kiltonga Squash Club, Belfast Road, Newtownards – Hotel consisting of main building (reception, function room, dining area & 13 bedrooms) – Permission granted 07/07/2005.

X/2011/0347/F – Lands at Kiltonga Estate, South of Old Belfast Road and east of Milecross Road, Newtownards – Erection of residential nursing home – Permission granted 20/09/2012.

LA06/2017/1029/LDE - Lands at Kiltonga, Belfast Road, Newtownards - Operational works pre condition of X/2011/0347/F – Granted 14/09/2017.

LA06/2018/0589/F - Land to west of Kiltonga Estate access south of Old Belfast Road and south and east of Milecross Road Newtownards - Development of 20 no single storey retirement living dwellings with associated landscaping and site works. Relocation of car park approved as part of adjacent care home permission – Permission granted 05/09/2019.

2019/A0149 - Land to west of Kiltonga Estate access south of Old Belfast Road and south and east of Milecross Road, Newtownards - Development of 20 no single storey retirement living dwellings with associated landscaping and site works. Relocation of car park approved as part of adjacent care home permission – Appeal against condition 3 attached to LA06/2018/0589/F – None of the approved dwellings shall be occupied until the adjacent Residential Nursing Home, approved under X/2011/0347/F has been constructed and is operational.

Reason: To ensure the dwellings permitted under Class C3(a) of The Planning (Use Classes) Order (Northern Ireland) 2015 can benefit from relevant care services to be provided by the Nursing Home on site.

Appeal allowed and Condition 3 is deleted.

The application falls within the major category of development. Section 27 of the Planning Act (NI) 2011 places a statutory duty on developers to carry out a Pre-application Community Consultation (PACC) on major development proposals. The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations 2020 (as amended) suspended the requirement for a PACC public event. In accordance with temporary statutory provisions during the emergency period the Applicant put in place alternative arrangements to engage with the public at pre-application stage.

A Public Information Notice was placed in the Belfast Telegraph on 21 June 2021 and the Newtownards Chronicle on 24 June 2021 to engage with the community at pre-application stage. Leaflets were distributed residential properties within a 400m radius of the application site on the 30 June 2021.

There was also an online digital consultation facility to enable feedback via an online submission form. The webpage was available over a 6-week period, from 5 July 2021 to 16 August 2021.

Meetings were also held with elected representatives and industrial park representatives.

Having reviewed the Pre-Community Consultation Report, I am satisfied that all statutory pre-application requirements have been fulfilled.

From analysis of feedback, the concerns related to increase in traffic flow, maintenance responsibility for shared landscape areas and badger exclusion zones.

To address these concerns, a Transport Assessment Form (TAF), Landscape Management Plan and Ecological Report have been prepared in support of the application.

4. Planning Assessment

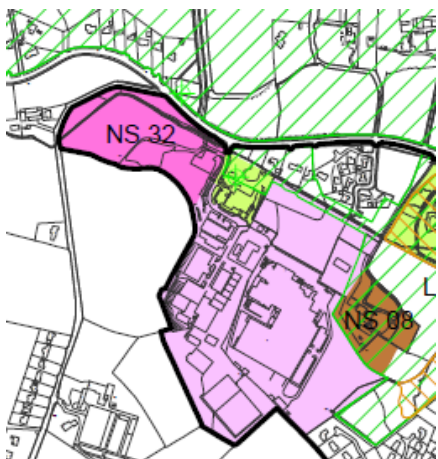
The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 8: Open Space, Sport and Recreation
- Planning Policy Statement 12: Housing in Settlements
- Planning Policy Statement 15: Revised Planning and Flood Risk

Planning Guidance:

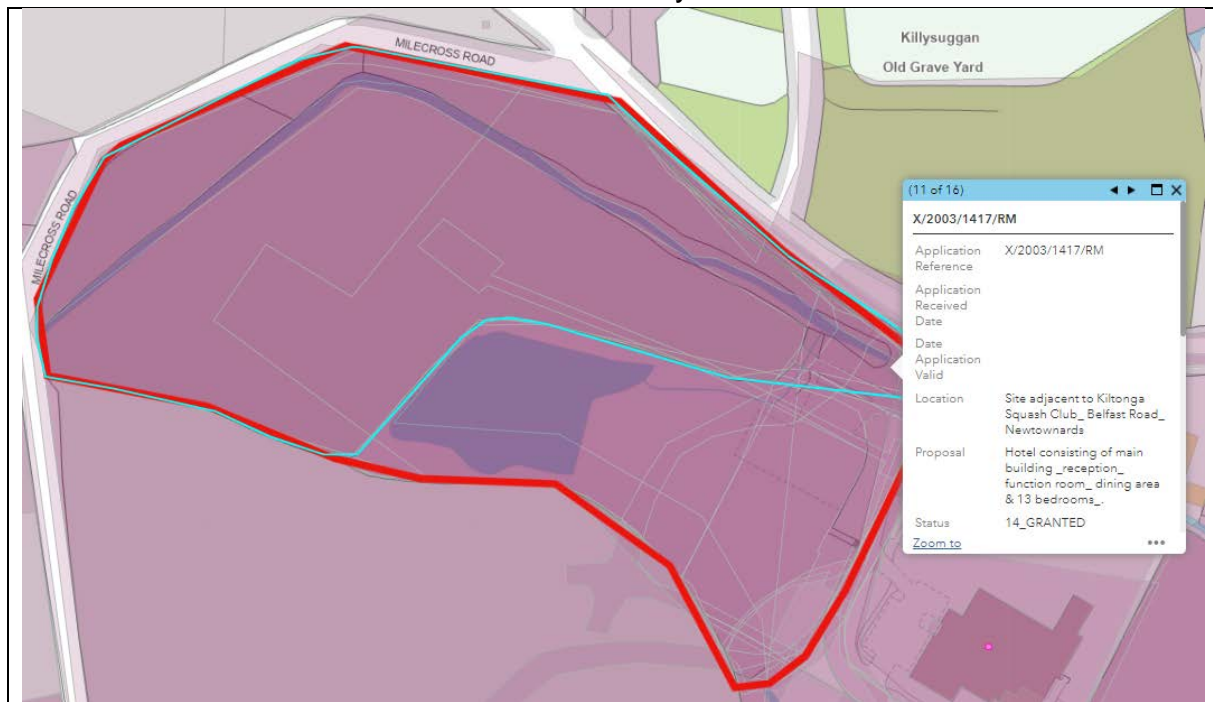
- Creating Places
- DCAN 8 – Housing in Existing Urban Areas
- DCAN 15 – Vehicular Access Standards

Principle of Development



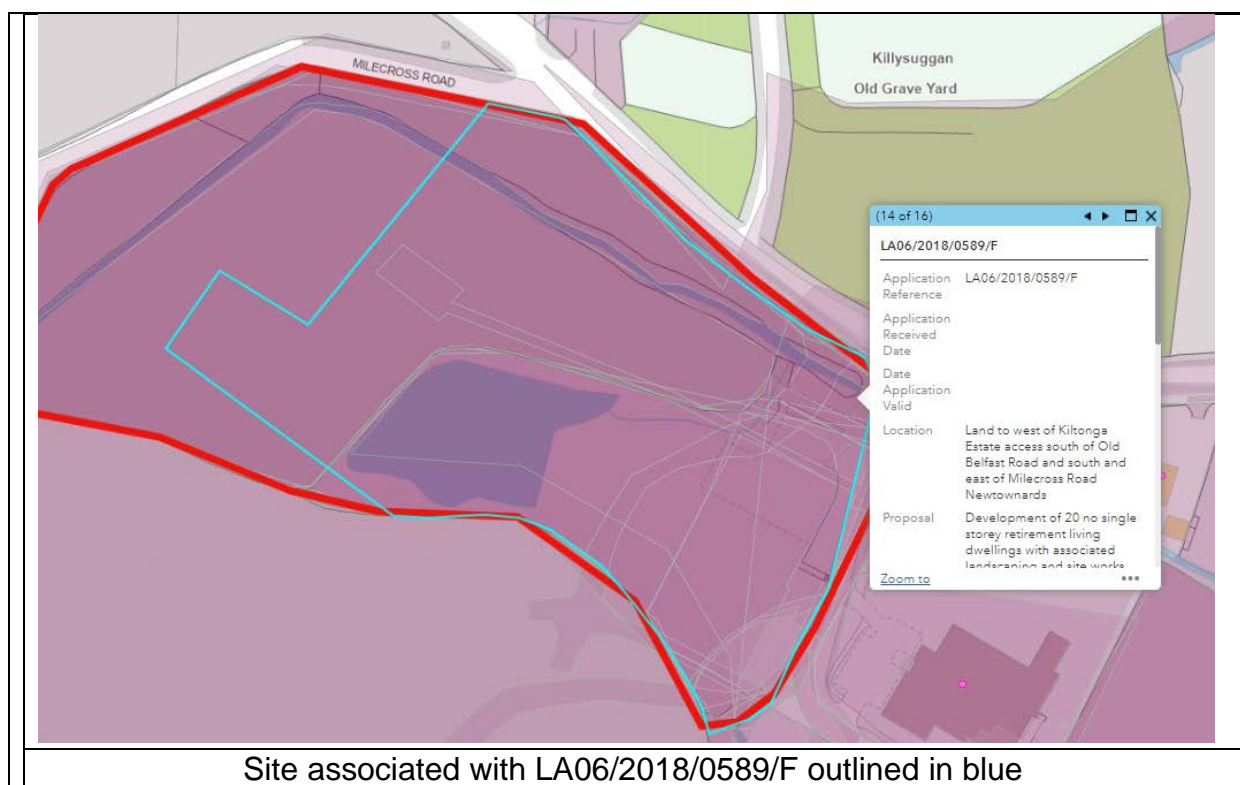
The application site is located within the settlement limit of Newtownards and is zoned for industry within the Ards and Down Area Plan (NS 32). The Plan contains a number of key site considerations relative to that proposed zoning, including the requirement for construction of an appropriately designed grade separated junction at the junction of Milecross Road and the A20 Kempestones Road dual carriageway.

There is an extensive history of planning approvals on this site. A certificate of lawfulness was granted in relation to works carried out to commence development of the previously approved nursing home. Therefore, I am satisfied that the planning permission for the nursing home remains extant and can be built out at any time.



Site associated with X/2003/1417/RM outlined in blue

On the south-eastern portion of the site, planning permission was granted for 20 single storey retirement dwellings. This permission expired on 4 September 2024. However, it remains a material consideration.



Site associated with LA06/2018/0589/F outlined in blue

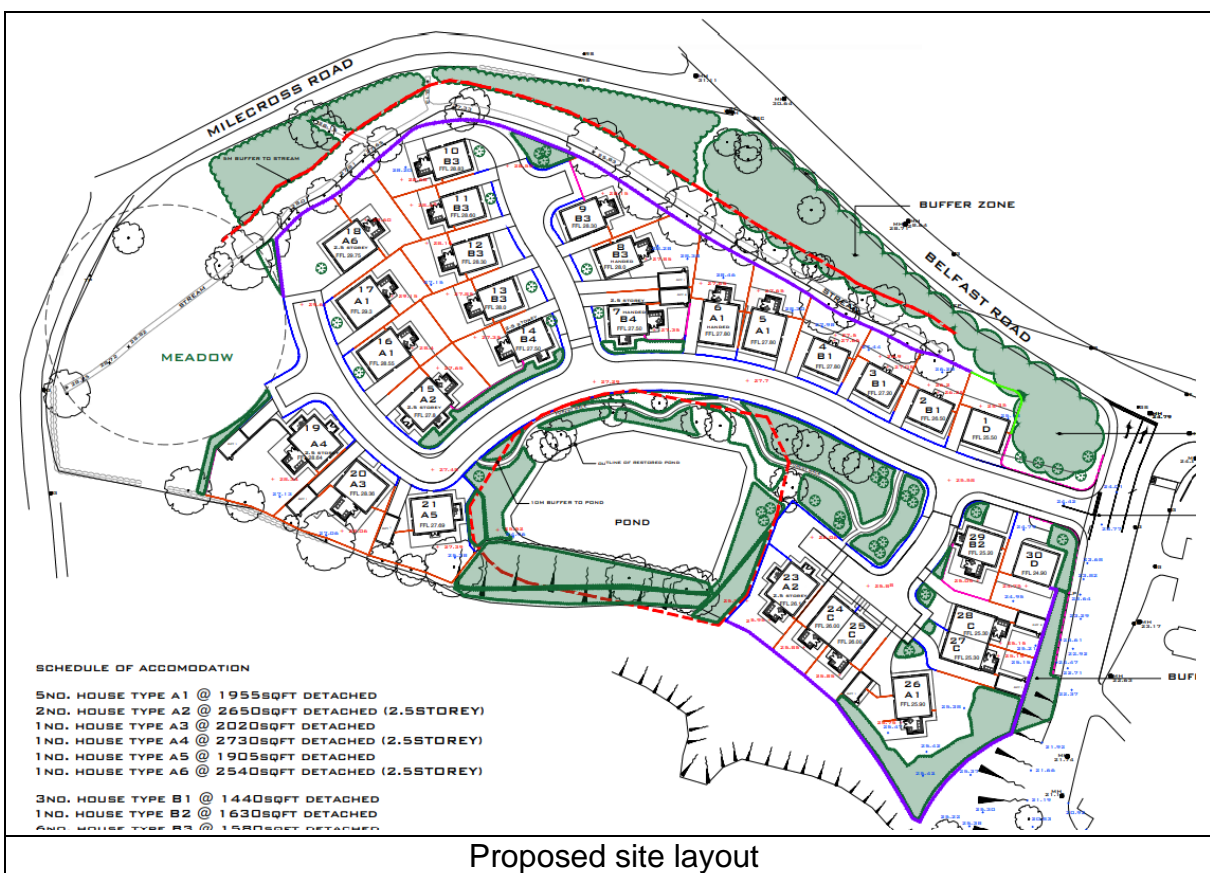
In the assessment carried out within the COR for application ref: LA06/2018/0589/F , significant weight was attributed to the extant nursing home approval. The report also recognised that the Key Design Considerations, to provide an appropriately designed grade separated junction at the Milecross Road and A20 Kempestones Road, was possibly too prohibitive to potential investors in relation to the size of the zoned site remaining beyond the approved site for the nursing home. It is evident that previous planning permissions on this site did not require compliance with this KDC and this is material to the assessment of the current application. DFI Roads has been consulted on the current application and has provided no objection to the proposed access in terms of roads safety subject to recommended planning conditions.

Due to the Council attaching significant weight to the nursing home approval, a condition was imposed on the decision notice to restrict the commencement of the 20 dwellings until the nursing home was constructed and operational. This condition was appealed by the Applicant.

Class 3(a) of The Planning (Use Classes) Order (NI) 2015 (UCO) is for the provision of residential accommodation and care to people in need of care (other than a use within C1 (Dwellinghouse)). Class C1 of the UCO is for dwellinghouses and is defined as use of a dwelling house (whether or not as a sole or main residence) – a) by a single person or by people living together as a family. The dwellings, whilst being for over 55s, offered independent living either for individuals or couples complete with parking facilities and amenity space.

The PAC concluded that the proposed dwellings fell under Class C1 (a) of UCO and that there was nothing in the wording of the condition that required the proposed dwellings to use the nursing home facilities. The PAC determined that Condition 3 is unnecessary and allowed the appeal removing the restriction which prevented occupation of the dwellings until the adjacent Residential Nursing Home, approved under X/2011/0347/F is constructed/operational.

The current proposal is now for 29 No. dwellings which extends over the entirety of the site.



Section 6(4) of the Planning Act (Northern Ireland) 2011 (The Act) 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 (my emphasis)*.

Section 45 (1) of The Act requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations.

Cognisant of Sections 6(4) and 45(1) of the Planning Act, it is a material consideration that the approved nursing home can be completed at any time within this zoning.

Moreover, the principle of non-industrial development across the entire application site has clearly been established by the planning history for the nursing home and Class C1 dwellings.

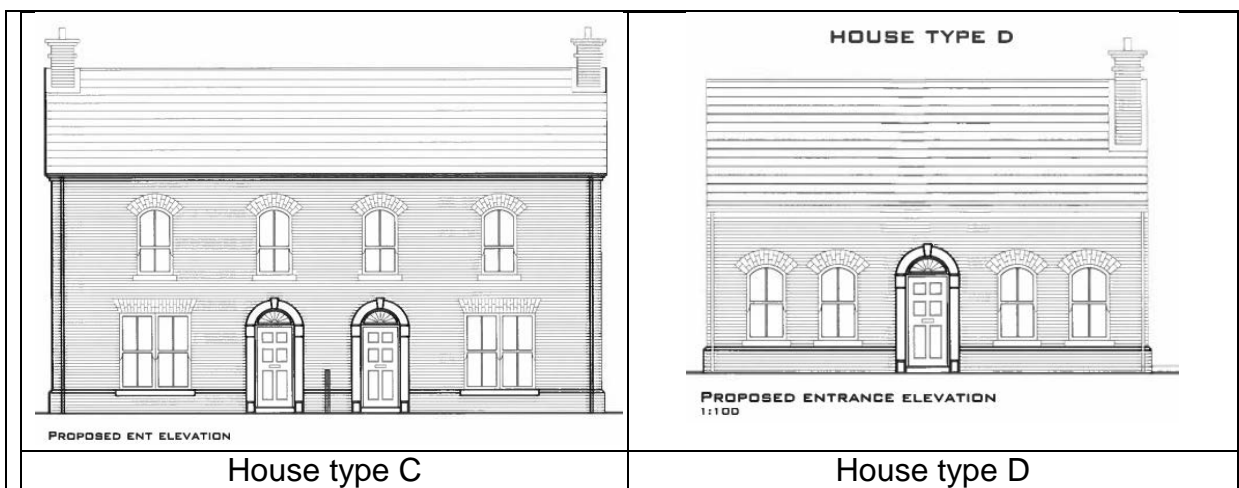
The Applicant has provided a ‘Demand Viability Report’, prepared by O’Kane Commercial. It has identified that the current supply of care home beds is sufficient to meet demand in Newtownards, with additional beds recently opened at Castlebawn. In addition, they advise that the lands have been marketed over the course of the past 7 years with the benefit of planning permission, without any success. As such, it is demonstrated that there is currently no demand for a nursing home on the site.

The application site is within the settlement limit of Newtownards where there is a presumption in favor of development. Whilst the site is zoned for industry in the development plan, I consider that the planning history of the application site should be afforded determining weight in relation to this matter and that the loss of zoned industrial land is acceptable in principle.

Design, Visual Impact and Impact on Character of the Area

The proposal is for the erection of 29 No. dwellings units. The dwellings are a mix of semi-detached and detached dwellings. The 29 dwellings will comprise 25 No. detached (house types A1, A2, A3, A4, A5, A6, B1, B2, B3, B4 and D) and 4 No. semi-detached (house type C) dwellings. The gate lodge dwellings, (house type D) are 1 ½ storey in height. House types A2, A4, A6 and B4 are 2 ½ storey. The remaining dwellings are two-storey. All dwellings are finished in brick with some render detailing on certain house types. A selection of the house types is provided below.





House type C

House type D

House type D is situated adjacent to the entrance into the development and has been designed to have a dual frontage to the front and rear facades to provide a high-quality design on approach to the site.

The dwellings in the immediate area are primarily finished in brick with render detailing and are two-storey in height. The proposed dwellings are not considered to be out of scale or character with development in the local area.



Braeside

The density of the proposed site equates to approximately 9.5 dwellings per hectare (dph). Whilst the site is not located within an established residential area, I have considered the density of Braeside (11.6dph), which is the closest housing development to the application site. The density of the application site is therefore not considered to be out of character with the area or significantly higher than that found in the area.

It is considered that the pattern of development is consistent with that exhibited in the surrounding area. All dwellings comply with the space standards set out in Annex A of the Addendum to PPS 7.

There is a 3-4m incline across the site with the western portion higher than the access road. Spot levels have been provided throughout and the finished floor levels of the proposed dwellings respect the topography of the site.



Relevant section of landscape plan

The rear gardens of sites 1-9 will back onto the Belfast Road. In this instance, the rear amenity areas will be 1-2m below the level of the adjacent Belfast Road to the NE. The existing trees along this road boundary are to be retained to provide a landscape buffer. A 2.3m high acoustic fence is also proposed along the rear boundary of these dwellings. The fence will be provided at ground level of proposed dwellings

which is lower than the level of the Belfast Road. I am content that this layout along with associated acoustic fencing will not have an adverse impact on the visual amenity of the area.

I am satisfied that the design, layout, scale and massing of the proposed dwellings will respect the topography of the land and the character of the area in accordance with PPS 7 Policy QD 1.

Public Open Space/Private Amenity Space

An average of 137sqm of private amenity space is provided to the rear of each dwelling and will be enclosed by fencing and landscaping. Creating Places recommends that a variety of different garden sizes should be provided, and back garden provision should therefore be calculated as an average space standard for the development as a whole and should be around 70 sqm per house or greater with a minimum area of no less than 40sqm. I can confirm that the provision meets the recommended standards.

Policy OS 2: Public Open Space in New Residential Development from PPS 8 requires new residential development of 25 or more units, or on sites of one hectare or more, to have public open space provided as an integral part of the development. 10% of the site area is normally expected. The overall site area is 3.06ha with open space provision

provided in two parcels. There will be a seating area and informal play area, as well as a pond and adjacent woodland walk. The open space totals 0.589ha which equates to 19%. The minimum threshold of 10% has been met. It is recommended that any approval of the application is subject to planning conditions to ensure the open space is provided and subsequently retained and maintained for the benefit of future residents.

Local neighbourhood facilities are not required due to the scale of the proposal.

Impact on Residential Amenity

Policy QD1 (h) states that design and layout should not conflict with adjacent land uses and there should be no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

The site is bounded by the Belfast Road to the north-east, the Milecross Road to the north-west and the access road into Kiltonga Industrial Estate to the south-east.

There is one dwelling, 9 Milecross Road which abuts the roads which border the application site. The proposed meadow is located in the western corner of the site and therefore I have no concerns regarding any adverse impact on this neighbouring dwelling.



Site and location of neighbouring dwelling

I have also considered residential amenity for future residents within the development and changes have been made to ensure that proposed first floor gable windows do not have direct views into other dwellings. The bathroom windows on the gable elevations will be conditioned to be permanently fitted with obscure glazing. The layout ensures

that each dwelling receives ample light and is not compromised by neighbouring dwellings.

Noise

As the site backs onto the Belfast Road and is adjacent to Kiltonga Industrial Estate, an Inward Sound Level Impact Assessment, prepared by Lester Acoustics was submitted in support of the application.

The report confirmed that the daytime sound level climate is dominated by road traffic and reference is made to Pro-PG (Professional Practice Guidance on Planning & Noise). At night time there is a contribution from the industrial plant and equipment in the Kiltonga Industrial estate and this has been assessed using BS 4142 by calculating a rating level and comparing to the guideline internal sound levels specified in BS 8233.

The results of manned sound level surveying have been accepted for appropriate daytime, evening and night-time periods. When using the resultant levels and assessing in terms of the Pro-PG noise risk assessment the site falls within the Medium risk category for daytime and night-time. It is noted that ambient sound levels (LAeq) are in excess of the guidelines by up to 21dB daytime and 16dB and for the night-time maximum by up to 18dB. Therefore, in order to protect habitable rooms, it is proposed that the facades of the dwellings will need to be upgraded to reduce sound levels within dwellings due to transportation noise.

Consequently, there is a requirement that, to achieve the required minimum sound reductions, an acoustic window and ventilation system will be required. The Council's Environmental Health Department has considered the noise impact assessment and provided no objection to the application subject to recommended planning conditions to secure appropriate noise mitigation.

Having weighed up the potential impact of the proposed development, I am content that there will not be a significant adverse impact on the existing or proposed dwellings.

Access, Road Safety and Car Parking

The proposed site will be accessed off the Belfast Road, at the junction which serves Kiltonga Industrial Estate.

The access road into the development will be adopted by DfI Roads and Private Streets Determination drawings have been submitted.

DfI Roads considered the proposal and offered no objections subject to conditions. The proposal is therefore not considered to prejudice road safety or significantly inconvenience the flow of traffic.

Each dwelling will have two car parking spaces as standard within the curtilage. There are 5 No. 5-bed detached, 18 No. 4-bed detached, 2 No. 3-bed detached and 4 No. 4-bed semi-detached. In addition to the 2 in-curtilage parking spaces provided per dwelling (58 spaces), 29 visitor parking spaces are also required in accordance with the Parking Standards document. A total of 35 visitor parking spaces are indicated on Drawing 38B which meets the recommended guidance.

Archaeology and Built Heritage

There are no archaeological, built heritage or landscape features to protect or integrate into the overall design and layout of the development.

Security from Crime

The layout has been designed to deter crime as the back gardens will be enclosed. The dwellings will face onto the proposed roadway and also the areas of open space within the site. I am content that the layout has been designed to ensure maximum surveillance is provided which will provide a feeling of security and a sense of vitality within the development.

Designated Sites/Other Natural Heritage Interests

The application site is hydrologically linked to the following National, European and International designated sites:

- Strangford Lough Ramsar site, which is designated under the Convention on Wetlands of International Importance, Ramsar 2.2.1971 (as amended);
- Strangford Lough Special Area of Conservation (SAC) and Special Protection Area (SPA) which are designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended);
- Strangford Lough Part 1 Area of Special Scientific Interest (ASSI) which is declared under the Environment Order (Northern Ireland) 2002.

In accordance with the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), Shared Environmental Service (SES) carried out an assessment to determine if the proposal, either alone or in combination, is likely to have a significant effect on a European site and the qualifying features, in line with the site conservation objectives. Having considered the nature, scale, timing, duration and location of the project, SES advised that the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or

projects subject to mitigation to secure implementation of pollution prevention measures and to remediate potential land contamination.

NED is also content that the impact of the proposed development is unlikely to have a significant impact on designated sites provided the mitigation measures outlined in the Outline Construction & Environmental Management Plan (dated April 2023) are implemented in full.

The application site contains smooth newt and badgers which are protected by The Wildlife (Northern Ireland) Order 1985 (as amended) and bats and otter which are protected under The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

Newts

NED has taken into consideration the revised Pond Restoration & Newt Mitigation document (dated 04 August 2024) and has provided no objection to the proposal subject to the implementation of proposed mitigation measures to safeguard the local newt population.

Badgers

As detailed in the proposed construction environmental Management Plan, piling within the site will be undertaken by 'Continuous Flight Auger' (CFA) piling method. This is considered by NED as suitable mitigation to prevent harm to badgers through noise and vibration.

NED recommends that no development activity, including ground preparation or vegetation clearance, should take place until a Badger Mitigation Plan (BMP) has been submitted to and approved in writing by the Council. The approved BMP shall be implemented in accordance with the approved details, and all works on site shall conform to the approved BMP, unless otherwise approved in writing by the Council.

Natural Environment Division (NED) considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions

Other Planning Matters

Flooding and Drainage

FLD 3 - Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains.

A Drainage Assessment by McCloy Consulting has been submitted in support of the proposal. The Drainage Assessment has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year

event could be contained within the attenuation system, when discharging at existing green field runoff rate, and therefore there will be no exceedance flows during this event. Further assessment of the drainage network will be made by NI Water prior to adoption. However, in order to ensure compliance with PPS 15, DfI Rivers requested that the Council includes a condition if planning permission is granted which requires the submission of a final drainage assessment.

Contaminated Land

A Preliminary and Generic Risk Assessment (PRA) was submitted in support of the application. The desk top study and PRA has identified potential pollutant linkages. Historical mapping has shown that the site contained a mill pond divided into two and a mill race between 1901-1961. The larger pond has been infilled with unknown type and quantity of material. Off-site sources include the Kiltonga industrial estate to East and Southeast and a former flax mill and burial site to the north.

However, taking into consideration the location, topography, distance and age of potential sources it is considered that there is a low risk of contamination from adjacent land uses impacting the site.

A Generic Quantitative Risk Assessment (GQRA) has been carried out to assess risks to human health associated with an infilled pond within the site. The GQRA concluded that contaminant concentrations detected within the soils, groundwater and surface waters within the site will pose a low risk to human health.

The Council's Environmental Health Department and DAERA Regulation Unit have provided no objection to the proposed development in terms of land contamination subject to conditions to protect human health and environmental receptors.

Compatibility with Adjacent Economic Development Uses

Having considered the planning history of the site, it is clear that the principle of non-industrial residential use on this site has already been established. I am therefore satisfied that the proposed development is acceptable within the context of PPS4 Policy PED 8 in terms of the compatibility of uses within this area.

5. Representations

4 No letters of representation have been received from 3 addresses.

- Parking is limited within site – a parking schedule has been provided which indicates that the in-curtilage parking provision along with additional spaces for visitors can all be provided within the application site. The parking provision is in accordance with the recommended guidelines as set out in the Parking Standards document.

- Volume of traffic increase – DfI Roads has considered the proposal and offers no objection to the proposal.
- Low lying lands – concerns over drainage and sewage – A Flood Risk and Drainage Assessment was submitted in support of the application, and it was reviewed by DfI Rivers. A river model was included in the assessment, and it demonstrates all development in relation to this application will take place beyond the extents of the 1 in 100 year fluvial floodplain. The Drainage Assessment has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year event could be contained within the attenuation system, when discharging at existing green field runoff rate. DfI Rivers offered no objection to the proposal, subject to a condition relating to the submission of a final drainage assessment.
- Flooding of the watercourse – I referred this concern to DfI Rivers, and their response is available to view on the planning portal. The surface water run-off from the site is to be conveyed to the consented discharge point via the drainage system of manholes and pipes as shown in Appendix F of the FRA/DA and in Drawing 37C.

DfI Rivers has requested a condition to be included on the decision notice to require the submission of a final drainage assessment prior to the construction of the drainage network. A copy of an agreed Article 161 with NI Water will also form part of this submission. This is to ensure that the proposals within the Drainage Assessment are implemented, the surface water run-off is being attenuated and restricted to the agreed discharge consent (which is 35 l/s) and that NI Water are content to adopt and maintain the system.

- Flora and fauna – Biodiversity has been considered in the Ecological Survey which was submitted and reviewed by the Natural Environment Division (NED). NED offered no objections to the proposal subject to the submission of a final Construction Environmental Management Plan (CEMP) and a Badger Mitigation Plan (BMP).
- Green spaces for mental health – whilst I note that the application site currently appears as a green space to local residents, it is zoned for industry and is located within the Newtownards settlement limit where there is a presumption in favour of development on the site.
- The location of the island on the Roadway means that a tanker/large lorry turning right from the Roadway onto Belfast Road in the direction of Newtownards will, due to the length of the vehicle, no longer be able to wait in the (shortened) right-hand turning lane for vehicles exiting the Roadway - further amended plans were received following receipt of these objections and DfI Roads confirmed in March 2024 that it

was content subject to conditions. No further objections were received in relation to the access.

6 Recommendation

Grant Planning Permission

7 Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.
The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 35C.

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

3. The visibility splays of 4.5 metres by 90 metres at the junction of the proposed access roads, shall be provided in accordance with Drawing No. 35C prior to the commencement of development and 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. Each dwelling hereby approved shall not be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

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

5. The development hereby permitted shall not be commenced until any highway structure, retaining wall, culvert requiring Technical Approval, as specified in the

Roads (NI) Order 1993, has been approved and constructed in accordance CG300 of the Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with CG300 of the Design Manual for Roads and Bridges.

6. Each dwelling hereby approved shall not be occupied until provision has been made within its curtilage for the parking of private cars at the rate of 2 spaces. In-curtilage parking areas shall be permanently retained thereafter and 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 adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

7. All noise mitigation measures detailed in the Inward sound Level Impact Assessment, prepared by Lester Acoustics shall be incorporated into the development.

Reason: To protect the amenity of future residents from noise.

8. The minimum sound reduction performances (dBRTra) of all window and ventilation systems within the site shall satisfy those specified in Figure F of the Inward Sound Level Impact Assessment, prepared by Lester Acoustics.

Reason: To protect the amenity of future residents from noise.

9. Acoustic barriers with a surface weight in excess of 10kg/m² shall be installed, located and permanently retained in accordance with Figure H of the Inward Sound Level Impact Assessment, prepared by Lester Acoustics and in accordance with the details (including fence heights) shown on Drawing No.03C. The barriers must be of solid construction (no holes or gaps).

Reason: To protect the amenity of future residents from noise.

10. Gas protection measures shall be installed into all dwellings located in Zone A, prior to the occupation of these dwellings, (as specified on Figure 5 of Preliminary and Generic Risk Assessment Version 2, prepared by Tetra Tech, referenced B027299 and dated 10th August 2021). The gas protection measures must meet the requirements of CS2 as prescribed in guidance within CIRIA C665 and British Standard BS8485: 2015 'Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings'.

Reason: Protection of human health.

11. On completion of the works required under condition 10 and prior to the occupation of the dwellings within Zone A, a Verification Report shall be submitted to and agreed in writing by the Council. This report shall demonstrate that all remedial measures required by Condition 10 above have been implemented. This report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use and that the identified pollutant linkages have been broken. The Verification Report shall be in accordance with current best practice and guidance as outlined by the Environment Agency and include as a minimum:

- Final designs of building gas protection measures
- Details of any specific products used
- CQA records from the installation process including photographic records of:
 - the installation of any under-floor void and venting
 - the construction of the concrete floor
 - membrane installation works
- Records of inspection of installed gas protection measures.

Reason: Protection of human health

12. In the event that contamination not previously considered is encountered during the approved development of this site, the development shall cease and a written report detailing the nature of this contamination, and its management shall be submitted to and agreed in writing by the Council and shall be subsequently implemented and verified to the satisfaction of the Council. This investigation and risk assessment must be undertaken in accordance with current best practice.

Reason: Protection of human health.

13. In the event that piling is required, no development or piling work shall commence on this site until a piling risk assessment, 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", has been submitted to and agreed in writing with the Council. All piling methods shall be in accordance with the agreed risk assessment.

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

14. Prior to the construction of the drainage network, a Final Drainage Assessment, compliant with FLD 3 and Annex D of PPS 15, shall be submitted to be agreed in writing with the Council. The Final Drainage Assessment shall demonstrate the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event. The drainage network for the development hereby approved shall be in accordance with the approved details.

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

15. All hard and soft landscaping works shall be carried out in accordance with the approved details on Drawing No. 33B. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council. All hard surface treatment of open parts of the site shall be permeable or drained to a permeable area. All hard landscape works shall be permanently retained in accordance with the approved details.

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

16. Prior to the occupation of any dwelling, details of the proposed phased implementation of hard and soft landscaping works must be submitted to and agreed in writing by the Council. The hard and soft landscaping works shall be implemented in accordance with the details and timings agreed in the approved phasing plan.

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

17. No more than 20 of the dwellings hereby approved shall be occupied on site until the areas of communal open space as indicated on Drawing No. 33B have been provided in accordance with the details shown on the plan. The open space areas shall be permanently retained and shall not be used for any purpose other than as open space.

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

18. The Landscape Management and Maintenance Plan dated December 2021 shall be permanently carried out in accordance with the approved details during

the operational phase of the development to the reasonable satisfaction of the Council.

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

19.A final Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council prior to the commencement of development or, ground preparation or vegetation clearance. The CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Council. The CEMP shall include details of:

- a) Construction methodology and timings of works;
- b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, 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) Environmental Emergency Plan.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

20.No development activity, including ground preparation or vegetation clearance, shall take place until a Badger Mitigation Plan (BMP) has been submitted to and approved in writing by the Council. The approved BMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved BMP, unless otherwise approved in writing by the Council. As a minimum the BMP shall include the following:

- a) Details of updated surveys for badgers;
- b) Provision of 25m buffers between all development activity and all retained badger setts;
- c) Details of wildlife corridors to allow movement of badgers to and from setts and/or foraging areas;
- d) Details of appropriate fencing to protect badgers and their setts/wildlife corridors;
- e) Details of appropriate measures to protect badgers from harm during the construction phase;
- f) Details of the appointment of a competent ecologist to oversee the implementation of badger mitigation measures during the construction phase, including their roles, responsibilities and timing of visits.

Reason: To protect badgers and their setts

21. The long-term management and maintenance of the open space, as indicated on Drawing No. 33B, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, shall be submitted to and agreed in writing with the Council prior to the occupation of any dwelling hereby approved.

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

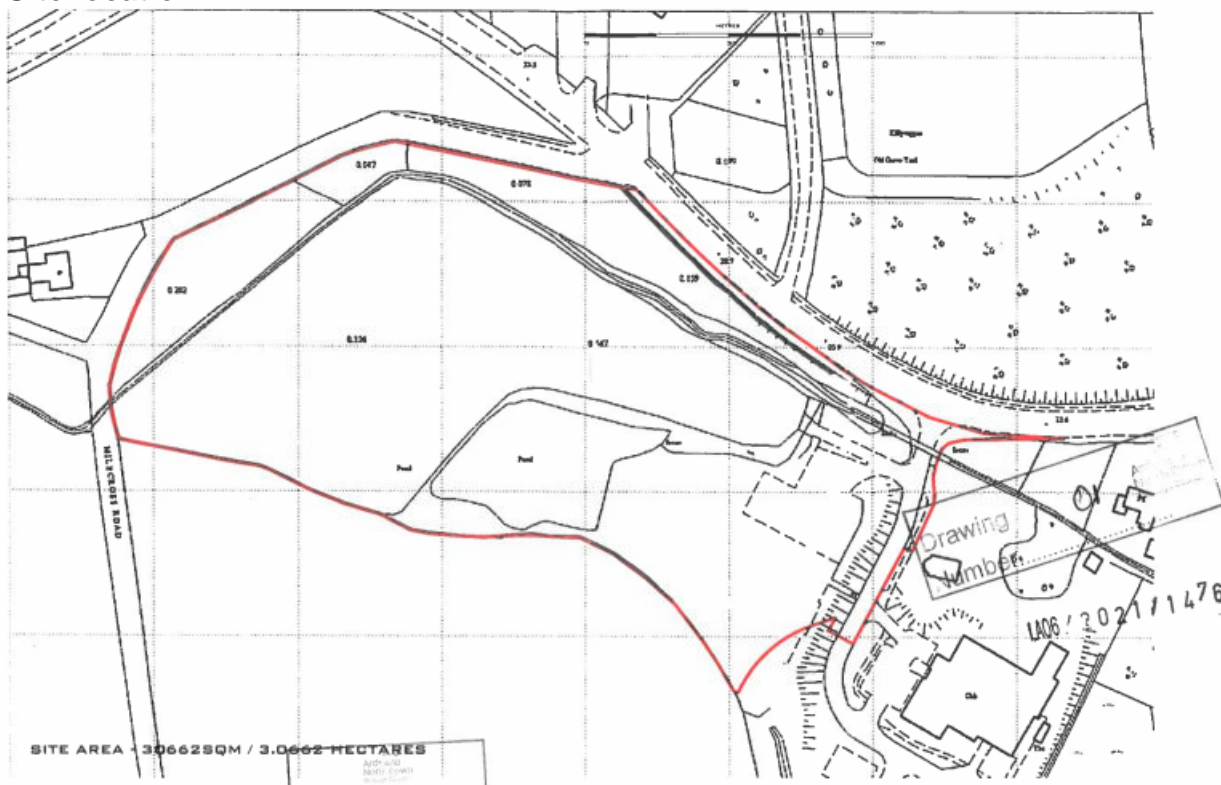
22. The first-floor gable windows as annotated by 'OG' on the approved elevational drawings, shall be finished with obscure glass and be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. These windows shall be installed prior to the occupation of each dwelling unit and permanently retained thereafter.

Reason: In order to preserve the amenity of the adjoining properties.

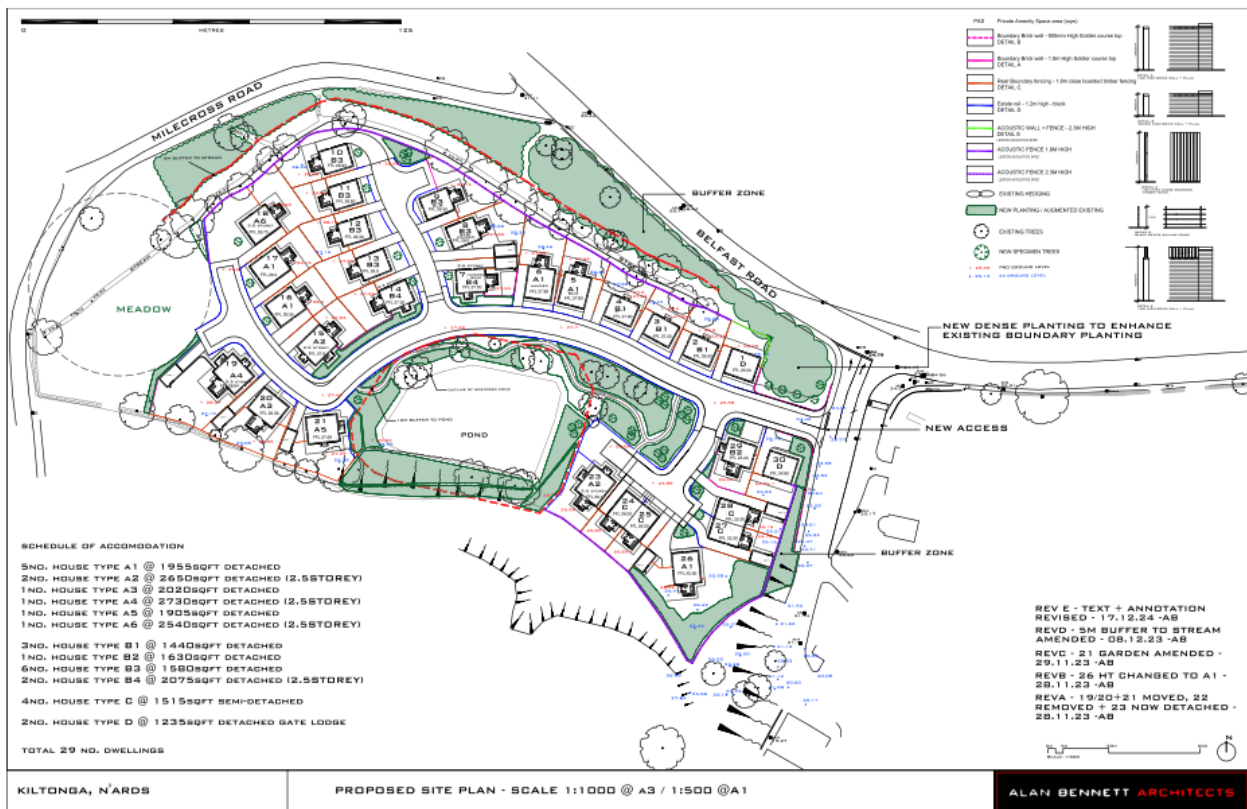
Informative

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

Site location



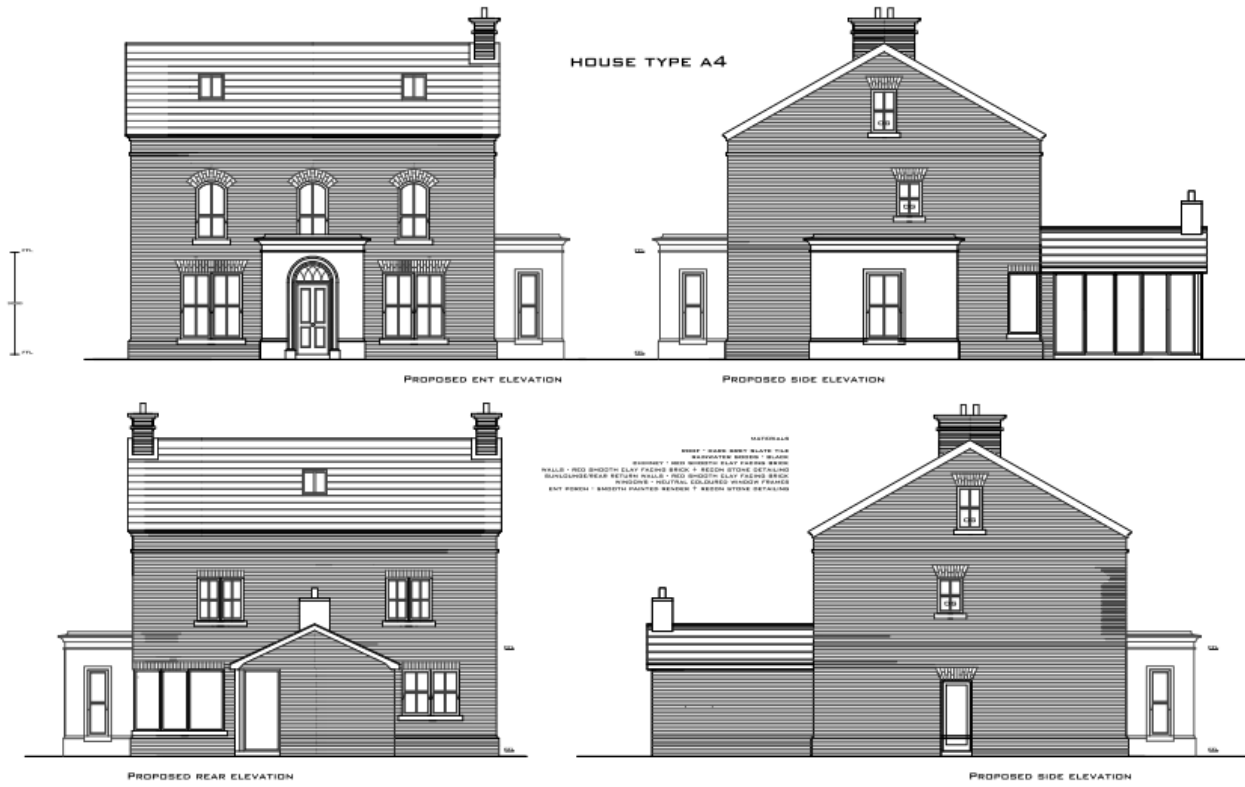
Proposed Layout (including landscaping)



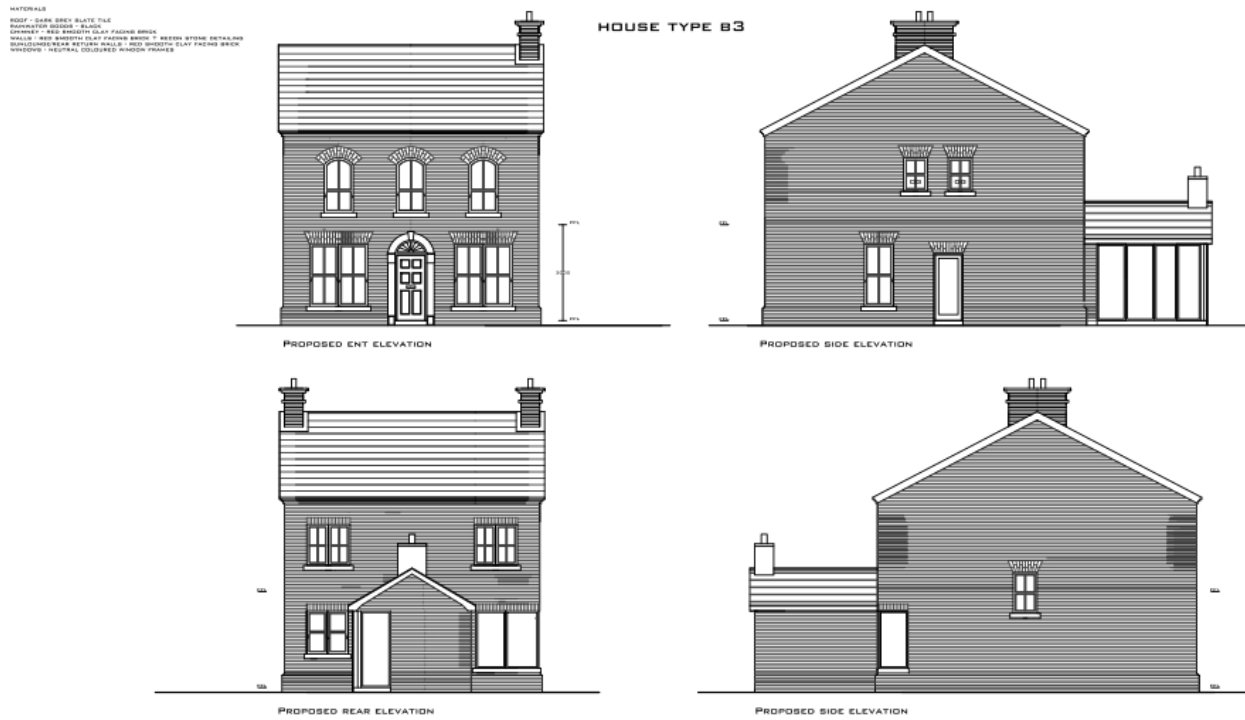
Sample House Type – Detached (A1)



Sample House Type – Detached (A4)



Sample House type – Detached (B3)

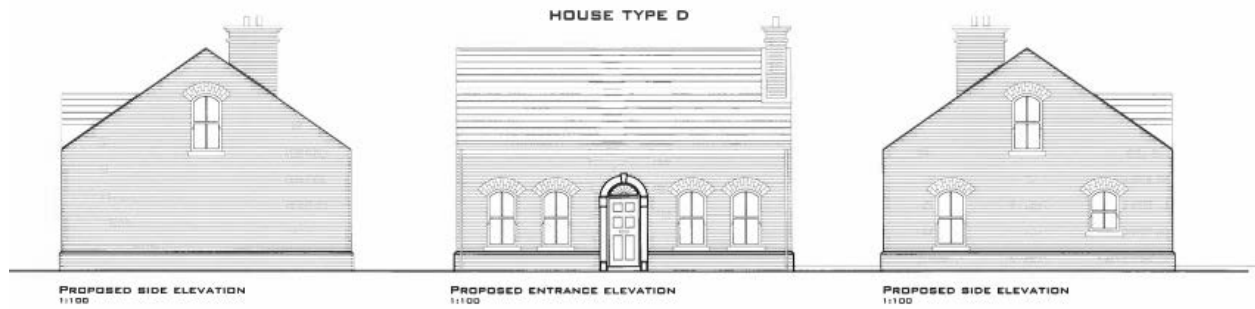


Sample House Type – Semi-detached (C)



MATERIALS
 ROOF - DARK GREY SLATE TILE
 BRICKWORK - RED BRICK
 CHIMNEY - RED BRICK
 WALLS - RED BRICK
 WINDOWS - NEUTRAL ASSUMED WOODEN FRAMES

Sample House type - Detached (D)



MATERIALS
 ROOF - DARK GREY SLATE TILE
 BRICKWORK - RED BRICK
 CHIMNEY - RED BRICK
 WALLS - RED BRICK
 WINDOWS - NEUTRAL ASSUMED WOODEN FRAMES

22 DEC 2021
 LA06/2018/0589/F

Approved layout LA06/2018/0589/F



Addendum to LA06/2021/1476/F

Proposal: Residential development comprising 29 No. dwellings (comprising 25no. detached and 4no. semi-detached dwellings), including garages, open space, and landscaping, access, internal road network and all other associated site and access works

Location: Lands to the NW of Kiltonga Industrial Estate, SW of Belfast Road and South of Milecross Road, Newtownards

1. The application for the above proposal will be presented at Planning Committee on Tuesday 4 March 2025.
2. A detailed review of all consultation responses has been carried out in advance of the meeting. It is recommended that the wording of a number of the recommended planning conditions is strengthened, and additional conditions are included to better reflect the advice provided by expert consultees.
3. This includes conditions to secure the approval and implementation of an archaeological programme of works. The consultation response from Historic Environment Division states that the application site is in close proximity to three graveyards, all of which date back to at least the 19th century. Two of the graveyards are recorded archaeological sites – DOW 005:019 & DOW 005:020. The development site also includes a late 19th century mill pond which was part of the Kiltonga Bleach Works. The previously approved residential development on this site was not subject to any archaeological conditions. However, it is given the alternative layout and development extent proposed, it considered that any approval of the application should be subject to conditions to secure the approval and implementation of an archaeological programme of works.

The recommendation to Grant planning permission is subject to the following updated planning conditions.

Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 35C.

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

3. The access to the site including visibility splays of 4.5 metres by 90 metres at the junction of the proposed access road, shall be provided in accordance with the details shown on Drawing No. 35C prior to the commencement of development. The visibility 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. No development shall commence on site until the proposed footpath on the Belfast Road has been provided in accordance with Drawing No. 35C.

Reason: In the interests of pedestrian safety.

5. Each dwelling hereby approved shall not be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

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

6. The development hereby permitted shall not be commenced until any highway structure, retaining wall, culvert requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance CG300 of the Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with CG300 of the Design Manual for Roads and Bridges.

7. Each dwelling hereby approved shall not be occupied until provision has been made within its curtilage for the parking of private cars at the rate of 2 spaces. In-curtilage parking areas shall be permanently retained thereafter and 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 adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

8. All noise mitigation measures detailed in the Inward sound Level Impact Assessment, prepared by Lester Acoustics shall be incorporated into the development.

Reason: To protect the amenity of future residents from noise.

9. The minimum sound reduction performances (dBRTra) of all window and ventilation systems within the site shall satisfy those specified in Figure F of the Inward Sound Level Impact Assessment, prepared by Lester Acoustics.

Reason: To protect the amenity of future residents from noise.

10. Acoustic barriers with a surface weight in excess of 10kg/m² and heights in accordance with details shown on Drawing No. 03C shall be installed, located and permanently retained in accordance with Figure H of the Inward Sound Level Impact Assessment, prepared by Lester Acoustics. The barriers must be of solid construction (no holes or gaps).

Reason: To protect the amenity of future residents from noise.

11. Gas protection measures shall be installed into all dwellings located in Zone A, prior to the occupation of these dwellings, (as specified on Figure 5 of Preliminary and Generic Risk Assessment Version 2, prepared by Tetra Tech, referenced B027299 and dated 10th August 2021). The gas protection measures must meet the requirements of CS2 as prescribed in guidance within CIRIA C665 and British Standard BS8485: 2015 'Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings'.

Reason: Protection of human health.

12. On completion of the works required under condition 10 and prior to the occupation of the dwellings within Zone A, a Verification Report shall be submitted to and agreed in writing by the Council. This report shall demonstrate that all remedial measures required by Condition 10 above have been implemented. This report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use and that the identified pollutant linkages have been broken. The Verification Report shall be in accordance with current best practice and guidance as outlined by the Environment Agency and include as a minimum:

- Final designs of building gas protection measures
- Details of any specific products used
- CQA records from the installation process including photographic records of:
 - the installation of any under-floor void and venting
 - the construction of the concrete floor

- membrane installation works
- Records of inspection of installed gas protection measures.

Reason: Protection of human health

13. In the event that contamination not previously considered is encountered during the approved development of this site, the development shall cease and a written report detailing the nature of this contamination, and its management shall be submitted to and agreed in writing by the Council and shall be subsequently implemented and verified to the satisfaction of the Council. This investigation and risk assessment must be undertaken in accordance with current best practice.

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

14. Prior to occupation of the development, two additional rounds of water sampling shall take place at the onsite pond and samples shall be analysed for a suitable range of contaminants of concern including speciated Total Petroleum Hydrocarbons (TPH) and Polycyclic Aromatic Hydrocarbons (PAH). Concentrations determined shall be screened against Generic Assessment Criteria protective of the water environment in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and agreed in writing with the Council and be subsequently implemented and verified to its satisfaction.

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

15. After completing any remediation works required under conditions 13 and 14 and prior to occupation of the development, a verification report shall be submitted to and agreed in writing with the Council. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. 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: Protection of environmental receptors to ensure the site is suitable for use.

16. In the event that piling is required, no development or piling work shall commence on this site until a piling risk assessment, 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”, has been submitted to and agreed in writing with the Council. All piling methods shall be in accordance with the agreed risk assessment.

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

17. Prior to the construction of the drainage network, a Final Drainage Assessment, compliant with FLD 3 and Annex D of PPS 15, shall be submitted to and shall be agreed in writing with the Council. The Final Drainage Assessment shall demonstrate the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event. The drainage network for the development hereby approved shall be in accordance with the approved details.

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

18. All hard and soft landscaping works shall be carried out in accordance with the approved details on Drawing No. 33B. All existing trees identified for retention on Drawing No. 33B shall be retained. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying

shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council. All hard surface treatment of open parts of the site shall be permeable or drained to a permeable area. All hard landscape works shall be permanently retained in accordance with the approved details.

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

19. The erection of a Tree Protection Barrier shall be undertaken in accordance with the details stated on Drawing No. 33B and in accordance with BS5837:2012 before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the written consent of the Council.

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

20. Prior to the occupation of any dwelling, details of the proposed phased implementation of hard and soft landscaping works must be submitted to and agreed in writing by the Council. The hard and soft landscaping works shall be implemented in accordance with the details and timings agreed in the approved phasing plan.

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

21. No more than 20 of the dwellings hereby approved shall be occupied on site until the areas of communal open space as indicated on Drawing No. 33B have been provided in accordance with the details shown on the plan. The open space areas shall be permanently retained and shall not be used for any purpose other than as open space.

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

22. The Landscape Management and Maintenance Plan dated December 2021 shall be permanently carried out in accordance with the approved details during the operational phase of the development to the reasonable satisfaction of the Council.

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

23. A final Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council prior to the commencement of development or, ground preparation or vegetation clearance. The CEMP shall be implemented in accordance with the approved details, and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Council. The CEMP shall include details of:
- a) All mitigation detailed in the Outline CEMP and the Pond Restoration and Newt Mitigation Plan;
 - b) Construction methodology and timings of works;
 - c) Pollution Prevention Plan; including suitable buffers between the location of all construction works, 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;
 - d) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
 - e) Environmental Emergency Plan;
 - f) Final Protected Species Management and Lighting Plan;
 - g) Final Pond Restoration and Newt Mitigation Plan.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

24. No development activity, including ground preparation or vegetation clearance, shall take place until a Badger Mitigation Plan (BMP) has been submitted to and approved in writing by the Council. The approved BMP shall be implemented in accordance with the approved details, and all works on site shall conform to the approved BMP, unless otherwise approved in writing by the Council. As a minimum the BMP shall include the following:
- a) Details of updated surveys for badgers;
 - b) Provision of 25m buffers between all development activity and all retained badger setts;
 - c) Details of wildlife corridors to allow movement of badgers to and from setts and/or foraging areas;
 - d) Details of appropriate fencing to protect badgers and their setts/wildlife corridors;
 - e) Details of appropriate measures to protect badgers from harm during the construction phase;
 - f) Details of the appointment of a competent ecologist to oversee the implementation of badger mitigation measures during the construction phase, including their roles, responsibilities and timing of visits.

Reason: To protect badgers and their setts

25. The long-term management and maintenance of the open space, as indicated on Drawing No. 33B, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, shall be submitted to and agreed in writing with the Council prior to the occupation of any dwelling hereby approved.

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

26. The first-floor gable windows as annotated by 'OG' on the approved elevational drawings, shall be finished with obscure glass and be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the

floor of the room in which the window is installed. These windows shall be installed prior to the occupation of each dwelling unit and permanently retained thereafter.

Reason: In order to preserve the amenity of the adjoining properties.

27. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted to and been approved in writing by the Council. 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; and
- 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.

28. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 27.

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

29. 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 27. 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.

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

Reason: To ensure there will be no adverse impact on the environment.

Informative

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Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2020/0844/F	DEA: Ards Peninsula	
Proposal:	Upgrade to existing football ground to include the replacement of the existing grass pitch with synthetic surface, fencing and floodlighting along with replacement changing pavilion, additional car parking spaces and associated siteworks.	Location:	Football ground to the rear of No. 8 and 10 New Harbour Road, Portavogie
Applicant:	Ards and North Down Borough Council		
Date valid:	21/09/2020	EIA Screening Required:	Yes
Date last advertised:	15/01/2026	Date last neighbour notified:	22/12/2025
Consultations – synopsis of responses:			
Dfl Roads		No objection subject to conditions	
Water Management Unit		No objection subject to advice	
Dfl Rivers		No objection	
Marine and Fisheries Division		Detailed response	
Shared Environmental Service		No objection	
NI Water		No objection. Available capacity at WWTW. NI Water and the applicant have agreed a downstream engineering solution to mitigate the foul capacity issue and allow connection for this development proposal.	
Letters of Support	0	Letters of Objection	0
Petitions	0		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Design, Visual Impact and Impact on Character of the Area • Impact on Residential Amenity • Access, Road Safety and Car Parking • Archaeology and Built Environment • Security from Crime • Designated Sites/Other Natural Heritage Interests • Other Planning Matters 			

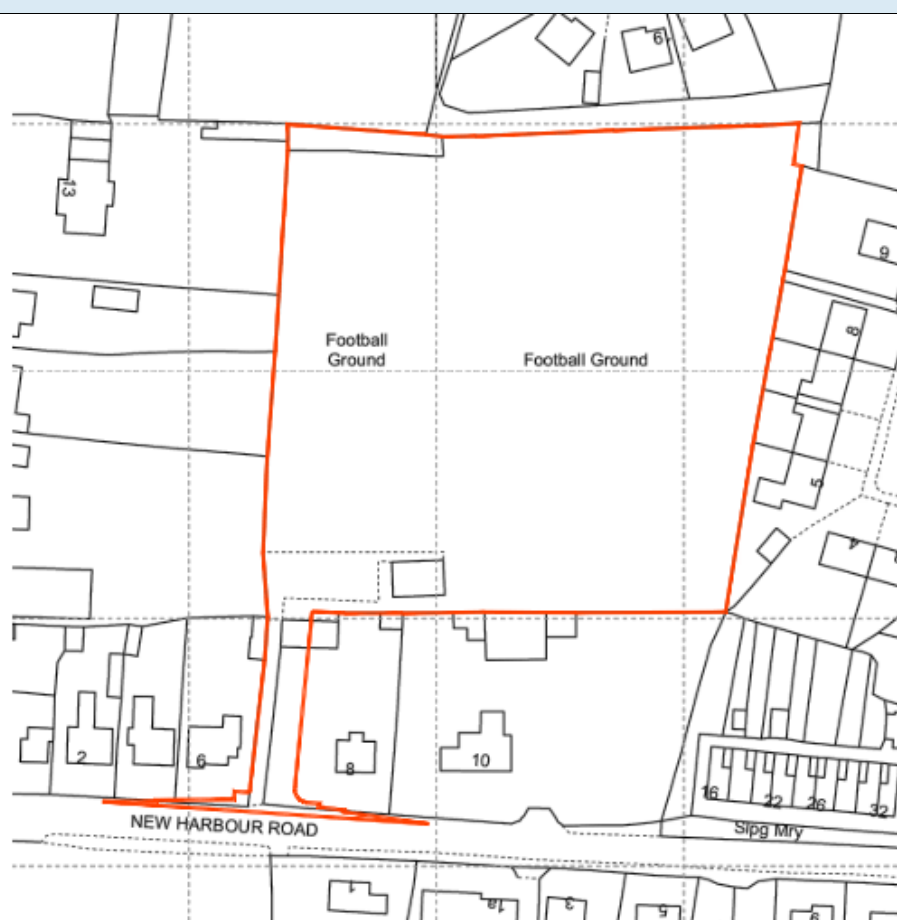
Recommendation: Grant Planning Permission**Report Agreed by Authorised Officer**

Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal [Northern Ireland Public Register \(planningssystemni.gov.uk\)](https://planningssystemni.gov.uk)

1. Site and Surrounding Area

The site is located on the northern side of Harbour Road and is accessed between two residential dwellings. There is a small parking area and a public toilet/changing room block on the site. The site is bounded by a ball stop fence along with the boundary fence, wall and hedgerows of the neighbouring residential properties.

The site is level with the existing football pitch occupying the majority of the northern portion of the site. The tarmac parking area and existing pavilion is located along the southern boundary. The area is mainly residential in character although Portavogie Primary School is located south-west of the site

2. Site Location Plan

3. Relevant Planning History

X/2013/0512/F - Football ground to the rear of no 8 and 10 New Harbour Road Portavogie - Upgrade to existing football ground to include the replacement of the existing grass pitch with synthetic surface fencing and floodlighting – Permission granted 24/10/2014

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 (ADAP)
- Strategic Planning Policy Statement for Northern Ireland, Edition 2
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 15 (Revised): Planning and Flood Risk

Principle of Development

As required by Section 45 Part (1) where an application is made for planning permission, the Council, in dealing with the application, must have regard to the Local Development Plan, so far as material to the application, and to any other material considerations, and may grant planning permission, either unconditionally or subject to such conditions as it thinks fit; or refuse planning permission.

In the Ards and Down Area Plan 2015, the site is located within the settlement limit for Portavogie. The site is also zoned as 'Existing Recreation and Open Space', Proposal PE 04/3 Brandon Park Football Pitches. Planning Policy Statement (PPS) 8 – Open Space, Sport and Outdoor Recreation is material to the assessment. As the proposal is to replace an existing grass football pitch with a new synthetic football pitch, the use remains consistent with the zoning and therefore the proposal is consistent with the Area Plan. It is considered that the sites re-use as a football pitch means that no open space is lost and the proposal does not offend Policy OS 1 of PPS 8.

Design, Visual Impact and Impact on Character of the Area

The proposal includes the provision of a 3G synthetic pitch with fencing and 6m high ball stop fencing to the rear of each of the goals. There will be a 4.1m high spectator

stand, a 4.8m high changing pavilion, 8 No. 20m high floodlights and associated on-site parking.



Figure 1: X/2013/0512/F Site Plan and Proposed Site Plan

The proposed 3G pitch will result in a reorientation to the current position of the existing grass pitch however will encompass much of the footprint. The boundaries of the site will be defined by 2m high mesh fencing and 2m high timber acoustic fencing. The boundaries of the pitch will be defined by 1.2m high mesh fencing with 6m high ball stop fencing behind both sets of goal posts.



Figure 2: Existing site photographs

The existing boundaries of the site are generally defined by the existing timber fencing, mesh fencing and ball stop fences at both goal ends. The proposed fencing will not be at odds to what is currently existing and should cause no greater visual impact than the current arrangement. The proposal will upgrade the existing facility which will in turn enhance the character of the site without detracting from that of the surrounding area.



Figure 3: Existing pavilion annotated by red arrow

The proposed spectator stand and changing pavilion will be located on the southern portion of the site. The scale of the proposed buildings/structures is not considered to be dominant or visually obtrusive. There are glimpses of the existing pavilion from New Harbour Road although it is currently located immediately adjacent to the boundary at the rear of No. 8 and 10 New Harbour Road. The proposed pavilion building will be located a minimum of 9m from this southern boundary which will reduce the visual impact from New Harbour Road. The design and massing of the pavilion and spectator stand is considered appropriate for the location and will not cause an adverse impact on the character or visual amenity of the area.

In relation to the floodlighting, the proposal includes eight, 20m high floodlights. The current lighting on the site is limited to the southern boundary where there are 3 floodlights which direct light onto a small grass pitch beside the pavilion. The proposed lighting is moved away from this boundary to the side of the pitch.

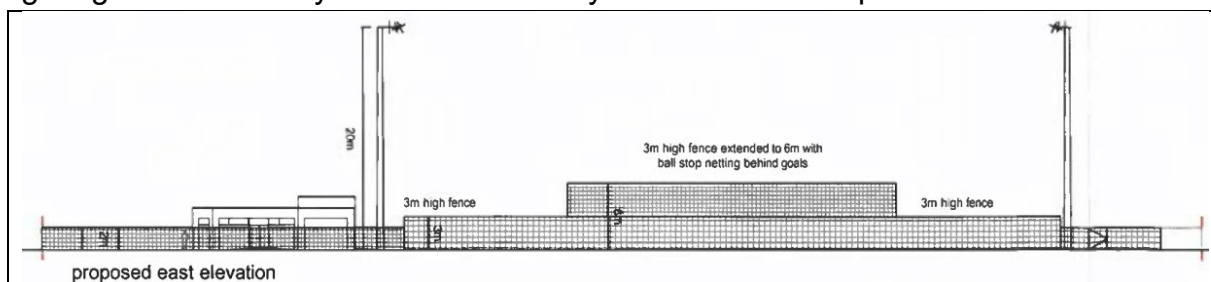


Figure 4: Fencing and floodlighting

The current lighting on the site is limited to the southern boundary where there are 3 floodlights which direct light onto a small grass pitch beside the pavilion. The proposed lighting is moved away from this boundary to the side of the pitch. From a visual perspective, there is a 30m gap between the floodlights and in terms of massing, they will not be significant during daylight hours as they are set back from the surrounding critical viewpoints, some 70m from New Harbour Road and they will be largely obscured by the existing built development surrounding the site.



Figure 5: Existing floodlighting

The visual impact will be more prominent outside of daylight hours when the lights are switched on. Considering the angle of the lighting, orientated towards the proposed 3G pitch and considering the separation from the public road, I do not consider the visual impact to be unacceptable considering the given use of the site. A time limiting condition was recommended by the Council's Environmental Health Department (EHD) that the site cannot be in use after 22.00. This will also serve to reduce the visual impact of the proposal at night time and low light hours.

Impact on Residential Amenity

Policy OS 4: Intensive Sports Facilities of PPS 8 states that there should be "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, including any noise or light pollution likely to be generated". Under Policy OS 7 floodlighting of facilities will only be allowed where there is no unacceptable impact on the amenities of people living nearby.

The application form indicates that it is envisaged that the new development will draw a greater number of visitors to the site. It was confirmed that the number of players

was not increasing and during weekdays the hours of operation will be extended by one hour from the existing time of 6-9pm to 6-10pm. There is no proposed change to the pitch use at the weekend regarding both hours of operation and number of players/spectators in attendance.

The site is located in close proximity to the houses fronting New Harbour Road (Nos. 6, 8 and 10) as well as No. 5, 6, 7, 8 & 9 Brandon Park, Nos. 12, 14, 16 & 17 Seahaven Avenue and 5, 7, 11 & 13 Main Road.

To consider the potential noise impact of the new facility and extended hours, an Assessment of Outward Sound Level Impact was provided. This assessment demonstrated that the proposed end time is 1dB quieter than the existing and on this basis the sound impact for the proposed end time will be 1dB greater than the existing end time and this is confirmed as normally not noticeable and of low impact. EHD recommended two conditions, one relating to the use of the pitch ending at 22.00hrs and one relating to acoustic barriers (which are indicated on the site plan). These measures will protect the amenity of the nearby residential premises in relation to noise.

In relation to the floodlighting, an Evaluation of Obtrusive Lighting on Adjacent Properties was submitted in support of the application. The submissions outline the impact of vertical illuminance on adjacent residential properties and confirms compliance with the pre-curfew light intrusion requirements of 10 Lux for an E3 suburban location as laid out in table 2 of the guidance document – (Institute of Lighting Professionals (ILP) Guidance Notes for the reduction of Obtrusive light). EHD has considered the submissions and recommended conditions relating to the light levels and hours of use restricted to 22.00hrs.

It is considered that the proposal will not have an unacceptable adverse impact on the residential amenity of the neighbouring dwellings.

Access

The access to the site is off New Harbour Road and it involves the widening of the existing access to bring it up to standard. The widening of the access does involve encroachment into the garden and partial demolition of the outbuilding associated with No. 8 New Harbour Road. The front boundary walls have to be realigned at 4,6 and 8 New Harbour Road and the vehicular access to No. 8 will be relocated from New Harbour Road onto the proposed laneway to the football pitch. The relevant 3rd parties have had notice served on them.

Increased parking will be provided at the site. In accordance with the Parking Standards Document, 1 space per 3 staff, 1 space per 3 players and 1 space per 3 spectators. 1 coach space per 500 spectators are required. The consideration of this requirement can be seen below;

1 staff - 1 space per staff.

112 spectators – 38 spaces.

1 space per 3 players – Considering if there are 11 players per team and possibly 4 substitutes, that 30 players equating to 10 spaces.

The spectator numbers do not exceed 500 so a coach space is not required.

Total required equates to 49 spaces.

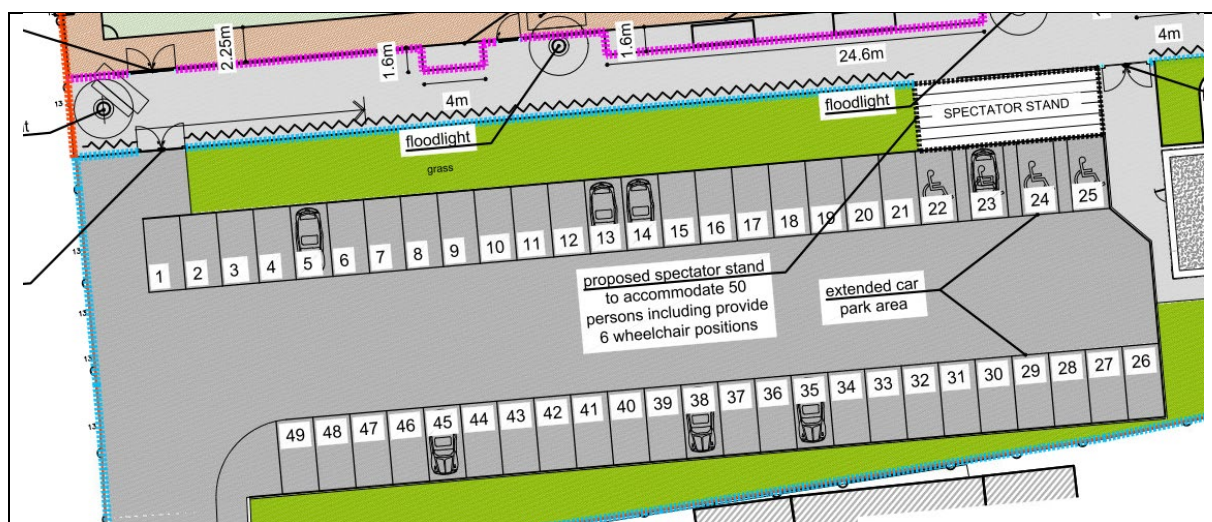


Figure 6: Parking Provision

As indicated in figure 6, adequate parking spaces have been provided in accordance with Policy AMP7.

DFI Roads have been consulted on the upgrade to the existing access and it has offered no objections subject to conditions. The widening of the access brings the existing substandard access up to a suitable width with adequate visibility splays so that it can safely provide off-street parking to the increased number of spectators who are expected to visit the upgraded site. Overall, the proposal can be seen to accord with the provisions set out under PPS3.

Archaeology and Built Heritage

There are no archaeological, built heritage or landscape features that need to be integrated into the development nor will the development adversely affect any features.

Designated Sites/Other Natural Heritage Interests

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify potential adverse impacts on designated sites. No such scenario was identified. Blackstaff Ecology carried out a Habitats Regulations Assessment (HRA) on behalf of the Council

and it was forwarded to Shared Environmental Service (SES) for review. SES advised that it had no reason to disagree with the findings of the HRA. SES considers that the Council has fulfilled its obligations under the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

In terms of protected and priority species, Part 2 of the Checklist was referred to and Yes was ticked to a number of the questions in this section. The Ecologist completed Section 3 and advised that it is unlikely that the proposed development works will negatively impact upon badgers and their setts and the site does not contain mature trees or features that appear to have bat roosting potential. No further ecological surveys or assessments were deemed to be necessary.

Marine and Fisheries Division was consulted on the proposal and in their response dated 16 February 2022, it advised that the application site is set back from the marine environment within a heavily developed residential area in Portavogie. It is therefore unlikely that the proposal will have an impact on the marine environment provided appropriate pollution prevention measures are implemented during construction and operation. A re-consultation response dated 14 November 2024 considered the HRA and advised that Murlough SAC (located ~31km away, designated for Harbour seal) and the Maidens SAC (located ~50.5km away, designated for Grey seal) should be included for consideration of potential impacts to these mobile marine mammal features.

It is noted that any pathway to these sites could only transverse the North Channel SAC which has been considered under the appropriate assessment within the HRA. Mitigation measures have been proposed and have been considered acceptable in respect to the North Channel SAC. In this regard it is considered that with these mitigations in place there will not be a significant impact on the Maidens SAC or Murlough SAC.

Other Material Considerations

Flood Risk and Drainage

FLD 3 – Development and Surface Water (Pluvial) Flood Risk outside Flood Plains

The proposal meets the threshold for the submission of a Drainage Assessment as it involves hard surfacing exceeding 1000 square metres in area. DfI Rivers has reviewed the Drainage Assessment, dated 8th June 2022, and accepts its logic and has no reason to disagree with the conclusions.

5. Representations

One letter of representation has been received from the occupier of 5 Brandon Park. The author makes clear that this is not an objection but a list of concerns. 5 Brandon Park is located on the eastern side of the site. His concerns relate to:

Light pollution from existing lights

The proposed lighting columns are in a different location than that of the existing floodlights. It is considered that the light spill diagram indicates that any light spill at Brandon Park will be low level with the main direction of illumination towards the centre of the pitch. EHD have considered the submissions and it has deemed that the proposed floodlighting is acceptable subject to a condition that it should comply with light intrusion level of 10 Lux and that they should not be operated after 22.00hrs.

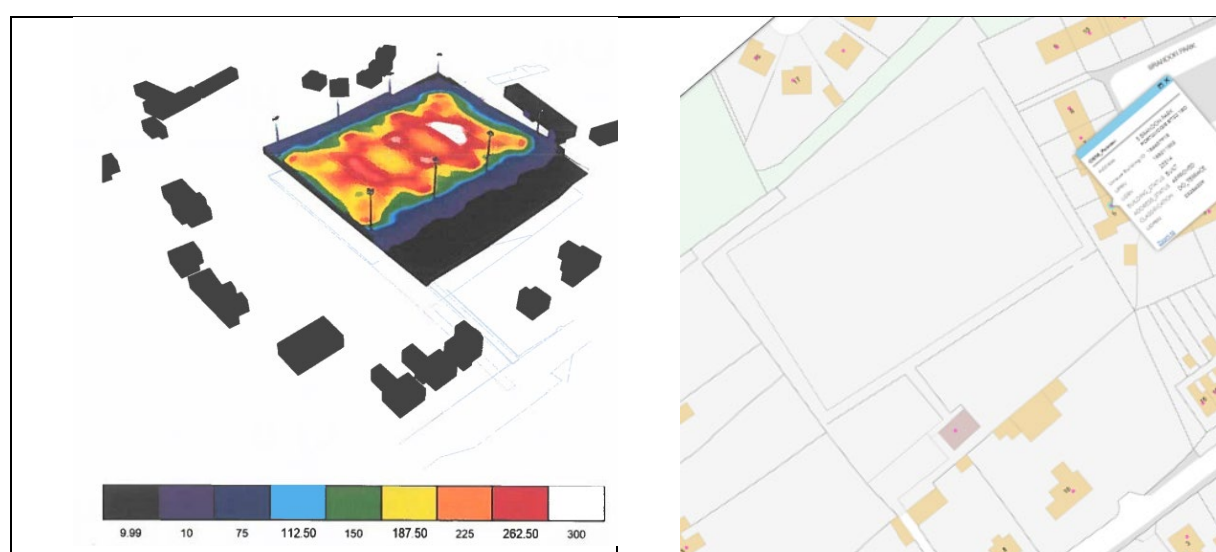


Figure 7: Light spill

Noise increasing and becoming excessive

Due to the location of the spectator stand on the western side of the changing pavilion and 1.2m high fencing adjacent to the changing pavilion, spectators will be encouraged to congregate away from the housing in Brandon Park. A Noise Assessment has also been submitted and considered by EHD and a 3m high timber acoustic fence is proposed at the corner of the pitch closest to Brandon Park. A fence mounted obscured panel is also proposed adjacent to this acoustic fence to protect the amenity 5 Brandon Park.

Property damage

There is currently a smaller pitch adjacent to 5 Brandon Park but this does not form part of the proposal. There will be one synthetic pitch with appropriate ball stop fences located around the pitch. This will help prevent any damage to the adjacent properties.

Wildlife using the pitch

A Habitats Regulations Assessment (HRA) and Biodiversity Checklist have been completed for the site and it is not considered that the proposal will have a significant adverse impact on the environment or on any protected species.

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 development hereby approved shall not remain open after 22:00hrs.

Reason: To protect the amenity of nearby residential premises with respect to noise.

3. Prior to operation of the pitch, acoustic barriers as specified in Figure C of the Assessment of Outward Sound Level Impact, prepared by Lester Acoustics, referenced MRL/1473/L01 and dated 16th June 2021 shall be installed, retained and maintained thereafter. The barriers shall be of solid construction (no holes or gaps). If a timber fence is erected, it shall be fully ship-lapped or over-lapped design with a surface weight of at least 8kg/m².

Reason: To protect the amenity of nearby residential premises with respect to noise.

4. The floodlighting to the development shall minimise obtrusive light and shall comply with the light intrusion level of 10 Lux as specified within the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone – E3, contained within Table 2 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN 01/20, dated 2020.

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

5. In order to protect the amenity of neighbouring properties in relation to light pollution, all floodlights shall not be operated after 22:00hrs.

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

6. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 03 prior to the commencement of any other 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.

7. All hard and soft landscaping works shall be carried out in accordance with the approved details on Drawing No. 04A. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Council. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council. All hard surface treatment of open parts of the site shall be permeable or drained to a permeable area. All hard landscape works shall be permanently retained in accordance with the approved details.

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

8. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a consent to discharge has been granted under the terms of the Water (NI) Order 1999 and evidence of this is submitted to the Council.

Reason: To ensure there will be no adverse impact on the environment.

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.

Appendix 1 – Site Location Map

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SEACLIFF AVENUE

Football Ground Football Ground

NEW HARBOUR ROAD

Segway

License / Permit Number: 630 Plan Number: 18803SW

B - Red line amended at request of Client. 11.JUL25 J.McC
 A - Red line amended. 15.SEP22 J.McC

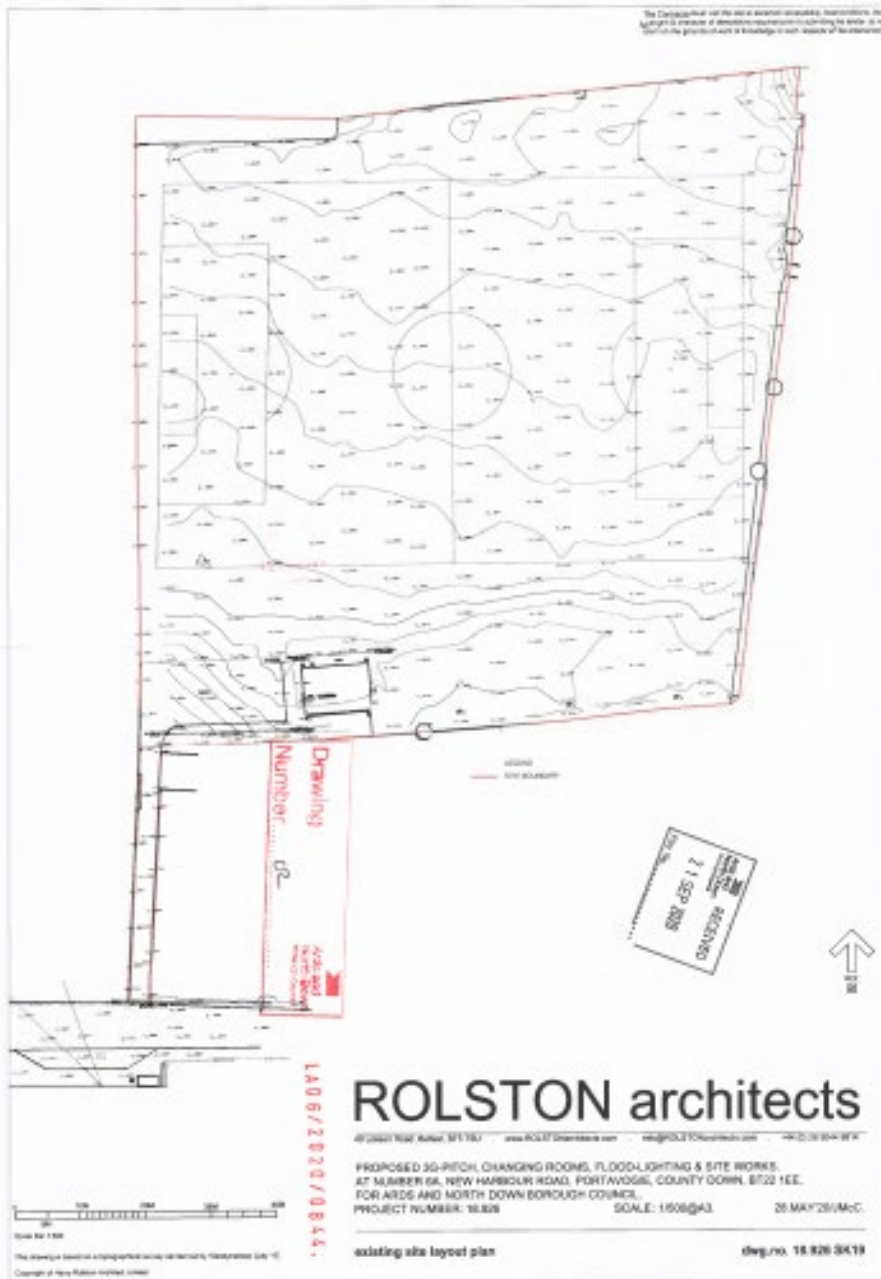
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49 Lisleen Road, Belfast, BT5 7SU . www.ROLSTONarchitects.com . info@ROLSTONarchitects.com . +44 (0) 28 9044 9814

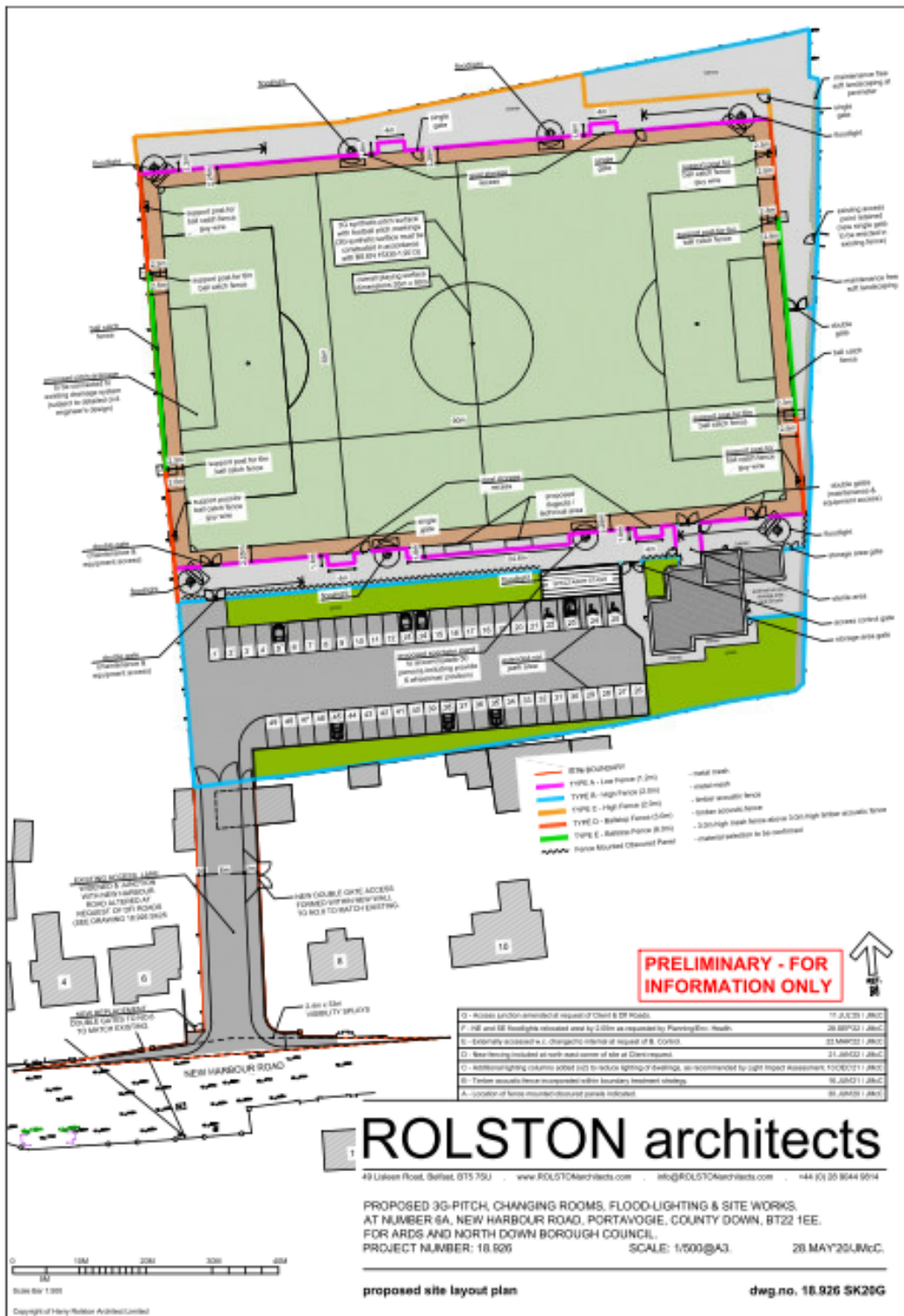
PROPOSED 3G-PITCH, CHANGING ROOMS, FLOOD-LIGHTING & SITE WORKS.
 AT NUMBER 6A, NEW HARBOUR ROAD, PORTAVOGIE, COUNTY DOWN, BT22 1EE.
 FOR ARDS AND NORTH DOWN BOROUGH COUNCIL.
 PROJECT NUMBER: 18.926 SCALE: 1:1250@A4. 28.OCT'19/JMcC.

site location map dwg.no. 18.926 01B

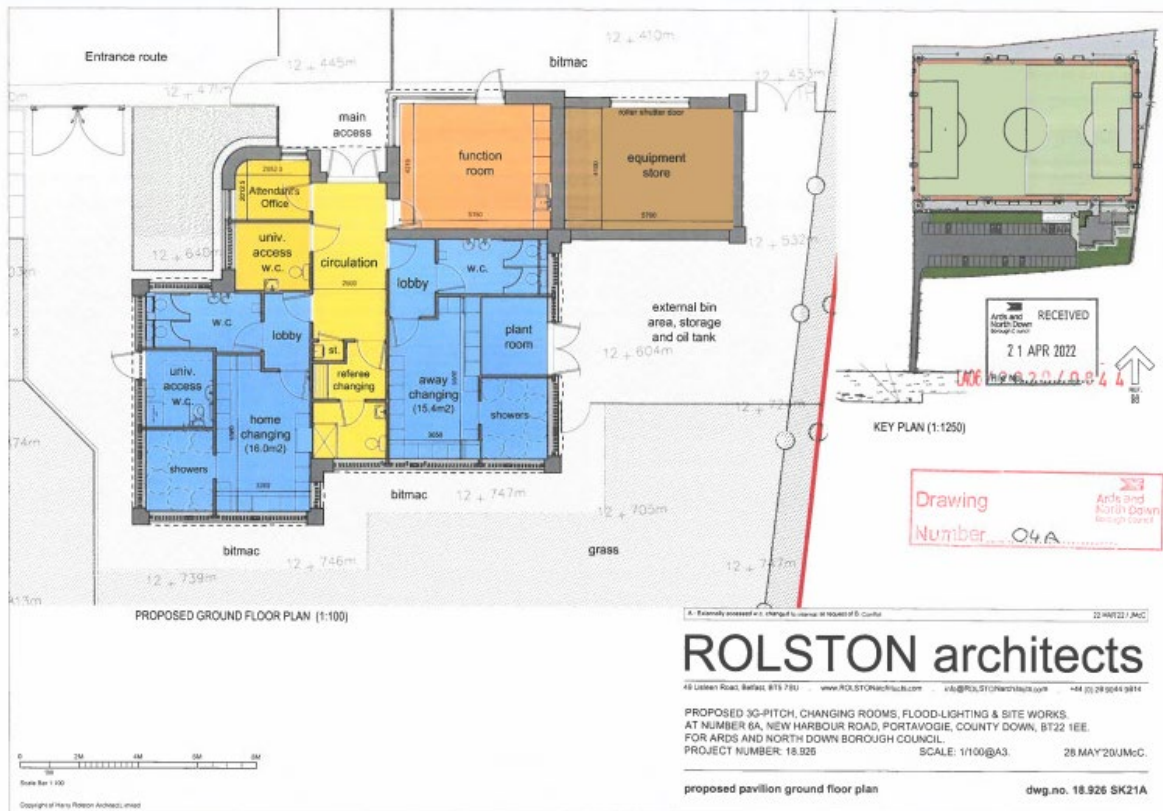
Appendix 2 – Existing Site Layout



Appendix 3 – Proposed Site Layout



Appendix 4 – Proposed Pavillion Ground Floor Plans



Appendix 5 – Proposed Pavillion Elevations



Appendix 6 – Proposed Fence Elevations

proposed south elevation

proposed west elevation

proposed north elevation

proposed east elevation

proposed fence & floodlight elevations

Key Plan (1:1500)

RECEIVED
21 SEP 2020

Drawing Number: LA06/2020/0844

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PROPOSED 3G-PITCH, CHANGING ROOMS, FLOOD-LIGHTING & SITE WORKS.
AT NUMBER 6A, NEW HARBOUR ROAD, PORTAVOGIE, COUNTY DOWN, BT22 1EE.
FOR ARDS AND NORTH DOWN BOROUGH COUNCIL.
PROJECT NUMBER: 18.926 SCALE: 1:500@A3. 28 MAY'20/JMcC.

proposed fence elevations dwg.no. 18.926 SK23

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Appendix 7 – Proposed Covered Seating Stand

Covered Spectator Stand Specification

Contractor must submit manufacturer's and installers conformity certificates for all materials used.
The structure described below must be designed to meet the requirements of BS 8109 Part 1 2 & 3.
Line loads, anchor bolts and steel track.
The structure must comply with BS 5959 Part 1: Structural Use of Steelwork.
All materials to be hot dipped Galvalume to BS EN 1461:1998 and Polyester Powder Coated Green to BS EN 13438 after fabrication.

- 1) Panels:** 3mm Impact Resistant Polycarbonate Transparent Panels, UV Stable both sides fixed to each frame with 50 x 3mm flat slotted 3mm H8 stainless steel security screws at every 300mm lightened into roll insolated supports fixed below Polyester Powder Coating and tensioned with Hydraulic setting tool to required torque.
- 2) Seating:** Seat model of max. 630mm wide x 435mm deep x 350mm H to be (steel), monoblock, self-healing, ergonomic double wall, high back, manufactured in copolymer polypropylene, UV stab-fixed, semi-glossy surface, seated around the whole of its perimeter to prevent dirt from accumulating in the seat, easy cleaning. Filling with 2 foam modules. Central drainage.
- 3) Site location:** Position and orientation of spectator stand to be straight, with top of frame following profile of ground, with shelter set rigid, plumb and with correct tensioning and all components securely fixed.

Indicative image of proposed covered spectator stand (exact seating colour/arrangement subject to end user requirements)

proposed covered spectator seating stand - 60 seats including 6 wheelchair spaces
(exact design subject to end user requirements and structural engineer / specialist design)
(stand to be constructed in accordance with "Northern Ireland (Red) Guide to Safety at Sports Grounds")

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PROPOSED 3G-PITCH, CHANGING ROOMS, FLOOD-LIGHTING & SITE WORKS.
AT NUMBER 6A, NEW HARBOUR ROAD, PORTAVOGIE, COUNTY DOWN, BT22 1EE.
FOR ARDS AND NORTH DOWN BOROUGH COUNCIL.
PROJECT NUMBER: 18.926 SCALE: 1:50@A3. 28 MAY'20/JMcC.

proposed covered spectator seating stand dwg.no. 18.926 SK24

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Appendix 10 – Site photographs



Entrance off New Harbour Road





Site photographs taken from south-western corner of pitch




Existing pavilion building and boundary with No. 8



Boundary with No 8 and entrance



South-eastern corner of site

Development Management Case Officer Report			 Ards and North Down Borough Council
Reference:	LA06/2025/0992/F	DEA: Bangor Central	
Proposal:	12 No. Dwellings (Change of house type E from approval W/2003/1085/F)		
Location:	Site approximately 75m North of 62 Green Road, Conlig		
Applicant:	Dunlop Homes Ltd		
Date valid:	19/11/2025	EIA Screening Required:	Yes – site area approx. 0.7ha
Date last advertised:	05/02/2026	Date last neighbour notified:	27/01/2026
Letters of Support: 0	Letters of Objection: 11 (from 10 addresses)	Petitions: 1 (20 signatures)	
Consultations – synopsis of responses:			
Consultation not required			
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of Development • Planning History of site and surrounding area • Impact on residential amenity • Impact on the character and appearance of the area • Access and road safety • Biodiversity 			
Recommendation: Grant Planning Permission			
Report Agreed by Authorised Officer			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal			

1. Site and Surrounding Area

The application site is located north of 62 Green Road, within the settlement of Conlig, and at present consists of occupied terrace houses as well as a number of houses under construction. It is noted that neither of the blocks of dwellings subject to the current application are under construction at present.

Plots 20 – 23 sit adjacent to a row of terraced dwellings under construction at present, whereas plots 33-40 sit in an entirely undeveloped corner of the site, with vegetation to its boundaries.



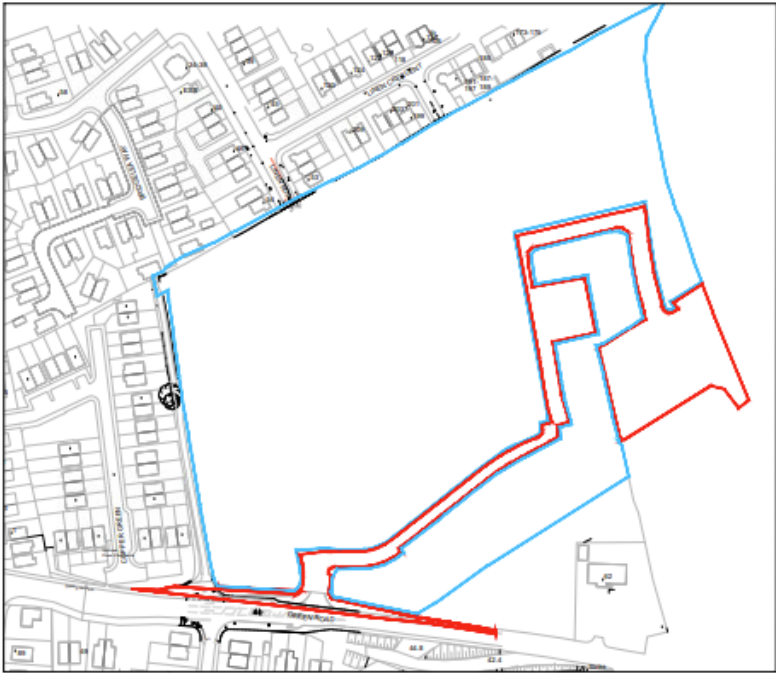
Figure 1 – approximate location of plots 33-40



Figure 2 – plots 14-19 under construction, with proposed siting of plots 20-23 beyond

The surrounding area is largely residential in character, with dwellings consisting of a wide variety of scales and designs.

2. Site Location Plan



3. Relevant Planning History

W/2003/1085/F – Proposed housing development house types A, B, C, D, E, F, G, H, K, L, M & D5, and detached garages, plus road widening and new access off Green Road. 176 no. dwellings in total – **Approved, extant**

W/2005/0214/F – Proposed 191 dwellings (detached, semi-detached & townhouses) with double and single garages and other associated site works – **Approved on appeal**

LA06/2020/1096/LDP - Land between Rathgill Parade and Green Road, Bangor - Completion of dwellings 24 and 25 following their prior commencement of development, in accordance with planning permission W/2003/1085/F – **Approved**

LA06/2024/0899/NMC - Alterations to Block E - Realign rear wall to remove step, remove chimneys, remove entrance canopy, remove gable barge board detail, remove 1st floor peak window detail remove en-suite, remove external ground floor walkway (Units 111-114), remove 1st floor en-suite window. Additional ground floor hall window in gable. – **Refused**

LA06/2024/0900/NMC - Alterations to Block F of W/2003/1085/F - Realign rear wall to remove step, remove chimneys, remove rear kitchen door, remove barge board detail, remove external ground floor walkway (Units 1 -13), remove 1st floor en-suite window, removal of ground floor gable window. – **Refused**

LA06/2025/0112/NMC - Non-material change to Planning Approval W/2003/1085/F. Alterations to include: Realignment of rear wall, removal of chimneys, removal of entrance canopy, removal of exposed truss design, removal of ensuite window – **Approved**

LA06/2025/0677/NMC - Non-material change to planning approval: W/2003/1085/F of existing townhouse type E, alteration to include: realignment of rear wall, removal of chimneys, removal of ensuite window, removal entrance canopy, removal exposed Truss Design. – **Refused**

LA06/2025/0711/NMC - Non-material change to planning approval W/2003/1084/F: Variation of Town House Type E, to re-align rear wall to remove stepped proposal, removal of chimneys, removal of en-suite window, removal of entrance canopy and removal of exposed truss design. – **Refused**

It is noted that LA06/2025/0677/NMC and 0711/NMC include similar alterations to LA06/2025/0112/NMC, however, due to the overall quantity of dwellings proposed to be changed, the alterations are ultimately considered to be material, hence necessitating the current application for a change of house type on 12 units.

4. Planning Assessment

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

- North Down and Ards Area Plan 1984-1995 (NDAAP)
- Draft Belfast Metropolitan Area Plan 2015 (dBMAP)
- 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 and Parking
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 7 (Addendum): Safeguarding the Character of Established Residential Areas

Planning Guidance:

- Creating Places

Principle of Development

Development Plan

NDAAP currently acts as the LDP for this area, despite its end date, with dBMAP remaining a material consideration where applicable. Under dBMAP, the application site falls within a committed housing site zoning, due to the extant approval for 176 dwellings under W/2003/1085/F.

The SPPS sets out the guiding principle relating to the grant / refusal of development contained within paragraph 3.8. This states that sustainable development should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Considering there is extant permission for 176 dwellings on the site (W/2003/1085/F, which is determined to have commenced), and the fact that the application site sits within a committed housing site under dBMAP, I am satisfied that the principle of development has already been established in this instance. It is also noted that, as the overall development has already commenced, there is a fall-back position in this instance whereby the dwellings approved under W/2003/1085/F could still be developed. As such, the current proposal should be assessed under Policy QD 1 of PPS 7.

The main differences when compared with the original approval are as follows:

- Realignment of rear wall and removal of step
- Removal of chimneys
- Removal of entrance canopy
- Removal of first floor ensuite window

- Removal of exposed truss design
- Increased ridge height



Previously Approved Site Plan



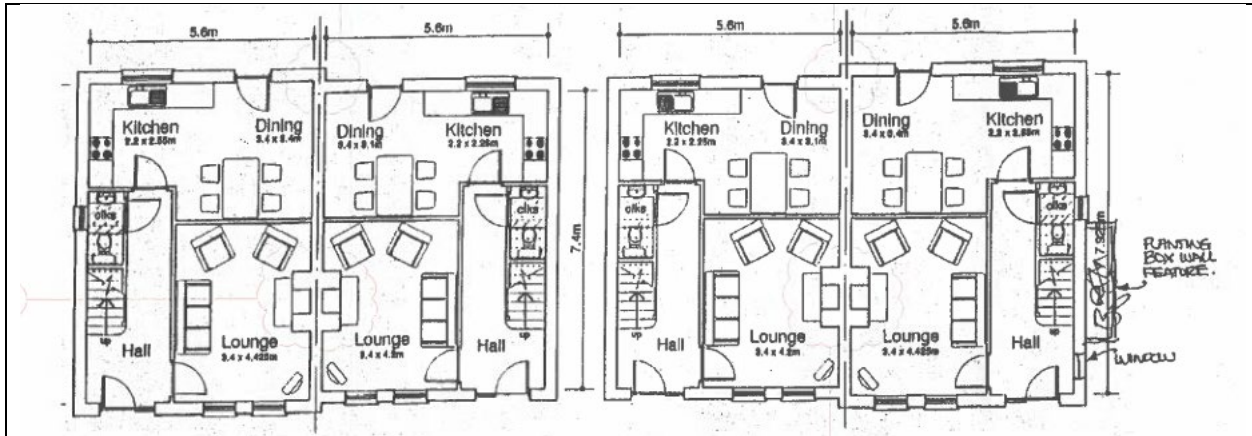
Proposed Site Plan



Previously approved landscaping scheme

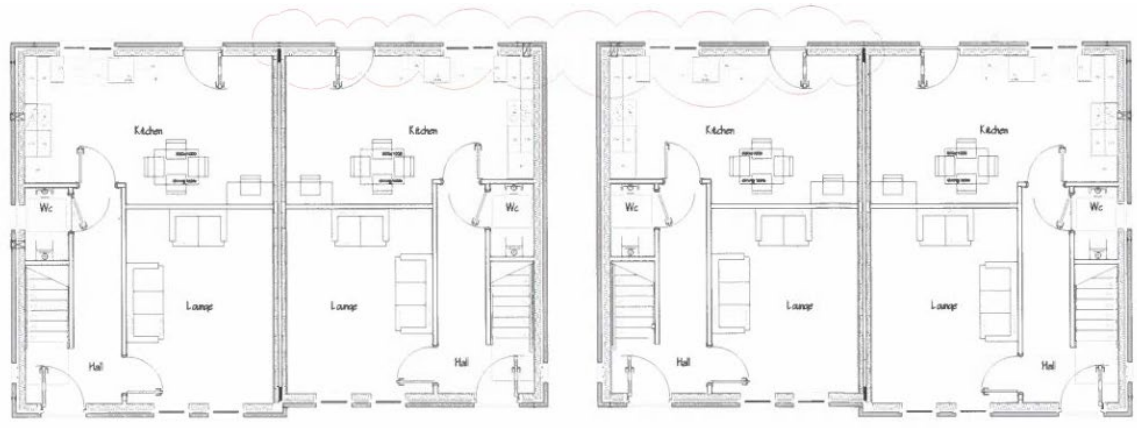


Proposed landscaping scheme

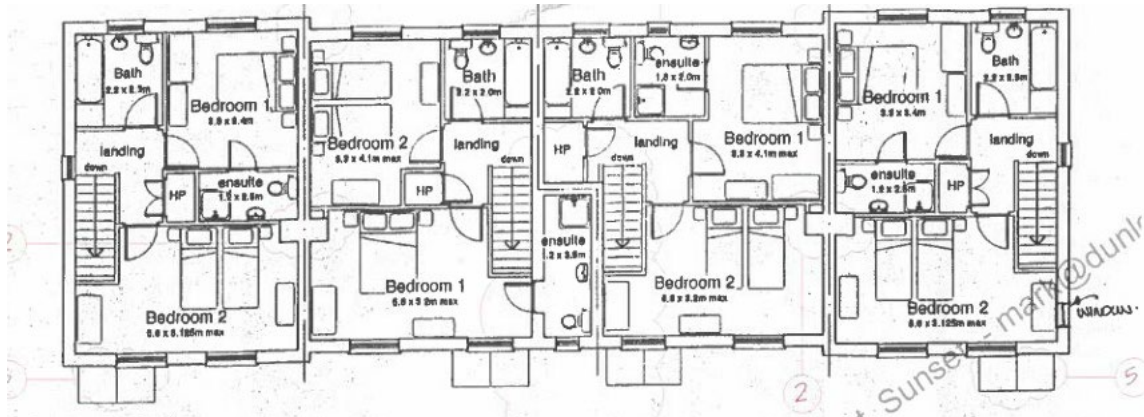


Exemplar Ground Floor Plan - Planning Reference W/ 2005/1085/F
Scale Nbs

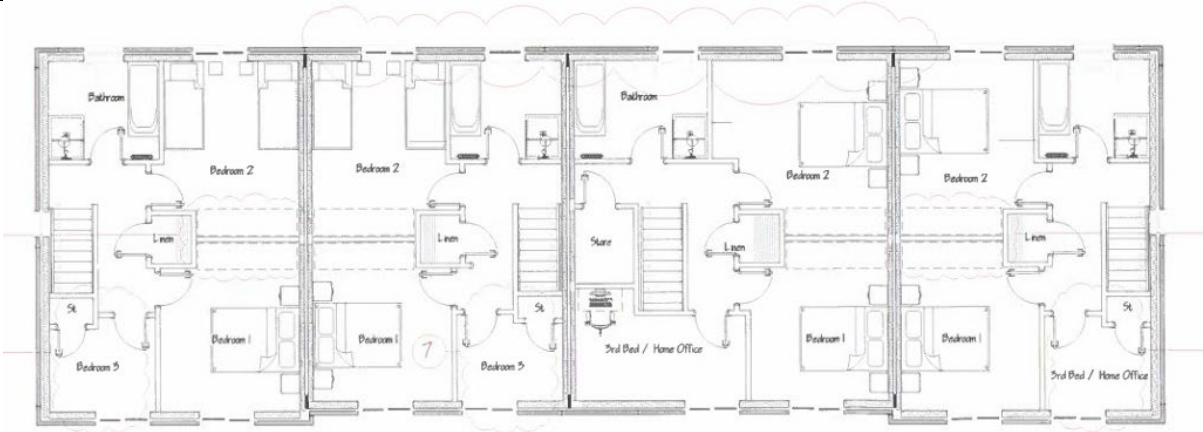
Previously Approved Ground Floor Plan



Proposed Ground Floor Plan



Previously Approved First Floor Plan



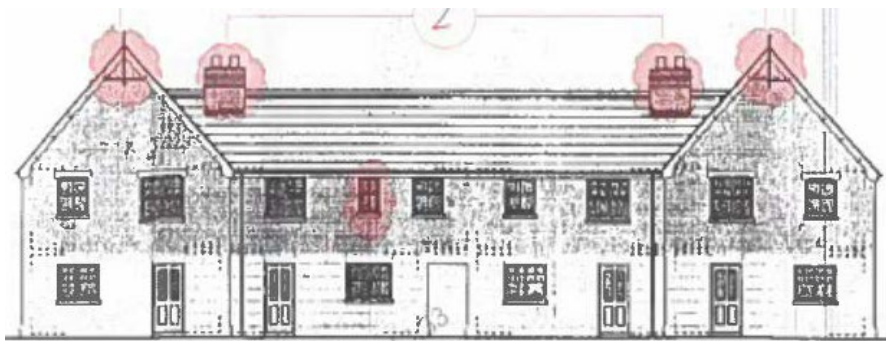
Proposed Ground Floor Plan



Previously Approved Front Elevation



Proposed Front Elevation



Previously Approved Rear Elevation



Proposed Rear Elevation

Policy QD 1 of PPS 7 relates to quality in new residential development. Under QD 1, all proposals for residential development will be expected to conform to all of the following criteria:

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

I am satisfied that this is the case. The overall changes to the dwellings are relatively minor, with the overall character and external finishes largely remaining similar to the extant approval. The ridge height of the mid-terrace dwellings is proposed to be increased by 0.9m, with chimneys removed, however it is noted that this brings the entirety of the roof to the same level, and does not increase the overall height of the proposed dwellings (as the original approval had each end-terrace dwelling orientated to have a higher pitch than the mid-terrace dwellings). No alterations are proposed to any landscaped or hard-surfaced areas within the site when compared to the extant approval.

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

There are no features of archaeological, built heritage or landscape features that would be impacted by the proposal.

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

In terms of public open space, I am satisfied that there is not a need for the current application to provide this, as this has been provided under the extant approval W/2003/1085/F within the wider development site. In terms of private amenity space, each dwelling is proposed to have a provision of between 60 and 75m², which meets the guidelines set out by Creating Places. On plots 20-23, the rear gardens will be

surrounded by other development, and therefore will not be directly visible and do not require any additional boundary vegetation to provide a visual buffer. Plots 33-40 are not bound by other development to the east or south, though it is noted that there is existing dense vegetation along these boundaries, which will be conditioned to be retained in line with DRG 03A to aid integration.

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

Considering the proposed dwellings fall within a wider housing development which has already commenced, it is not deemed necessary for any additional local neighbourhood facilities to be provided as part of the current application.

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

I am satisfied that this is the case. The site overall is relatively level, and will have tarmac roads / footpaths throughout to allow for ease of movement for those with disabilities. The nearest bus stop is located approximately 500m west of the site on Green Road. While this is not in direct proximity, it is noted that the current proposal falls within a larger housing development which has extant planning permission, and it would not be reasonable to request any improvement to public transport access as part of the current application.

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

I am satisfied that this is the case. Shared parking areas are provided for each two dwellings, which accommodate two cars per dwelling, as shown on DRG 02A. Each dwelling consists of a two-bedroom terraced house, with Parking Standards requiring two parking spaces for a dwelling of this size, and therefore the proposal meets this criterion.

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

The proposal is largely similar in terms of design and materials to the extant approval, consisting of two-storey terraced dwellings with pitched, tiled roofs and half-blockwork, half-brick external finish, with sash windows. Exposed roof trusses and chimneys have been removed, as well as increasing the ridge height of the mid-terrace dwellings to match the end-terrace dwellings. The current proposal is similar overall to the extant approval, although with a slightly simpler / more contemporary overall style. Since the proposed alterations are of such a minor nature, I am satisfied that criterion (g) is met.

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

The proposed alterations will make no significant change in terms of impacts to neighbouring properties. The upstairs layouts of the dwellings remain largely similar, with the main alteration being the removal of an ensuite in the mid-terrace dwellings, allowing for a larger bathroom and the removal of one window from the rear elevation of each. While the positioning of windows on the front elevation has changed somewhat, these will have no greater impact on neighbouring privacy / amenity than the extant approval. Equally, while the ridge height of the mid-terrace dwellings has increased, as this increase only brings their height up to match that of the end-terrace dwellings, it is not considered that this would have any greater impact on neighbouring dwellings in terms of dominance or loss of light either.

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

I am satisfied that this is the case. The proposed dwellings will be set within a larger housing development, with all dwellings having glazing to all sides to allow for natural surveillance.

Policy LC 1 of the Addendum to PPS 7 relates to the protection of local character, environmental quality and residential amenity. It is stipulated by this policy that in established residential areas, planning permission will only be granted where:

(a) The proposed density is not significantly higher than that found in the established residential area;

The proposal does not involve any greater amount of dwellings than the extant approval, and therefore does not represent any alteration in density.

(b) The pattern of development is in keeping with the overall character and environmental quality of the established residential area; and

As noted previously, while the proposal utilises a slightly less intricate design than the extant approval (with the removal of chimneys and exposed trusses), the overall form and materials of the proposed dwellings are of a high standard, and will be in keeping with the overall character of the approved housing development.

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

Annex A requires a 5-person, 3-bedroom, 2-storey dwelling to contain at least 90m² of internal floorspace. When measured, each proposed dwelling has at least 90m² of internal floorspace, with the larger mid-terrace dwellings having an internal floorspace of approx. 110m². I am therefore satisfied that the criterion is met.

Access and Road Safety

No changes are proposed to the access approved under W/2003/1085/F. I am therefore satisfied that it does not prejudice road safety, and further consultation with DFI Roads is not necessary.

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, Part 2 of the Checklist was referred to and did not identify a scenario where survey information may reasonably be required.

Sewerage Considerations

The P1 form provided indicates that the proposed dwellings will utilise mains sewers for the disposal of foul sewage. Considering this application is for a change of house type on an extant approval, it is not necessary for NI Water to be re-consulted. It is noted that the developer will need to acquire the relevant separate consents from NI Water prior to development in any case.

5. Representations

Sixty-two neighbouring properties have been notified of the proposal, as per the Council's statutory obligation.

As of writing, eleven letters of objection have been received, from ten separate addresses. A petition has also been received, with twenty signatures. A letter from an unspecified address raised the following concerns:

- The proposal is immediately behind my house and is going to make it impossible for me to work at home.

Response:

The letter of objection did not specify how the proposal would lead to difficulties with their home-working arrangements. Assuming this is related to noise concerns during the construction phase, it is expected that developers follow best practice throughout the course of development, though, as expected with any development, there will be a level of noise, dust, etc. It should also be noted that there is an extant approval on the site which could be built out in any case, without the current application in place.

A letter from 27 Copper Green raised the following points of objection:

- The proposal will significantly impact the value of our home
- Our rear garden will be overlooked

Response:

Private financial interests, such as property value, are not a material consideration in the determination of a planning application. 27 Copper Green is located approximately

182 metres west of the nearest group of proposed dwellings under consideration as part of this application (plots 20-23). Therefore no overlooking is perceived as a result of the proposed change of house type to the twelve dwellings at plots 20-23 and 33-40.

A letter of objection from 159 Linen Crescent raised the following concerns:

- Water supply issues
- Farmland to the rear of Linen Crescent being destroyed
- Height of proposed structures – potential overlooking

Response:

As noted in section 4 of this report, it is not necessary to consult NI Water as the application is for a change of house type, and the original (extant) approval could still be built out. Views over farmland are not a material consideration in the determination of a planning application, and there has been long-standing planning permission for a housing development at this location. The proposed twelve dwellings have no potential to overlook apartments in Linen Crescent, as they sit 150 – 200m away.

Letters from a multitude of addresses raised concerns about the through-road between Green Road and Balloo Road, and how this may create a road safety issue.

Response:

As noted previously, the current application makes no changes to the already-approved (and constructed) access to Green Road. Equally, this change of house type application does not include the introduction of any through-road to Linen Road / Crescent, and as such these details are not a material consideration in the determination of this application.

A letter of objection from 199 Linen Crescent raised similar roads issues, as well as raising concerns around the density of the development in relation to its surroundings.

Response:

My comments in relation to road safety are as above. In relation to density, the proposal does not seek to increase or decrease the number of dwellings compared to the original approval. Therefore, the density (in terms of dwellings per hectare) of the proposed development is not seen to be of concern in this instance.

Two letters of objection from 155 Linen Crescent raised concerns surrounding a lack of notification prior to the commencement of construction; unsociable building hours; property devaluation; water pressure / sewage issues and roads safety.

Response:

My comments in relation to roads safety are as above. Issues within the development stage are not a material consideration in the determination of a planning application, particularly considering any development ongoing at present likely relates to other dwellings within the wider development, which may not be within the application site. Personal financial interests are also not a material consideration in the determination of a planning application. As noted in section 4 of this report, the developer is required to acquire the relevant separate consents from NI Water outside of the planning process.

A letter of objection from 54 Linen Crescent also raised similar concerns about road safety and how the overall proposal of 176 houses will impact the surrounding area. My comments on these matters are as detailed above under other objections, with it again noted that this application relates to twelve dwellings, and only seeks to amend designs on an already-approved development.

A petition was also received with 20 signatures, voicing concerns about a lack of notification for the commencement of building works; unsociable working hours; impact on house prices; impact on water pressure; and road safety issues. My response to the points of this petition remains the same as detailed under the above letters of objection.

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 development hereby permitted shall not be occupied until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No. 02A, to provide for parking and servicing within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

- 3. No dwelling shall be occupied until provision has been made within the curtilage of the site for the parking of private cars in accordance with drawing No.02A. The parking provision as approved shall be permanently retained thereafter.

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

- 4. Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 2015, no buildings, walls or fences shall be erected, nor hedges nor formal rows of trees grown in verges/service strips) determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.

- 5. The proposed landscaping along the Eastern and southern boundaries (abutting dwelling nos. 33-40), as highlighted in RED in DRG 03A shall be carried out prior to the occupation of any dwellings hereby approved.

Reason: In the interests of visual amenity.

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

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

- 7. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No part of the development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No. W/2003/1085/25 bearing the date stamp 11 June 2009. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

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

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

9. The development hereby approved shall include the installation of tree pits and planting of trees to the rear of 2.6m wide footways and in the middle of the 4.5m wide cycleway/footway in accordance with the approved drawings.

Reason: In the interests of pedestrian safety and visual 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 – Site Visit Photographs – 26/11/2025



Figure A1 - Approximate location of plots 33-40



Figure A2 – Plots 14-19 under construction, with proposed siting of plots 20-23 beyond

Annex B – Proposed Plans

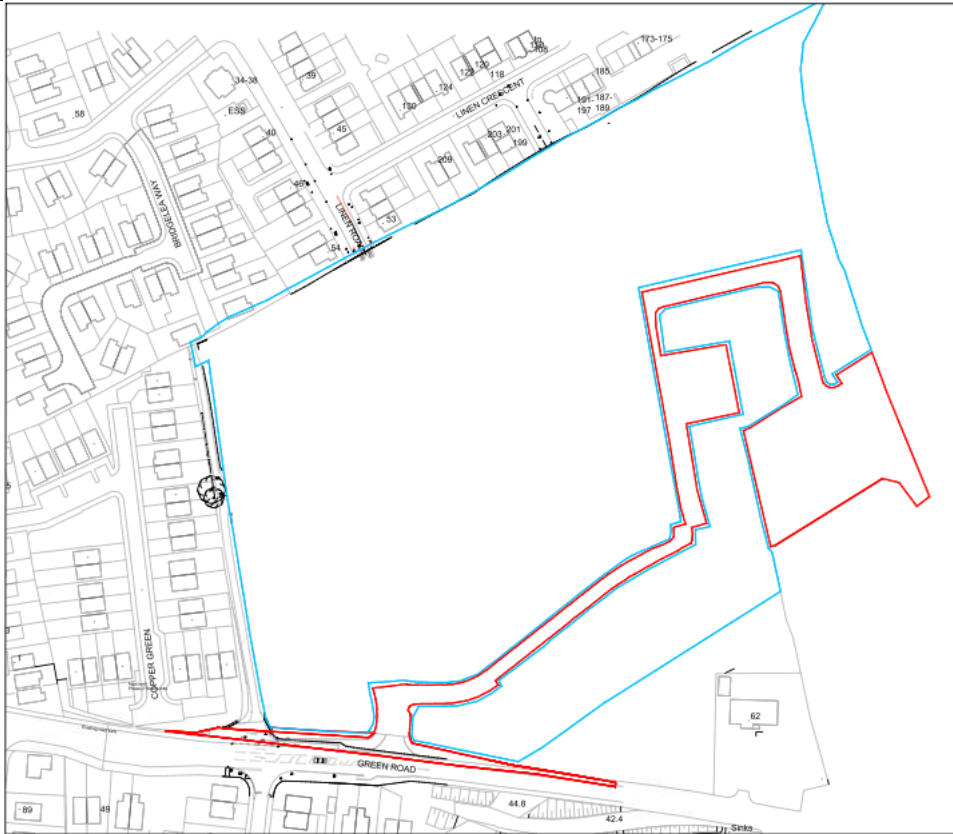


Figure B1 – Site Location Map

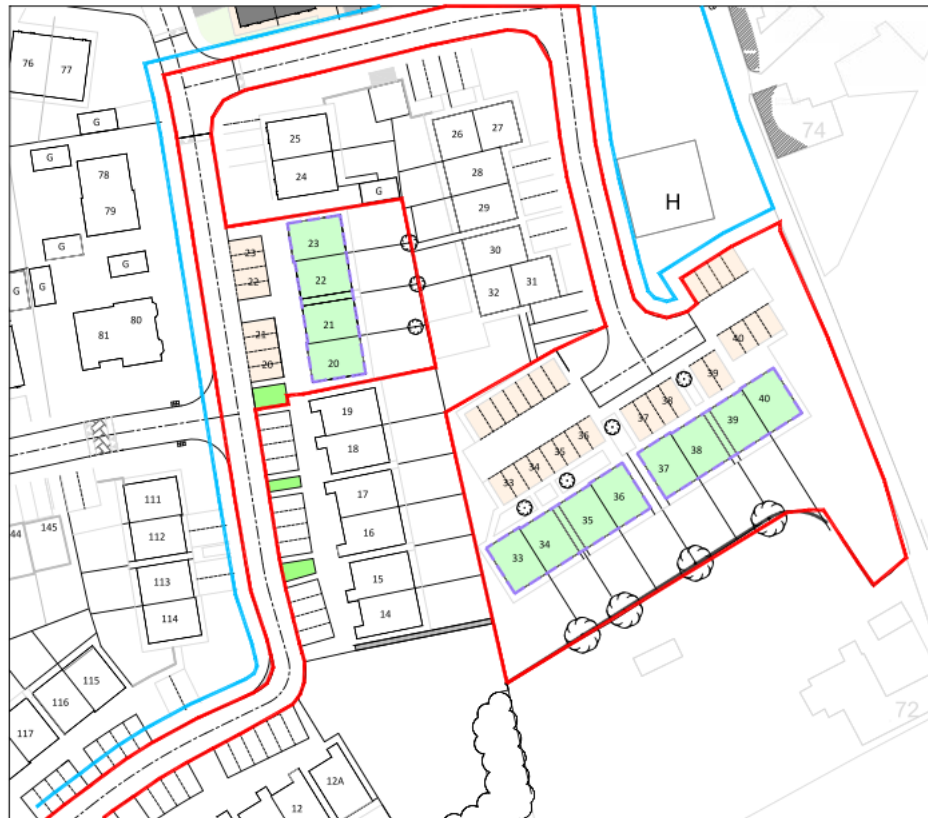


Figure B2 – Proposed Site Layout



Figure B3 – Site Layout Approved under W/2003/1085/F (Extant)



Figure B4 – Proposed Landscaping Layout

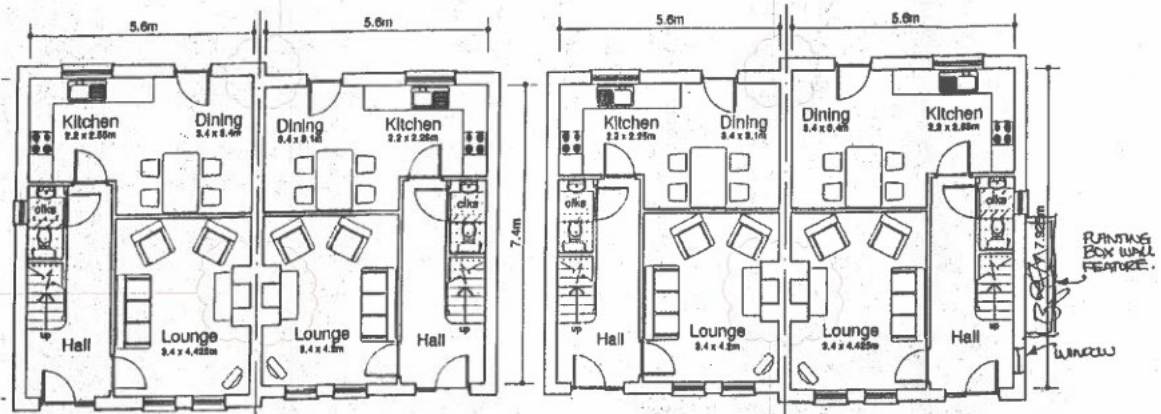


Figure B5 – Previously Approved Ground Floor Plans under W/2003/1085/F

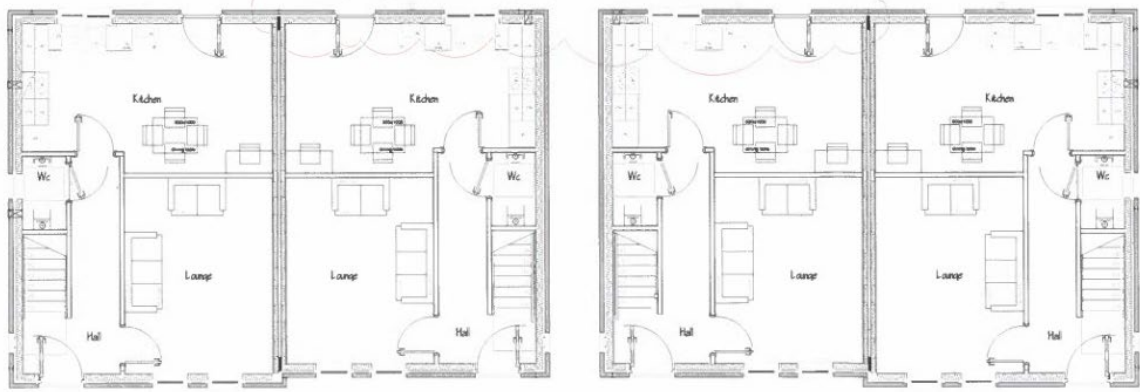


Figure B6 – Proposed Ground Floor Plans

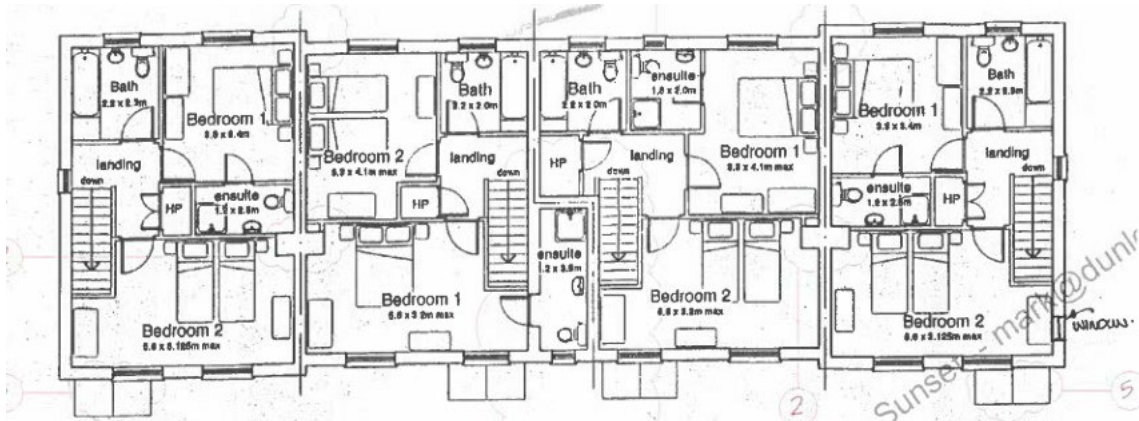


Figure B7 – Previously Approved First Floor Plans under W/2003/1085/F



Figure B8 – Proposed First Floor Plans



Figure B9 – Previously Approved Front Elevation under X/2003/1085/F



Figure B10 – Proposed Front Elevation



Figure B11 – Previously Approved Rear Elevation under W/2003/1085/F



Figure B12 – Proposed Rear Elevation



Proposed Side Elevation
Scale 1/80



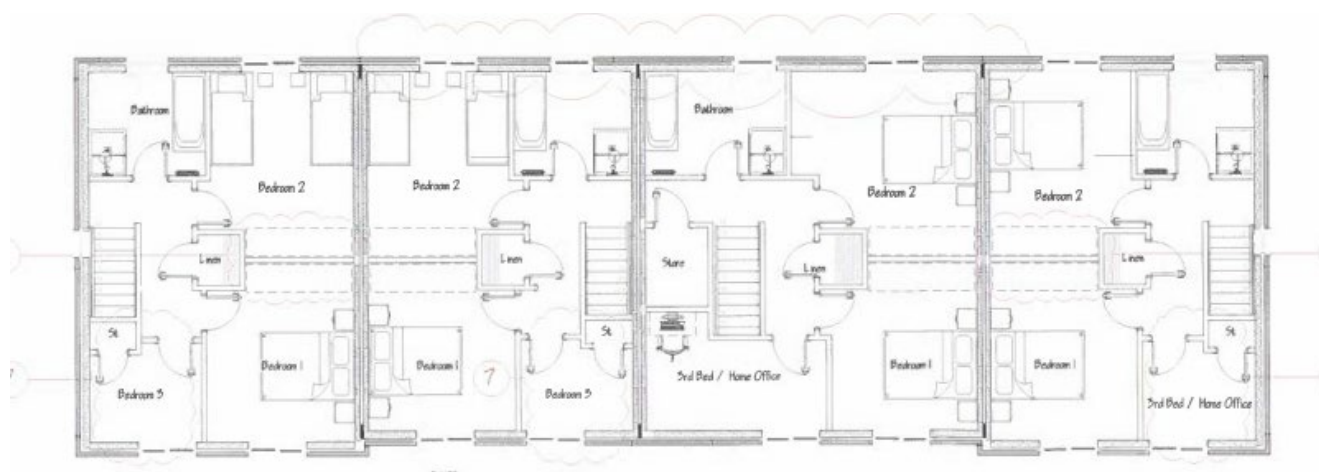
Proposed Side Elevation
Scale 1/80

Figure B13 – Proposed Side Elevations


Item 4.3a

Addendum to Committee Report – LA06/2025/0992/F
Site Approximately 75m North of 62 Green Road, Conlig

It is noted that under Section 4 of the Committee Report for the above application, on page 9, the proposed first floor plan has been labelled as “Proposed Ground Floor Plan”. To clarify, the first plan shown on page 9 of the report (as also shown below) is the Proposed First Floor Plan, which is included within DRG 05 on the Planning Portal.



Proposed First Floor Plan

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2024/0222/F	DEA: Holywood & Clandeboye	
Proposal:	Demolition of existing dwelling and erection of 2 no. dwellings and 1 no. detached garage.		
Location:	31 Old Cultra Road, Holywood		
Applicant:	Mr D Allen		
Date valid:	11/03/2024	EIA Screening Required:	No
Date last advertised:	05/03/2026	Date last neighbour notified:	19/02/2026
Letters of Support: 0	Letters of Objection: 19 (from 9 different addresses). Of these, 2 from 2 different addresses following reduction of proposal to single storey.		Petitions: 0
Consultations – synopsis of responses:			
DFI Roads		No objection subject to condition.	
Tree Officer		No objection subject to conditions.	
DAERA, NIEA – Natural Environment Division		No Concerns.	
DAERA, NIEA – Marine and Fisheries		Standing Advice.	
NIE Belfast		No Objection with Advice.	
NI Water – Multi Units East		While due to current wastewater capacity issues refusal is recommended, NIW may reconsider subject to the applicant engaging with NI Water. This can be negatively conditioned.	

Summary of main issues considered:

- Principle of Development.
- Design, Visual Impact, Impact on the Character of the Established Residential Area, and on the overall appearance of the ATC.
- Impact on Residential Amenity.
- Access, Road Safety and Parking.
- Private Amenity Space.
- Trees and Landscaping.
- Biodiversity.
- Sewerage Infrastructure.

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 NI.

1. Site and Surrounding Area

The site is occupied by a two storey, pitched roof detached dwelling finished in brick with a conservatory and sunroom to the rear. The site slopes gently upward towards its rear boundary.



Figure 1 – Photos 1 & 2 Existing dwelling 31 Old Cultra Road – Front and Rear Elevations

The main vehicular access to the property is from Old Cultra Road via a curved gravel driveway which leads to a parking area directly in front of the dwelling. Further access is provided to the site at its South-east corner via a private lane from Cultra Avenue. There are garden areas laid out in lawn to the front and the rear and several mature trees, particularly in the front garden. The rear boundary is denoted by a stone wall which is approx. 2 metres high and mature vegetation and rendered walls

form the other boundaries. The site is not currently visible from Old Cultra Road. The area is residential with a variety of house types with mature gardens and off-road parking.



Figure 2 – Photo 3 Variety of House Types in Surrounding Area (Composite)

The site lies within a settlement limit where residential development is acceptable in principle. As detailed in the History section of this report planning permission for a replacement dwelling and one additional dwelling in the grounds was refused by Planning Committee at its meeting of 05 December 2023 (Ref LA06/2021/0080/F).

2. Site Location Plan

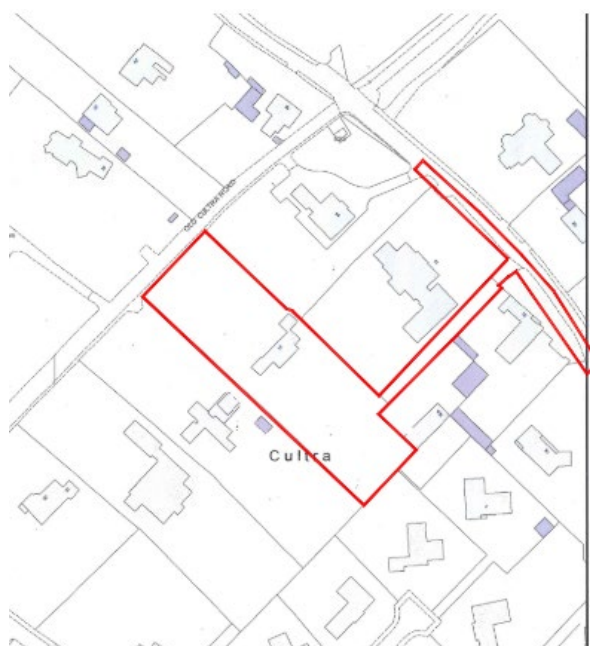


Figure 3 - Site Location Plan (Extract DRG LA06/2024/0222 01)



Figure 4 – GIS Aerial View of Site

3. Relevant Planning History

Site:

LA06/2021/0080/F – 31 Old Cultra Road - Two storey replacement dwelling with integral garage and erection of a two-storey dwelling with detached garage on lands to the rear to be accessed off existing Cultra Avenue access, landscaping and associated site works – REFUSED 06.12.23

The application was presented to Planning Committee at its meeting of 05 December 2023 with an officer recommendation of approval. The application was refused by Planning Committee for the following reason stated on the decision notice of 6 December 2023:

“The proposal is contrary to policy QD1 criterion (h) of Planning Policy Statement 7: Quality Residential Environments, in that the proposed house B would, if permitted, harm the living conditions of the residents in the adjoining property 30a Cultra Avenue by reason of the proximity of the proposed dwelling to the party boundary and the approved extension yet to be constructed at 30a Cultra Avenue, resulting in overshadowing and loss of light to the approved extension.” This was the only refusal reason.

W/1988/6023 – 31 Old Cultra Road – Building site at 31 Old Cultra Road- Permission refused 21/04/1988

W/1988/0334/O – Lands to the rear of 31 Old Cultra Road, Hollywood – Erection of dwelling – PAC Appeal Dismissed 06/07/1989: Reasons:

1. The proposed development is contrary to the Department policy of restricting development in this area to a minimum plot size of 0.4ha (one acre) per dwelling.
2. The proposal would lead to an unacceptable intensification in use of an existing substandard access thereby giving rise to conditions which would prejudice the safety and convenience of road users.

Surrounding Area:

LA06/2021/0170/F - 30a Cultra Avenue

Demolition of rear and side returns to accommodate two-storey extension to side, single-storey extension to front and rear, and other works to include alteration to windows and porch – Approved 14.12.21



Figure 5 - Approved Side Elevation LA06/2021/0170/F (14.12.21)

LA06/2017/0374/F - Site to rear of no. 30 Cultra Avenue, Hollywood. Proposed demolition of existing garage and erection of new private dwelling and garage and associated siteworks – Approval 07.11.2017

W/2010/0689/F – 27 Old Cultra Road- Erection of new dwelling house within the grounds of the applicants existing home to include attached garage – Appeal Withdrawn 20.03.2012.

W/2015/0055/O – 22 Old Cultra Road - Demolition of existing dwelling to provide residential development for 3no dwellings- Permission Granted 12.05.2016.

LA06/2016/0295/F – 18 Old Cultra Road - Erection of a new dwelling consisting of a detached two storey house and associated site works. Permission Granted 08.02.2019.

4. Planning Assessment

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

- North Down and Ards Area Plan 1984 - 1995
- Draft Belfast Metropolitan Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland Edition 2 (SPPS 2)
- Planning Policy Statement 2 (PPS2) - Natural Heritage
- Planning Policy Statement 3 (PPS3) - Access, Movement and Parking
- Planning Policy Statement 6 (PPS6) – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 7 (PPS7) – Quality Residential Environments
- Planning Policy Statement 7 Addendum (PPS7A) – Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 12 (PPS12) - Housing in Settlements
- Creating Places
- DCAN 8 - Housing in Existing Urban Areas
- DCAN 15 - Vehicular Access Standards

Principle of Development

Regional planning policies of relevance are set out in the SPPS 2 and other retained policies. Under the SPPS 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. In respect of the proposed development, there is no conflict or change in policy direction between the provisions of the SPPS 2 and the retained policies contained in PPS3, PPS6, PPS7, PPS7A and PPS12 therefore these remain the applicable policy documents to consider the proposal under.

The application site is within the settlement limit of Holywood as defined in both the North Down and Ards Area Plan (NDAAP) 1984-1995 and the Draft Belfast Metropolitan Area Plan (dBMAP) 2015. NDAAP currently acts as the Local Development Plan (LDP) for this area, despite its end date, with dBMAP remaining a material consideration where applicable.

The NDAAP at section 13.7 states that new development should be carefully designed to respect the scale and character of existing buildings, using sympathetic building materials and should respect existing street patterns, landmarks, topographical and other features which contribute to the character of each town. The site is also located within the 0.4ha threshold of the Cultra/Craigavad Policy Zone as set out in the NDAAP.

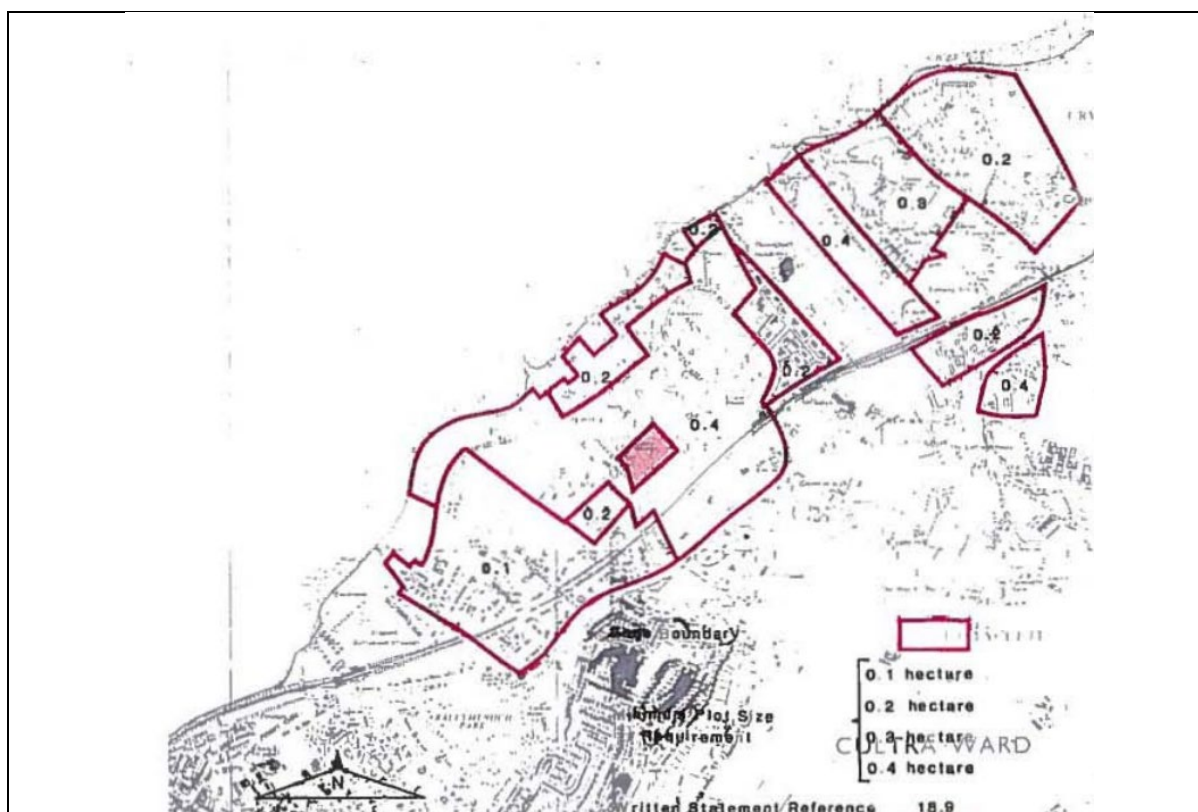


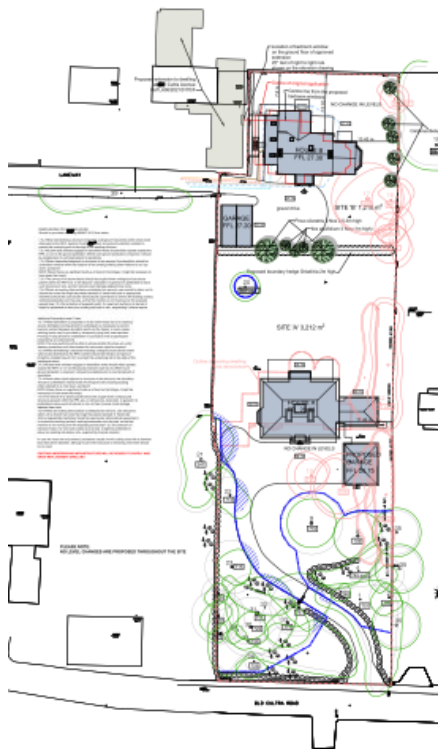
Figure 6 – Extract from NDAAP Proposal Map 6– Cultra/Craigavad Policy Zone

In dBMAP the site is not zoned for any specific purpose. The site does however lie within, and towards, the Southeastern part of the proposed Marino, Cultra, Craigavad ATC (BR12). The text for the draft ATC identifies multiple key features of the ATC. The impact of development on the proposed ATC and the compliance or otherwise with the provisions of the LDP and the weight to be given to dBMAP will be assessed in detail in the consideration below. The matter of the applicability of the Addendum to Planning Policy Statement 6 – Areas of Townscape Character (PPS6A) and the related provisions of the SPSS 2 will also be considered.

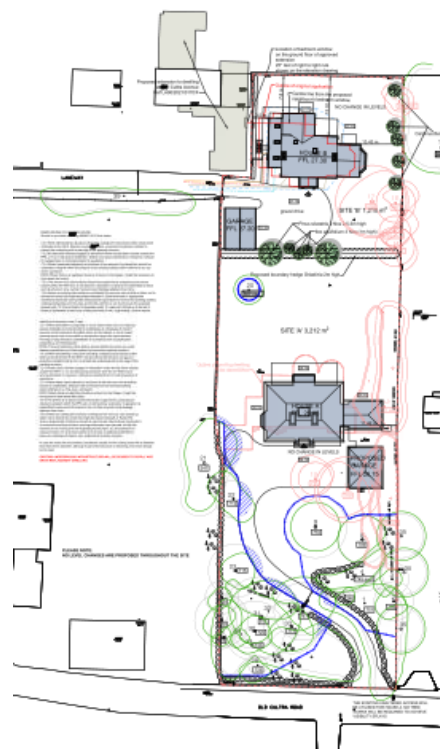
As the site is currently within Hollywood settlement development limit, a replacement dwelling and additional dwelling and garage is acceptable in principle in the context of the LDP subject to an assessment of the potential impact on the proposed ATC and compliance with regional policies and other material considerations.

Design, Visual Impact, Impact on the Character of the Established Residential Area, and on the overall appearance of the ATC

The application initially proposed a two-storey replacement dwelling with detached garage and a two-storey dwelling with detached garage within the established residential curtilage of 31 Old Cultra Road as shown on the proposed site layout plans below. The proposed site layout was amended during the course of the application to two single storey dwellings, one with an integral garage and one with a detached garage. Also, included is the layout as refused under application LA06/2021/0080/F.

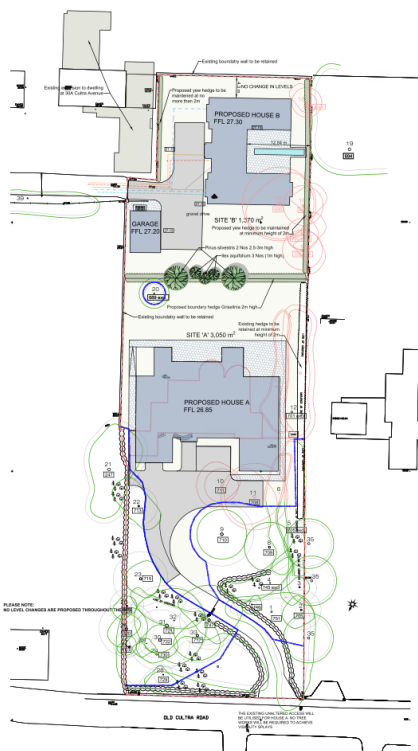


**Figure 7 – DRG LA06/2024/0222 08
Proposed Site Plan**



**Figure 8 – DRG LA06/2024/0222 08A
Revised Proposed Site Plan**

Amendment: Annotation added at Old Cultra Road. The existing unaltered access will be utilized for House A. No tree work will be required to achieve visibility splays.



**Figure 9 - LA06/2024/0222 08C Latest
Revised Proposed Site Plan**



**Figure 10 - LA06/2021/0080 03A
Proposed Site Plan (refused 06.12.23)**

Paragraph 4.26 of the SPPS 2 states that design is an important material consideration in the assessment of all proposals. It goes on to state that particular weight should be given to the impact of development on existing buildings, especially listed buildings, monuments in state care and scheduled monuments, and on the character of areas recognised for their landscape or townscape value, including ATCs. Paragraph 6.21 of the SPPS 2 states that in managing development within ATCs designated through the LDPs process the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form. Paragraph 6.22 goes on to state that the demolition of an unlisted building in an ATC should only be permitted where the building makes no material contribution to the distinctive character of the area and subject to appropriate arrangements for the redevelopment of the site.

Notwithstanding this, the policies within PPS6 and the related provisions of the SPPS 2 refer to designated ATCs. No reference is made to draft/proposed ATCs, which do not have the same status as a designated ATC. Therefore, Policies ATC1 and ATC2 of APPS6 and the aforementioned provisions of the SPPS 2 are not applicable to the consideration of the development.

Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The policy goes on to state that in Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. Again, as the policy refers to designated ATCs, but as no reference is made to draft ATCs, this element of Policy QD1 is not applicable to the development. Notwithstanding these conclusions, the potential impact of the development on the proposed ATC remains a material consideration.

The Planning Appeals Commission considered objections to the proposed ATC designation within its report on the BMAP public inquiry and recommended no change to the proposed ATC. Therefore, it is likely, that if and when BMAP is lawfully adopted, a Marino, Cultra, Craigavad, Holywood Area of Townscape Character designation will be included. Consequently, the proposed ATC designation in draft BMAP is a material consideration relevant to this application. The Commission also considered objections to the general policy (UE3) for the control of development in ATCs which is contained in draft BMAP. It is recommended that Policy UE3 be deleted and that a detailed character analysis be undertaken and a design guide produced for each individual ATC. As yet these design guides have not been published. However, the impact of the proposal on the overall appearance of the proposed ATC remains a material consideration and can be objectively assessed. This approach has been adopted by the Planning Appeals Commission in a number of appeal decisions, for example 2018/A0093 – dwelling and garage at 1 Farnham Park, Bangor and 2020/A0099 – 17 Apartments, Seacliff Rd, Bangor.

Case law (South Lakeland District Council –v- Secretary of State for the Environment (1992)) established that it is the effect on the character/appearance of the Conservation Area/Area of Townscape Character (ATC) as a whole to which

attention must be directed and that preserving the character or appearance of a Conservation Area or ATC can be achieved by a development which leaves this unharmed (the 'no harm' test).

The proposed Marino, Cultra and Craigavad ATC covers a large area of east Holywood. It starts from Seapark Avenue and covers the area between the railway line and Belfast Lough as far as 'The Lane' off Station Road. Within this area there is a wide variety of built form. The site is located at the Southwestern part of the proposed designation as indicated on the map below. Draft BMAP does not divide the proposed ATC into separate character areas, therefore it is the impact on the ATC as a whole which must be considered.

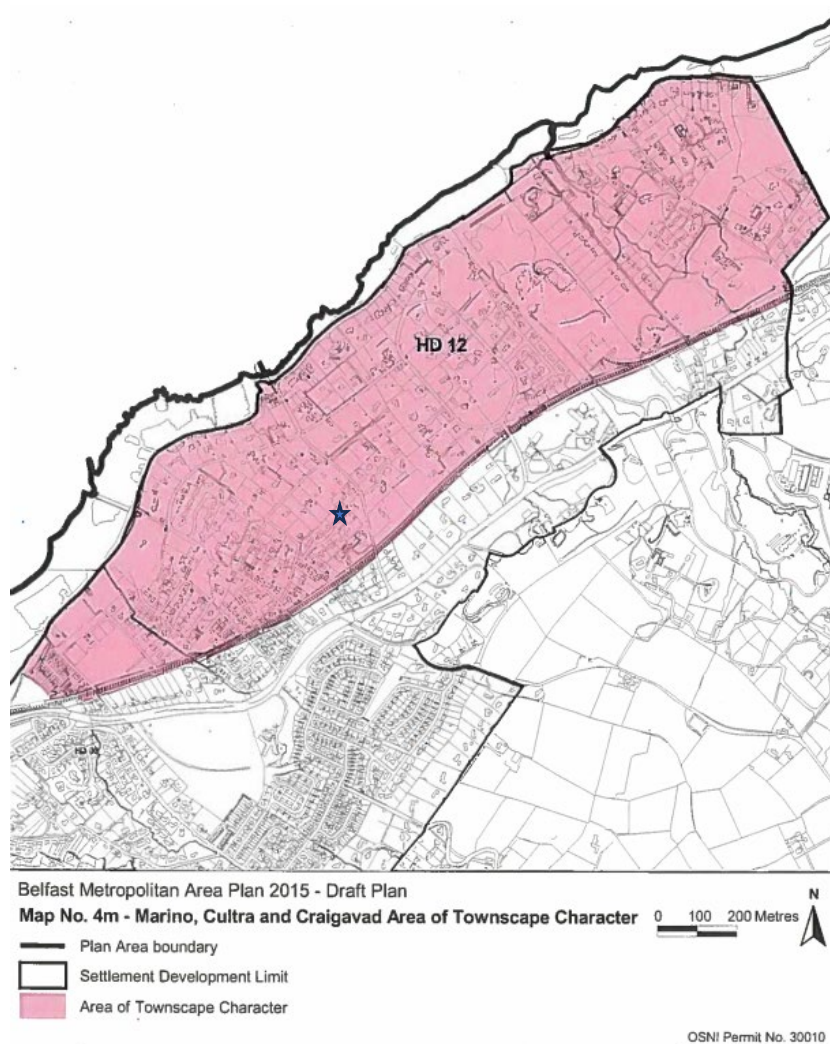


Figure 11 - Extract from Draft BMAP – Marino, Cultra and Craigavad ATC (BR12) [Site denoted by blue star]

With regard to the proposed demolition, while the existing building fits comfortably within its context by way of its size and form, it is not considered to make any material contribution to the established built form or appearance of the area. It has no particular design merits and makes little, if any, contribution to the appearance of the proposed ATC. The building is also not included within any of the key features of the ATC as identified in Draft BMAP and shown below under designation HD12.

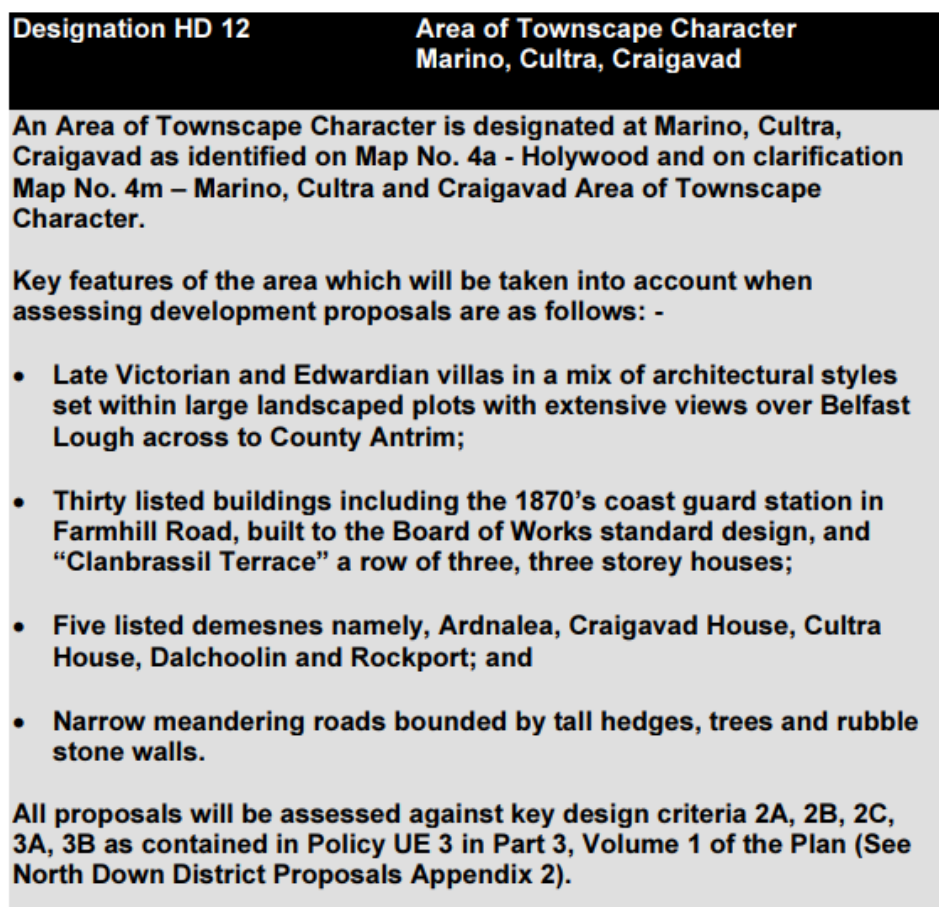


Figure 12 - Extract from draft BMAP

As such, overall, it is considered the demolition of the building will cause no harm to the overall appearance of the proposed ATC.

Turning to the proposal itself, paragraph 4.27 of the SPPS 2 states that where the design of proposed development is consistent with relevant LDP policies and/or supplementary design guidance, planning authorities should not refuse permission on design grounds, unless there are exceptional circumstances. It goes on to state that planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance.

Criterion (a) of Policy QD1 of PPS7 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. Criterion (g) requires that the design of the development draws upon the best local traditions of form, materials and detailing. The provisions of this policy must also be considered in conjunction with policy LC1 of PPS7 Addendum – Safeguarding the Character of Established Residential Areas. The addendum provides additional planning policies on the protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements.

A Design and Access Statement has been submitted by the agent, together with a Supplementary statement setting out the design principles of the original and revised schemes respectively and how the proposed replacement dwelling and additional dwelling will respect the established built form of the area.

The proposed replacement dwelling A is located on the approximate footprint of the original dwelling and therefore well set back from Old Cultra Road. A new hedge is proposed along the boundary with number 29, where the existing conifers are to be removed. The proposal is for a large bungalow. To the rear the original two storey house B has been reduced to a modest bungalow. A new hedge is proposed between both plots. The site boundaries, the location of the garage and proposed new extension to number 30A Cultra Avenue and the proposed separation distances between the new dwelling and number 4 Orchard Lane and number 29 Cultra Road, as well as the change in level towards the rear of the site will minimise potential overlooking or overshadowing.



Figure 13 - LA06/2021/0080/F Replacement Dwelling House A Elevations (Refused 06.12.23)

Figure 14 - DRG LA06/2024/0222 03 House A Elevations (As initially submitted)



Figure 15 - Drawing LA06/2024/0222 03A HOUSE A Elevations (Revised)

The proposed new replacement dwelling A is to be sensitively positioned within a strong landscaped setting consistent with the overall character of the area.



Figure 16 - House A Front Elevation

The style is traditional including features such as chimney stacks and pots, quoins, pitched roof and verandah and dormers. High quality materials are to be used such as natural slate for the roof and ridge tiles, random coursed stone to external walls with select clay brick and clay chimney pots.



Figure 17 - LA06/2021/0080/F House B Elevations (Refused 06.12.23)



Figure 18 - DRG LA06/2024/0222 05 House B Elevations (as initially submitted)



Figure 19 - LA06/2024/0222 05B House B Elevations (Revised)

The proposed new dwelling B is to be sited in the rear garden to number 31 with a hedge in between. In design terms has been reduced to single storey to reduce potential impact on neighbouring properties to the rear. It is more modest in scale than the replacement dwelling House A.



WEST ELEVATION
Figure 20 – House B Front Elevation

As with house A the style is traditional with period details incorporated. It has a pitched roof with twin gables at the front of the property, chimney stacks and pots and a fanlight over the main doorway. Again, high quality materials are proposed, natural slate for the roof, rendered finish painted off white walls, hardwood sliding sash windows painted white, appropriate to the area. A single storey detached garage is proposed adjacent to the front side boundary of the site.



Figure 21 - House B Proposed Garage – Extract Drawing LA06/2024/0222 07

Due to the location of the proposals within this mature site the dwellings will not be readily visible from the road or main public viewpoints. Both houses A and B have now been reduced to single storey which reduces their impact on the site. The design style is appropriate as there are bungalows in the wider area of the application site. Proposed replacement dwelling A has less of an impact than the existing dwelling on the site. It can therefore be concluded that the proposed replacement of number 31 Old Cultra Road and an additional dwelling in the garden will not have an unacceptable detrimental impact on the character of the established

residential area and on the overall appearance of the proposed ATC. The proposals are considered to be sympathetic to the established built form by way of its height, scale, massing and design. Two dormer features have been included on House A elevations for two reasons. Firstly, to add architectural interest on the approach to the front of the house and, secondly to provide additional light for the full height ceilings above the respective bedroom and garage areas. Consequently, they will have no impact upon neighbouring properties.

Existing and proposed site plans show levels. These vary from 24.66 to 27.93 meaning the site slopes up towards the rear boundary (South to North). There are no differences shown in site levels between the existing and proposed. Therefore, no harm will be caused to the appearance of the ATC or the character of the immediate area as a result of the site works.

The onus is on the developer to produce a high standard of design which respects and is sympathetic to the particular qualities of the area. All new housing developments should demonstrate a high quality of design, layout and landscaping. Due to the high quality design and materials the proposals will enhance. The scale, massing, landscaping and materials proposed are combined to create a development that is in keeping with the overall character and appearance of the area. The existing accesses are to be used. The plot size and ratio of built form to garden is acceptable and in keeping with the area.

The density of the proposal is 4 dwellings per hectare (dph) (2 units ÷ 0.05ha). Within the immediate established residential area (ERA) surrounding the site (see Figure 22 below), the average density is higher at 5.5 dph. Within the wider area of the proposed ATC, there is an extensive range of housing densities and plot sizes. I therefore do not consider that it could be argued that the density of the proposed development would be significantly higher than that found within the area.

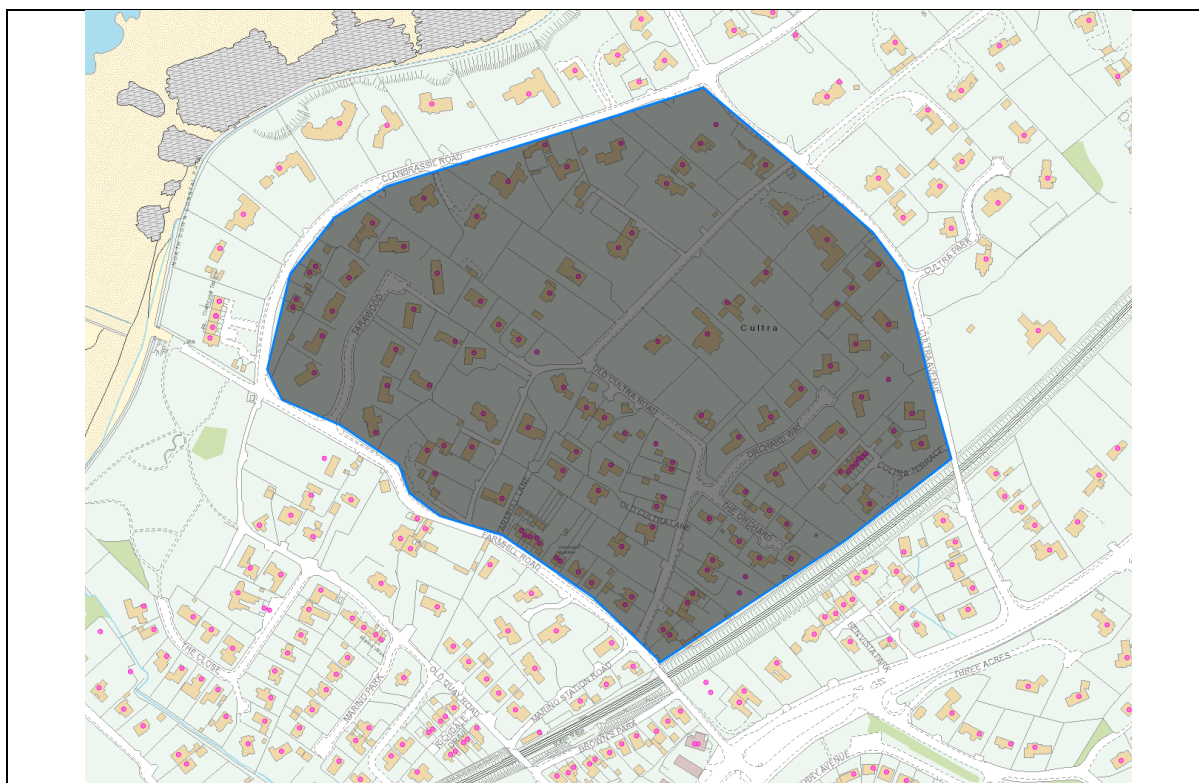


Figure 22: Sample area considered as Established Residential area for density calculation

Density of a development is only one consideration of many which must be weighed up when assessing the overall impact of a development on the character of an area with the overarching test being primarily a visual one, in other words how the development will appear when viewed within its context. The visual impact of the development and its impact on the appearance of the area has been considered above.

A number of representations received make reference to the 'plot size' policy. The NDAAP contained a Policy Zone relating to plot size in Cultra/Craigavad in order to "protect the inherent qualities of this locality". Paragraph 18.9 recognises that there will be developments which are acceptable in planning terms although they are not strictly in accordance with this plot size policy. These will be generated by the physical or environmental considerations of a particular site or the nature of the development proposed.

NDAAP Proposals map 6, Cultra/Craigavad Policy Zone indicates the site is within the 0.4 hectares threshold. House A occupies a plot size of 0.32ha and house B occupies a plot size of 0.1ha. It is acknowledged that the 'Plot size Policy' is applicable to this application, however as outlined in the plan, proposals are not required to slavishly comply with this plot size policy. Para 18.9 of NDAAP also states that '*all new development will be expected to integrate satisfactorily into the locality in terms of scale, design and respect for the environmental elements that characterise the area and contribute to its general amenity.*' Given the nature of the proposed backland development, on a mature site it is considered a reduction in plot

size will have little impact on the visual amenity from public viewpoints and will not be of significant adverse harm on the character of the area.

The proposed plot sizes are considered to be comparable with others in the area. Examples of some existing plot sizes in the surrounding area are as follows:

26A Old Cultra Road = 0.14ha
36 Cultra Avenue = 0.1ha
23A Clanbrassil Road = 0.3ha
21 Clanbrassil Road = 0.5ha
25 Clanbrassil Road = 0.24ha

Also, the PAC in its report on the Public Enquiry into Draft BMAP, did not recommend the inclusion of the plot size policy within BMAP following consideration of objections on these grounds. On this basis it is therefore likely that it would not be included in the event of the adoption of BMAP.

An extensive site history search of the surrounding area has also shown a precedent for 'subdivision' of plots within the established residential area. Of note are approvals at 22 Old Cultra Road and 18 Old Cultra Road where the densities of 6.25 dph and 12 dph respectively were considered to be acceptable.

Extensive mature landscaping in the form of trees within the site and in particular within the front portion (front garden of house A) will enhance the visual impact of the proposal. It is considered that the proposed replacement and additional dwelling will set comfortably with the existing built form and will not detract from the overall character and appearance of the immediate and surrounding area.

Impact on Residential Amenity

The dwellings within closest proximity to the site which would have the potential to be most affected by the development are Nos 34, 32, 30a Cultra Avenue 29 Old Cultra Road and Nos 4 and 5 Orchard Way.

House A (Replacement Dwelling)

Proposed dwelling (House A) has been reduced in scale to a large bungalow. While having a larger footprint than the existing as single rather than two storey it is considered to have overall less impact on neighbours than the existing 2 storey dwelling and the initial proposal. The separation distance between the rear, southwest elevation of House A and north side facing elevation of proposed house B is circa 28m's. A 2m high boundary hedge will run across the site between the two dwellings supplemented by 2no. 3m high trees and 3no. 1m high trees.

One of the closest neighbours affected by the replacement dwelling, A, to the West is no. 29 Old Cultra Road. Between the proposed replacement and the boundary of no. 29 some conifer trees have been removed leaving a mature hedge as can be seen from the photographs below. There is circa 4.5m between the side elevation of the house A and the boundary. This is separated from the side elevation of no 29 by a further circa 4.5m. As the proposed dwelling is now single storey it is not

considered there would be an unacceptable adverse impact by way of loss of privacy, loss of daylight or dominance.



Figure 23: Photos 4-7 Existing boundary with neighbouring property no. 29 Old Cultra Road

The Northeast elevation of the proposed replacement dwelling (house A) aligns with the side boundaries of Nos 32 and 34 Cultra Avenue. At the closest point the front left corner of the proposed dwelling is separated from the boundary by circa 2m's. As can be seen from the proposed floor plan the integral garage is to occupy this corner. This garage will be 1m further from the boundary than the comparable part of the existing dwelling.

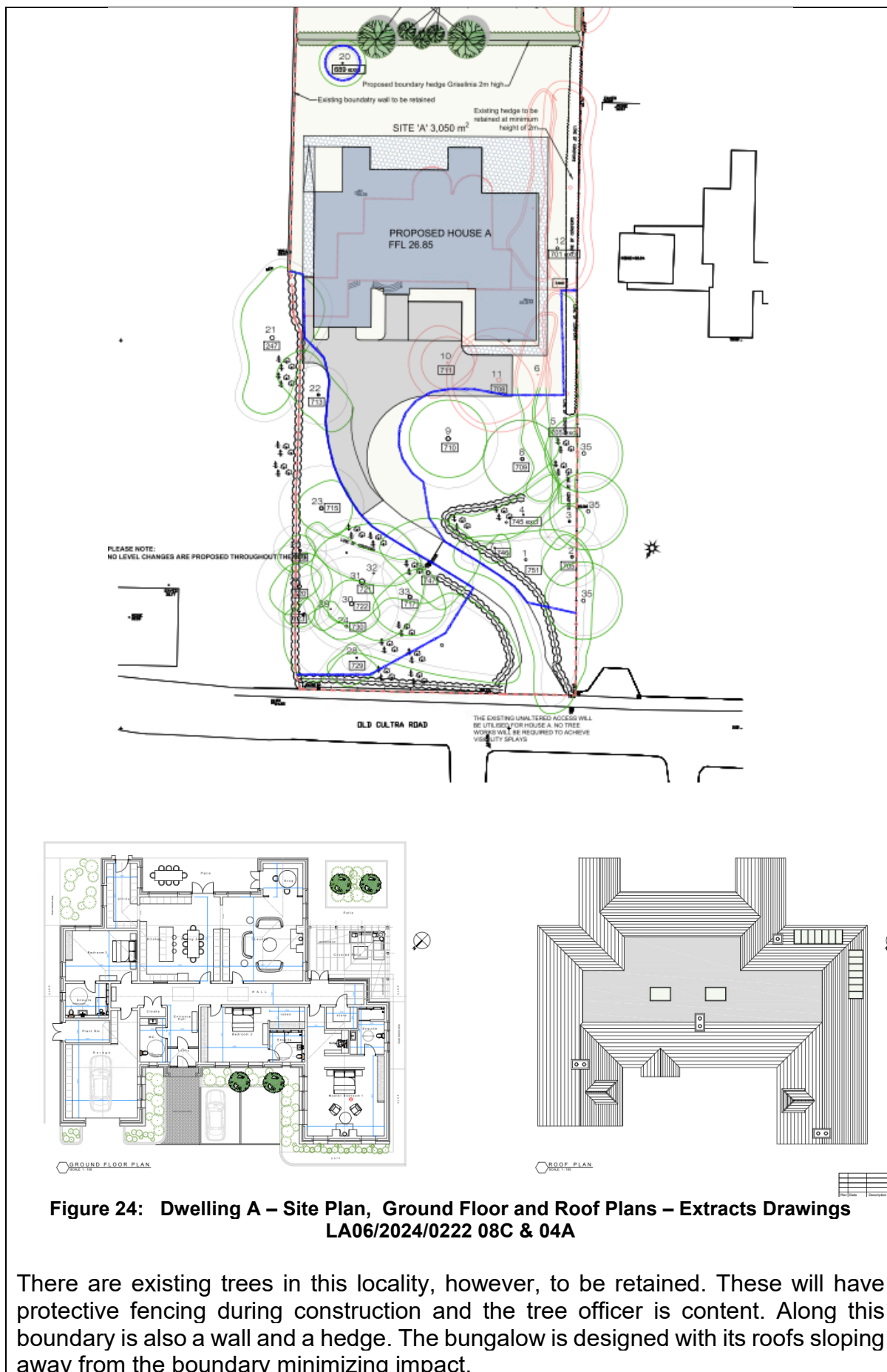


Figure 24: Dwelling A – Site Plan, Ground Floor and Roof Plans – Extracts Drawings LA06/2024/0222 08C & 04A

There are existing trees in this locality, however, to be retained. These will have protective fencing during construction and the tree officer is content. Along this boundary is also a wall and a hedge. The bungalow is designed with its roofs sloping away from the boundary minimizing impact.

Due to the size of the sites at number 32 and 34 Cultra Avenue and the location of the proposed dwelling in relation to these sites, the boundary treatment and now the single storey nature of the proposal it is not considered that there will be an unacceptable impact on the residential amenity of no's 32 and 34 from the replacement dwelling.



Figure 25: Photos 8-11 of existing boundary with neighbouring property no. 34 Cultra Avenue

House B (Dwelling to Rear)

House B has now been reduced in scale from two storey to a single storey bungalow and is proposed to be located circa 4.3m from the rear of the site. There is a circa 2m high stone wall along this boundary with the property. It is not considered there will be unacceptable impact on the properties along Orchard Way to the rear.



Figure 26: Photos 12 & 13 looking towards the rear of site with nos 3, 4 and 5 Orchard Way.

The proposed bungalow is U shape in form creating a private amenity area with its boundary with the rear garden of 29 Old Cultra Road. No. 29 has a rear garden of circa over 50m deep. While patio doors to a lounge area are proposed these are at the central point of the U facing this boundary, at circa 12.84m from the boundary. The ends of the 'U' are at circa 4m from the boundary with 29 with just one long narrow bedroom window on an end elevation of these as can be seen from the floor plan extract below. A new hedge to be maintained at a minimum height of 2m's is to be planted along this boundary.

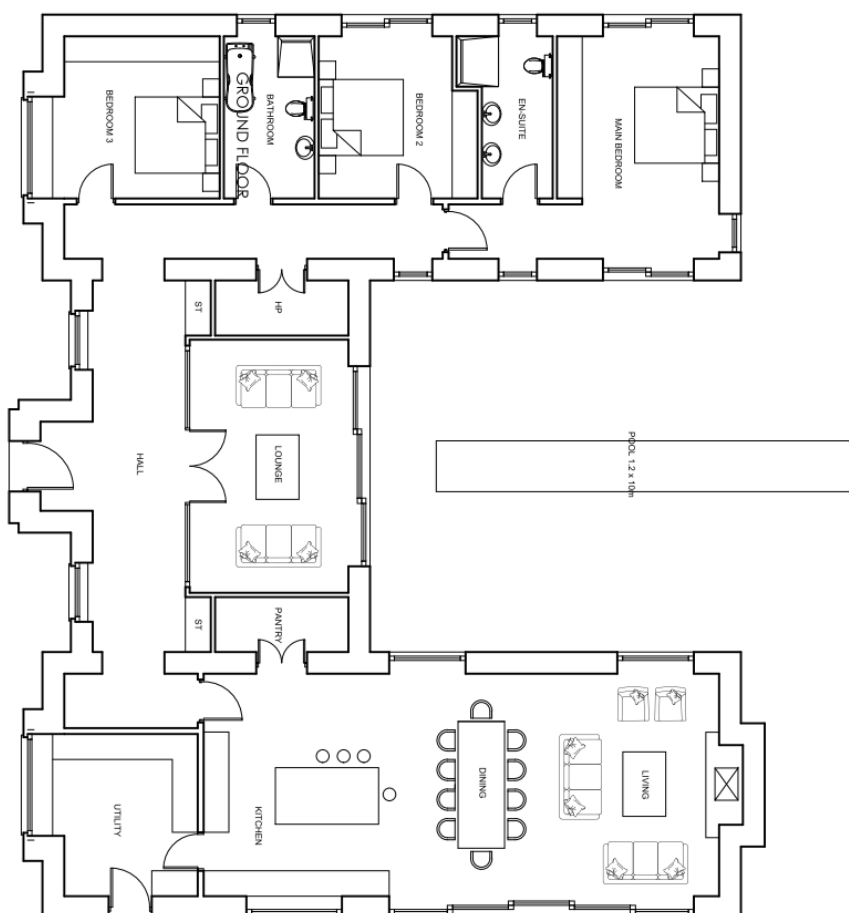


Figure 27: Extracts Drawing LA06/2024/0222 08C – Proposed Site Plan & 06A – Proposed Floor Plan

It is not considered there would be overlooking of the rear garden of no 29 or unacceptable adverse impact.

The single reason for refusal of the previous application, reference LA06/2021/0080/F was:

1. The proposal is contrary to policy QD1 criterion (h) of Planning Policy Statement 7: Quality Residential Environments, in that proposed house B would, if permitted, harm the living conditions of the residents in the adjoining property No. 30a Cultra Avenue by reason of the proximity of the proposed dwelling to the party boundary and the approved extension yet to be constructed at 30a Cultra Avenue, resulting in overshadowing and loss of light to the approved extension.

The extension to no. 30A has now been built as can be seen from the photographs below.



Figure 28: Photos 14 & 15 of boundary with Nos 30B & 30A Cultra Avenue (with extension)



Figure 29: Photo 16 of boundary with No. 32, 30B and 30A Cultra Avenue

The potential dominant impact of the development on neighbouring properties is also a material consideration in addition to the impact on daylight. Dominance is the extent to which a new development adversely impinges on the immediate aspect or outlook from an adjoining property. Although it is acknowledged this policy is primarily used for the assessment of extensions Policy EXT1 of PPS7 Addendum Residential Extensions and Alterations is a useful reference in this regard. The policy advises that neighbouring occupiers should not be adversely affected by a sense of being 'hemmed in' by an extension. This can often result from the construction of a large blank wall and dominance can be increased when the neighbouring property is at a lower ground level to the development site, with loss of light usually a consequence of dominance. However, it is appropriate, to take account of the prevailing local environment.

There is a ground floor bedroom window on the extension to 30A. Plans for a two-storey dwelling as first proposed included the 25degree light test for side facing elevations and the position:

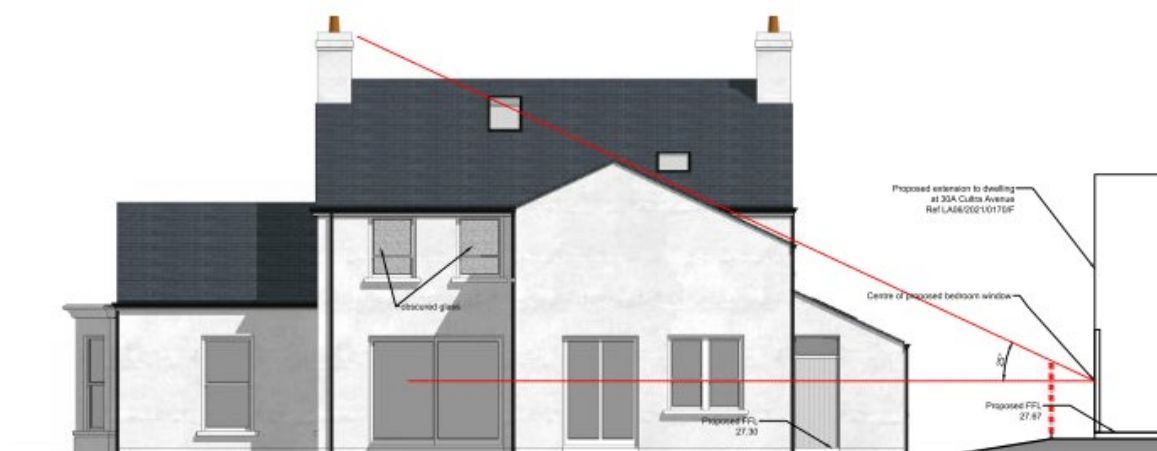


Figure 30: Light test for bedroom window to 30A Cultra Avenue on South-east Elevation of House Type B as initially proposed (extract Drg 5).

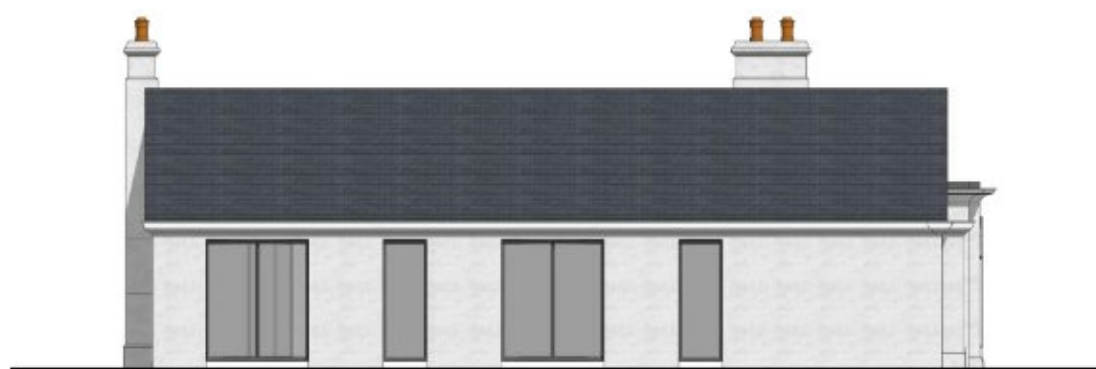


Figure 31: South-east Elevation of House Type B as now proposed (extract Drg 5B).

The proposal has been revised and scaled down from a two-storey dwelling to a single-storey dwelling. This proposed dwelling has been sited further away, circa 10m's and into the site from the side elevation of the extension to 30A Cultra Avenue to the side elevation of proposed house B with gravel drive between and the front entrance of the house. The 25 degree light test is clearly satisfied. There is fencing between. Further buffer planting along this boundary in the form of a 2m high hedge will be conditioned with any approval to help mitigate against potential disturbance of cars coming and going close to the extension. This can be seen on the comparative site plans below. It is not considered there will be any unacceptable impact on these neighbours from dominance, overlooking, overshadowing or loss of light. It is therefore now considered that the previous reason for refusal cannot be sustained.

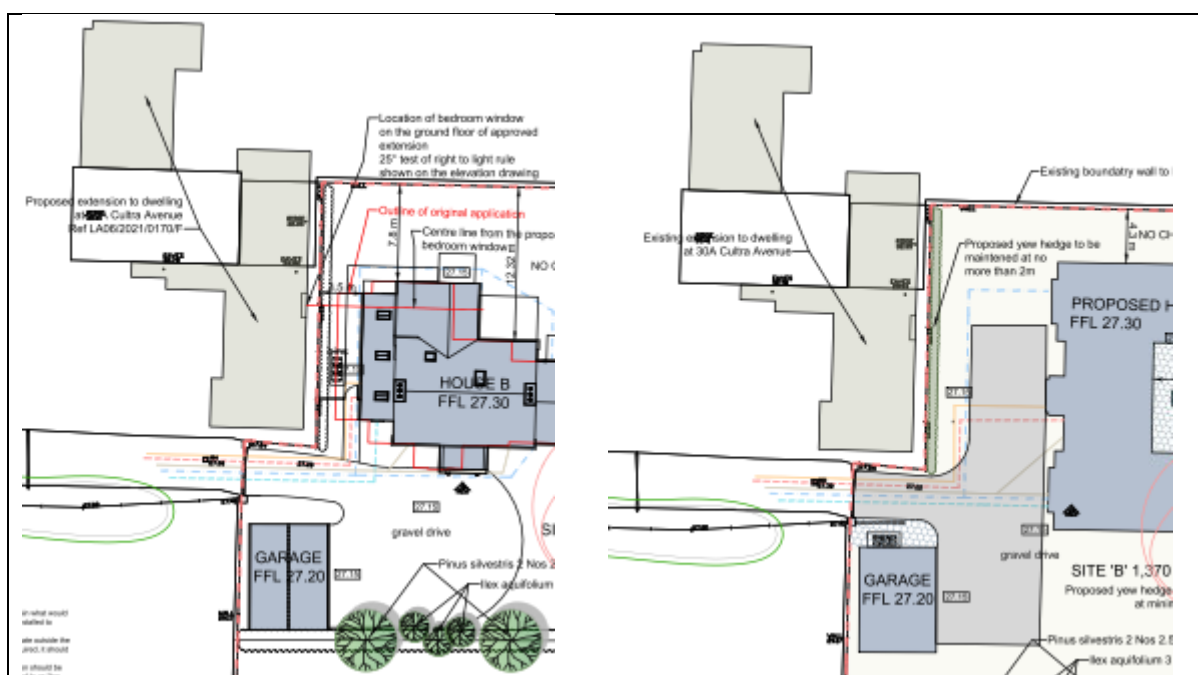


Figure 32: House Type B boundary with extension to 30A Cultra Avenue, as first proposed (08) and the latest proposal site plans (08C).

In summary, taking account of all the above factors, I am satisfied that overall, the proposed dwellings will be located a sufficient distance from the existing dwellings and the reduced scale of the dwellings will ensure that no unacceptable degree of dominance or overshadowing will occur and there will be no unacceptable adverse impacts on residential amenity. All windows to WC's/Bathrooms will be conditioned to be obscure glazed for privacy.

Access, Road Safety and Parking

Development proposals will be required to provide adequate provision for car parking and appropriate access and servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. Parking should be provided in accordance with Creating Places standards. The proposed site layout plan indicates that there will be ample room for parking in accordance with the Creating Places standards within the boundaries of the application site. For two 3-bedroom detached houses, as proposed, the requirement is 2.5 spaces each. Proposed dwelling A includes an integral garage with further denoted spaces so meets this requirement. Proposed dwelling B includes a detached garage for two cars. There is also in curtilage turning and space to park at least one more car in line with the parking standards.

Accesses are existing. The existing unaltered access off Old Cultra Road will be used for House A.



Figure 33 : Photo 17 of Old Cultra Road Access & Photo 18 of private Access from Cultra Avenue

Access to House B will be via an existing private lane which serves 31 Old Cultra Road.

DfI Roads was consulted and offered no objections subject to conditions - considering that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. Level access is integrated into the proposals for those with impaired mobility.

Private Amenity Space

Sufficient amenity space will be provided within the development. The plots are adequate to ensure that sufficient provision is made for private amenity space well above the average space standard for the development, providing greater than 70m² amenity space as recommended in Creating Places. Bin stores are shown.

Trees & Landscaping

A number of trees located on site and within the neighbouring sites are covered by TPOs. A tree survey accompanied the application. The site plan, extract below shows trees to be retained in green and removed in red. Consultation has taken place with the Tree Officer who has no objections to the proposal subject to conditions. The Tree Officer commented as follows:

'The proposal will involve the removal of a number of trees ...located within the rear garden area and front garden areas of the development. These trees offer little or no public visual amenity. A number of these trees are not protected by the TPO and I am content that new tree planting proposed on site can compensate adequately for those trees to be removed that are protected.'

Proposed hedge and tree planting is shown on the site location plan.

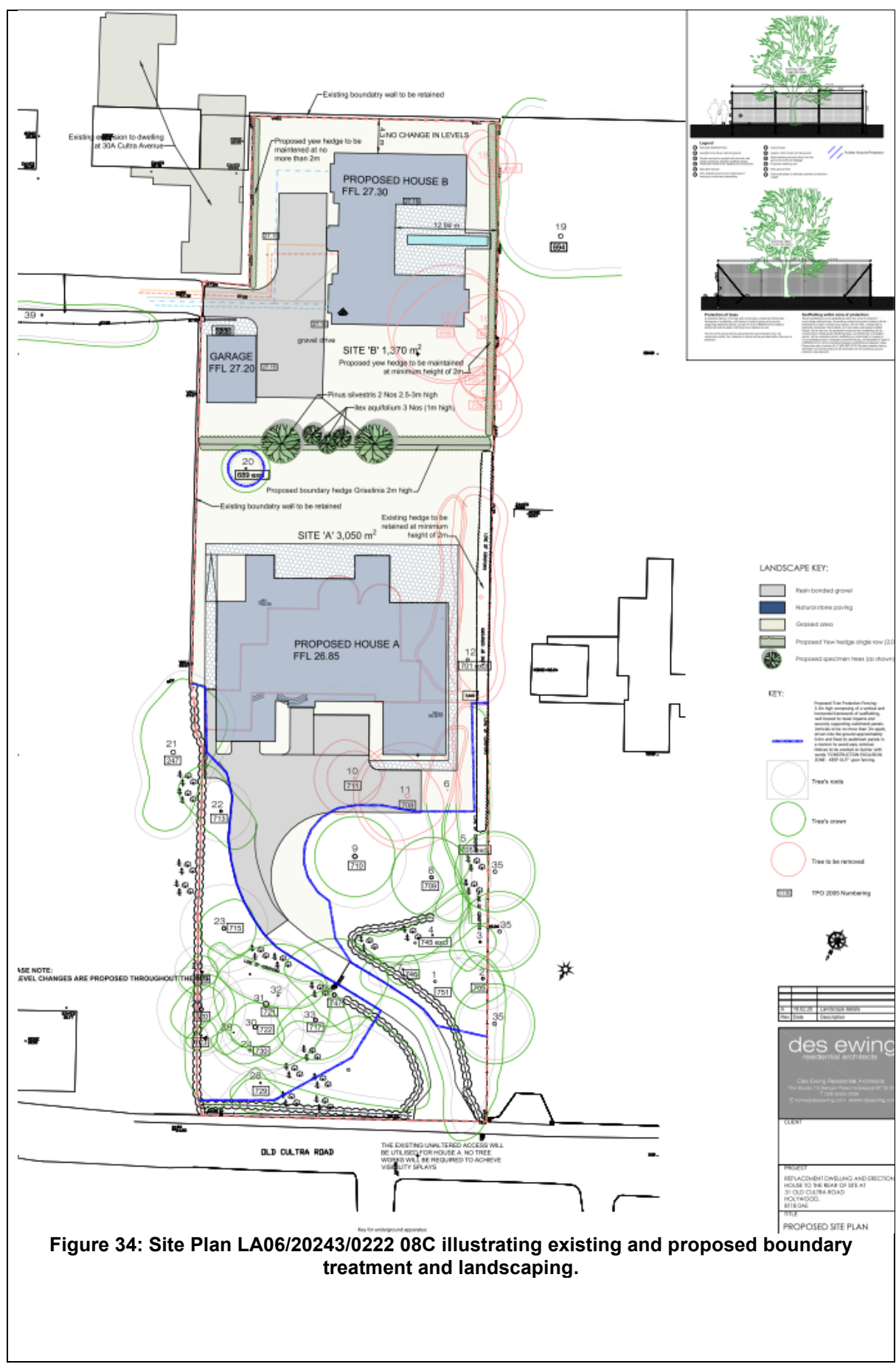


Figure 34: Site Plan LA06/20243/0222 08C illustrating existing and proposed boundary treatment and landscaping.

Conditions are recommended in relation to protective fencing (as per plan extract below), methodology for demolishing the existing dwelling and implementation of new planting.

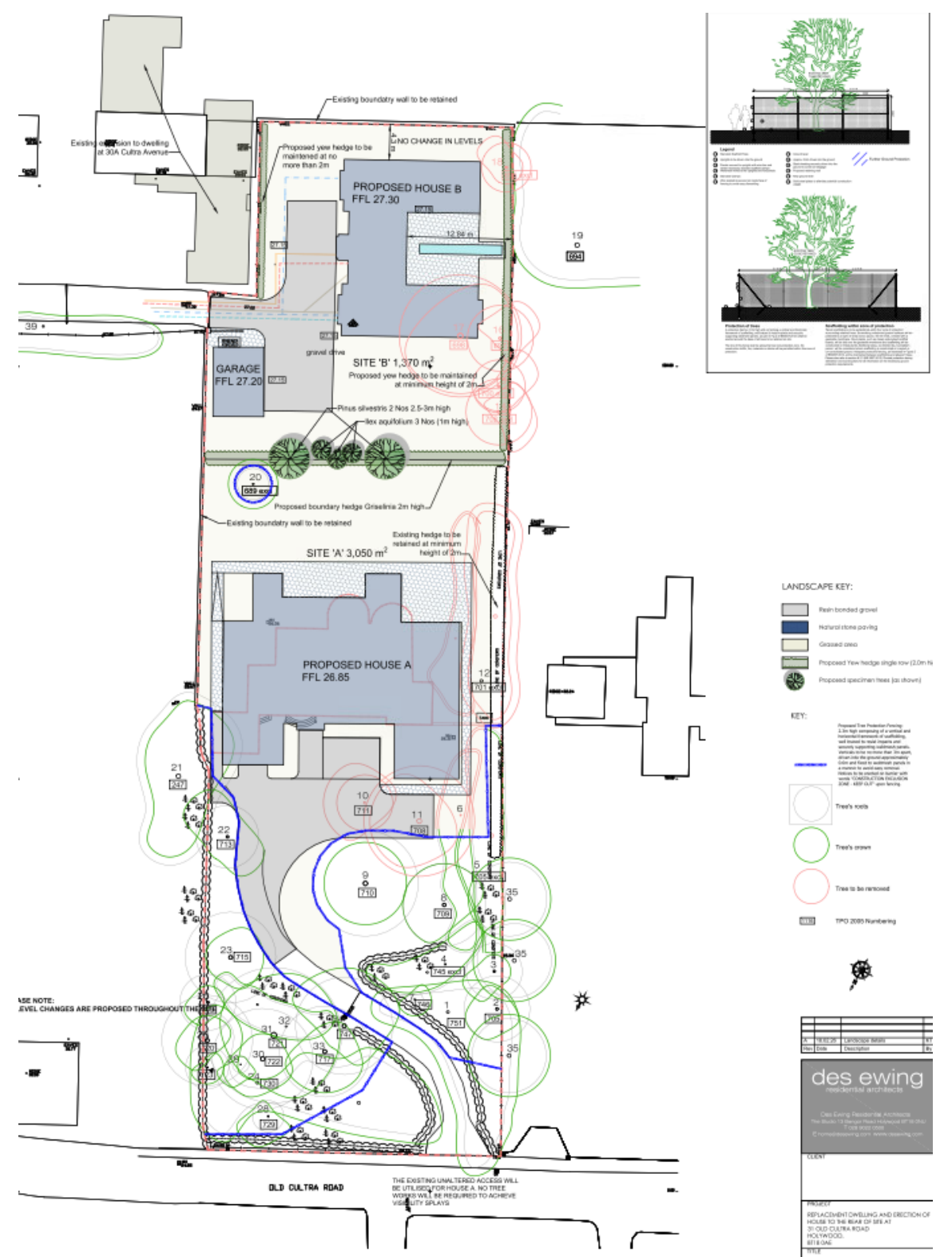


Figure 35: Extract from Proposed Site Plan, Drawing LA06/2024/0222 08C showing trees and landscaping. Protective fencing shown in blue (conditioned)

Biodiversity

A completed Biodiversity Checklist accompanied the application. 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). Further a Preliminary Ecological Appraisal (PEA) also accompanies the application. The Outer Belfast ASSI, the Belfast Lough RAMSAR site, the Belfast Lough SPA and the Belfast Lough Open Water statutory designated sites occur within 2km of the site. The Ballymenoch Park, Glen Lyon and the Ulster Folk and Transport Museum and Cultra Glen local wildlife sites lies within 2km of the site to the northeast. It was concluded in the PEA that due to the nature, scale, and location of the development this non-statutory site will not be adversely impacted.

Further in relation to protected species a desk-based survey of the site identified the following notable terrestrial mammal records within 2km of the site: hedgehog, Irish hare, otter, pine marten, martens, wood mouse, pygmy shrew, brown long-eared bat red squirrel. The grassland and hedgerows on the site provide suitable foraging habitat for hedgehog and badger. The study concluded no signs of any of these mammal species were found within 30m of the site boundaries. Also, that there was no suitable habitat for otters on or within 30m of the site boundaries.

A few Potential Roost Features (PRFs) on the building that could support single or small numbers of bats. The grassland, mature trees and hedgerows provide optimum foraging habitat for bats. Therefore, the building was assessed as being low bat roost potential and a single bat emergence survey was carried out to determine whether there are any roosting bats in the building. A single dusk survey was carried out on all Potential Roost Features. No bats were observed exiting or entering the building during the dusk survey. It was concluded that based on the dusk bat emergence survey, no adverse impacts on any roosting bats would arise because of any development on the site. It was emphasised that lights with minimal light spill should be carefully chose to reduce light pollution and levels on any retained boundary shrubberies and trees not to exceed 1 Lux.

Planning permission will only be granted where a development proposal is not likely to harm a protected species or result in the unacceptable adverse impact or damage to priority species, habitats or features of natural heritage importance. NIEA Natural Environment Division were consulted, considered the impact of the proposal on natural heritage and has no concerns subject to informatives.

Sewerage Infrastructure

NI Water has advised that an assessment has indicated network capacity issues which establishes significant risks of detrimental effect to the environment, water quality of Belfast Lough, and detrimental impact on existing properties. For this reason NI Water is recommending connections to the public sewerage system are curtailed. The applicant is advised to consult directly with NI Water

(InfrastructurePlanning@niwater.com) to ascertain whether any necessary alternative drainage/treatment solutions can be agreed. Subject to successful outcome NI Water may reconsider its recommendation. This issue can be dealt with by attaching a negative condition stipulating that no development shall take place on-site until the method of sewage disposal has been agreed in writing with 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. The condition will also require that evidence of this consent shall be submitted to the Council prior to the commencement of any development.

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

Other Material Considerations

There are no archaeological or built heritage features to protect or integrate into the overall design and layout of the development. The proposal will not damage the quality of the local area. The layout has been designed to deter crime.

5. Representations

Nineteen objections have been received - from nine different addresses over the course of the planning application since first submitted.

Following receipt of amended plans on 24 November 2025 reducing the scale of the proposed dwellings from two storey to single storey **two** representations followed from **two** addresses - 30a Cultra Avenue and 30b Cultra Avenue.

Specific issues raised in submitted representations in relation to the impact on the character of the area, impact on residential amenity, impact on trees and traffic impact are summarised below. All of these concerns have been considered in detail in section 4 of the above report.

- **Visual amenity and character**

The Cultra area has always been defined by spacious plots and generous separation between dwellings. Subdivision with a new large two-storey second house with limited garden would be out of character with the established pattern of development and proposed ATC.

- **Plot Density.**

Both sites fall far below the min 1 house/acre zoning density as per the NDAAP. At approximately 0.3ha the rear infill plot B is in breach of this.

- **Infrastructure & Services**

If approved these should be taken through lands owned and controlled by the applicant directly onto Old Cultra Road. No's 29 Old Cultra Road sewer runs along the front of no 31.

- **Access and Road Safety**

Concerns regarding using laneway for access to House type B, splays. Intensification of use of this laneway for as additional dwelling. Further danger from use by construction traffic. Three sets of gateways on laneway will compound this and the 10ft wall that runs alongside the laneway. Concern about intensification of access onto the Bangor Road.

- **Overlooking & Loss of Amenity**

Proximity to and overlooking of bedroom window in extension to 30B. The proposed 2 storey house B would sit less than 3.5m's from the historic orchard wall forming the southern boundary of 4 Orchard Way. The landing, bathroom and bedroom 2 windows on house B's south elevation would look directly into the rear garden of No 4 Orchard Way, patio, and family rooms. This would cause an unacceptable and permanent loss of privacy & amenity. A bungalow would limit the impact of overlooking towards Orchard Way. House B is in close proximity to 30A Cultra Avenue. The propose adjacent two storey gable of house B is approx 4.5m from bedroom and office windows of 30a Cultra Avenue. At first floor level there are 3 no windows directly looking into our master bedroom and private space in front of our property. House B will be situated 3.5m from our west facing gable wall.

- **Impact on Trees**

Height of House Type B has been reduced and moved towards the Western Site Boundary – now 3.6m's from the boundary of 29 Old Cultra Rd, close to 50ft conifer trees.

Other matters raised are considered as follows:

- **Impact on Health and Wellbeing from noise, dust and disturbance from construction activity.**

There will be short term issues of noise, dust and disturbance during the construction period. While accepted and an inconvenience is not considered to be a material planning consideration.

- **Similar applications were refused previously and dismissed at appeal. No special circumstances. Objections not overcome.**

Issues raised such as plot division, intensification, access issues have been fully discussed in Section 4 of this report. The private lane still provides access to 1 dwelling on the site – there is no route through to the replacement dwelling. The most recent refusal (LA06/2020/0081/F) in December 2023 (against officer advice) was for a single reason in that the development could result in overshadowing and loss of light to the approved extension at 30a

Cultra Avenue. This has now been addressed through amended plans submitted during the course of the current application.

- **Loss of value to property.**
This is not a material planning consideration.
- **Proposed access not owned.**
Certificate C has been served on the owners of No 30, 30a and 30b, as these properties have interests in the laneway over which the applicant has a right of access. The visibility splays are as existing, to the front of 30 (which has been served) and in the public verge. This access remains to serve 1 house at the site.
- **If approved precedent will be set for other site subdivision.**

Each Planning application will be assessed on its own merits against prevailing planning policy and all other material planning matters. There have already been a number of other subdivision of plots approved in the immediate area, 30B is an addition, therefore this proposal would not be the first or at odds with the established pattern of development.

- **Three sets of gates on laneway which is not practical to serve proposed additional dwelling.**

The principle of a dwelling using this access was previously accepted by Committee in the previous application as the only reason for refusal was in relation to impact on amenity.

DfI Roads normally consider private unadopted accesses to be suitable for up to 5 dwellings, any more than that and they usually require adoption. At widest point it is circa 6m's and circa 4.15m at narrowest. Page 119 of Creating Places advises that for private shared driveways, the minimum width should be 4.1m for the first 10m. The lane meets Creating Places advice, and has access rights to No. 31. This access still serves just one dwelling as the boundary will be clearly delineated between the replacement dwelling to the front to be accessed by Old Cultra Road and the new dwelling to the rear (accessed via the private lane).

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. Existing mature hedges shall be retained/augmented, as indicated in green on drawing LA06/2024/0222/F 8C and protected during construction, in accordance with British Standard 5837:2012. If within 3 years of commencement of development any identified hedge is removed, uprooted, or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

To ensure the continuity of biodiversity afforded by existing hedges.

3. All hard and soft landscape works shall be carried out in accordance with drawing LA08/2024/0222 08C. All works and new planting as indicated on the drawing shall be completed during the first available planting season after the occupation of the first dwelling hereby approved and shall be permanently retained.

Reason: In the interest of visual amenity.

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

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

5. The demolition of the existing dwelling shall be carried out in accordance with the details and methodology on Drawing LA08/2024/0222 08C prior to the commencement of any other development hereby approved.

Reason: To prevent damage to trees to be retained.

6. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans Drawing No LA08/2024/0222 08C and in accordance with BS5837:2012 before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery

and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, or any other works carried out, or fires lit without the written consent of the Council.

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

7. The vehicular access (private laneway), including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No.LA06/2024/0222 09, prior to the commencement of the 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.

8. The windows of House A shaded yellow, on drawing LA06/2024/0222 03A and the windows of House B shaded yellow on drawing LA06/2024/0222 05B shall be finished with obscure glass. The obscure glazing shall be installed prior to the occupation of each dwelling hereby approved and shall be permanently retained thereafter.

Reason: To protect the privacy and amenity of neighbouring residents.

9. 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. Evidence of this consent shall be submitted to the Council prior to the commencement of any development.

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

10. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no extension or enlargement (including alteration to roofs) shall be made to the dwellings hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension of this dwelling requires detailed consideration to safeguard the amenities of the surrounding area.

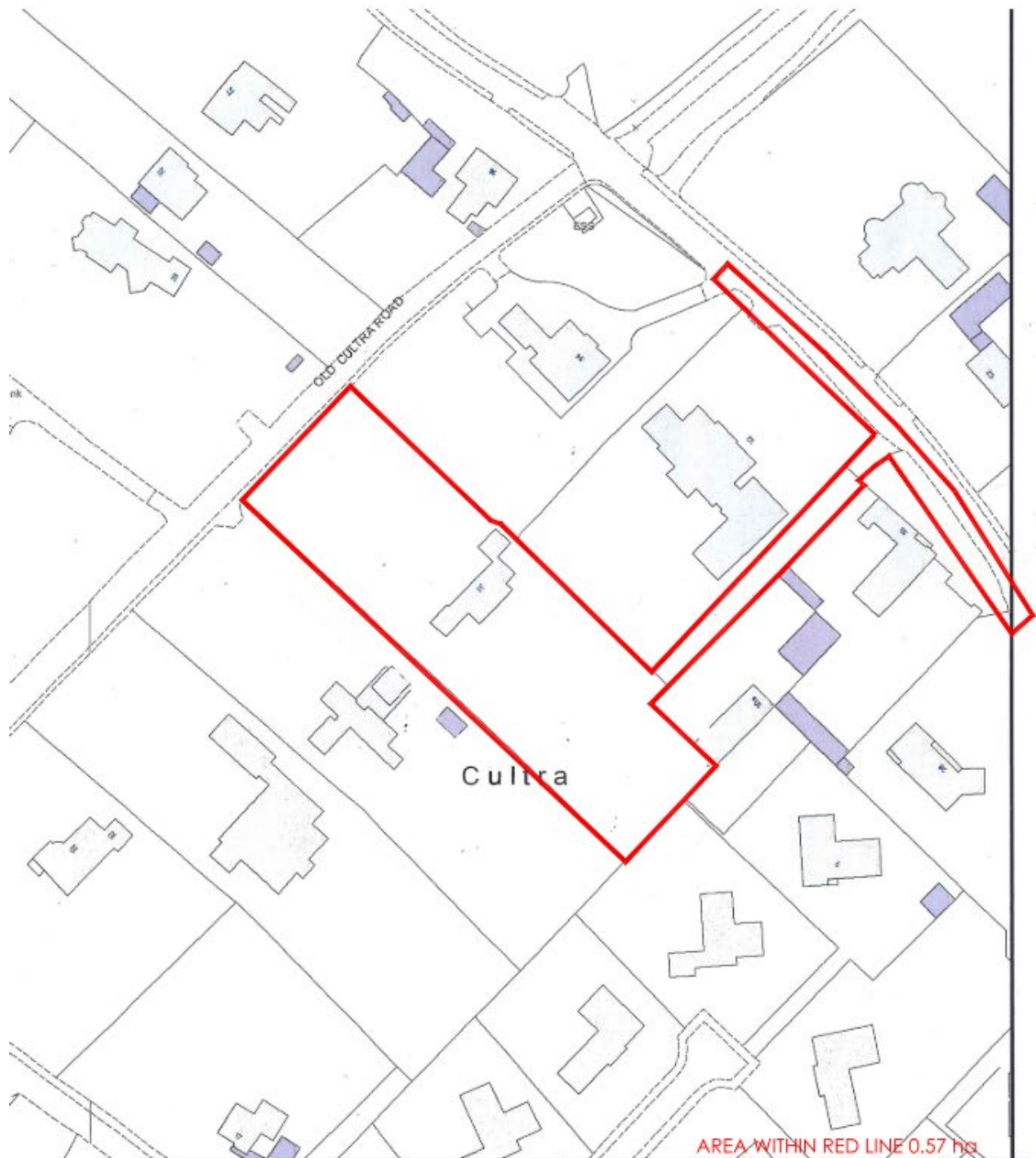
11. The dwellings hereby approved shall not be occupied until provision has been made within the curtilage of the site for the parking of private cars in accordance with Drawings LA06/2024/0222 08C. The parking provision shall be permanently retained thereafter.

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

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.

DRAWINGS ACCOMPANYING APPLICATION LA06/2024/0222/F



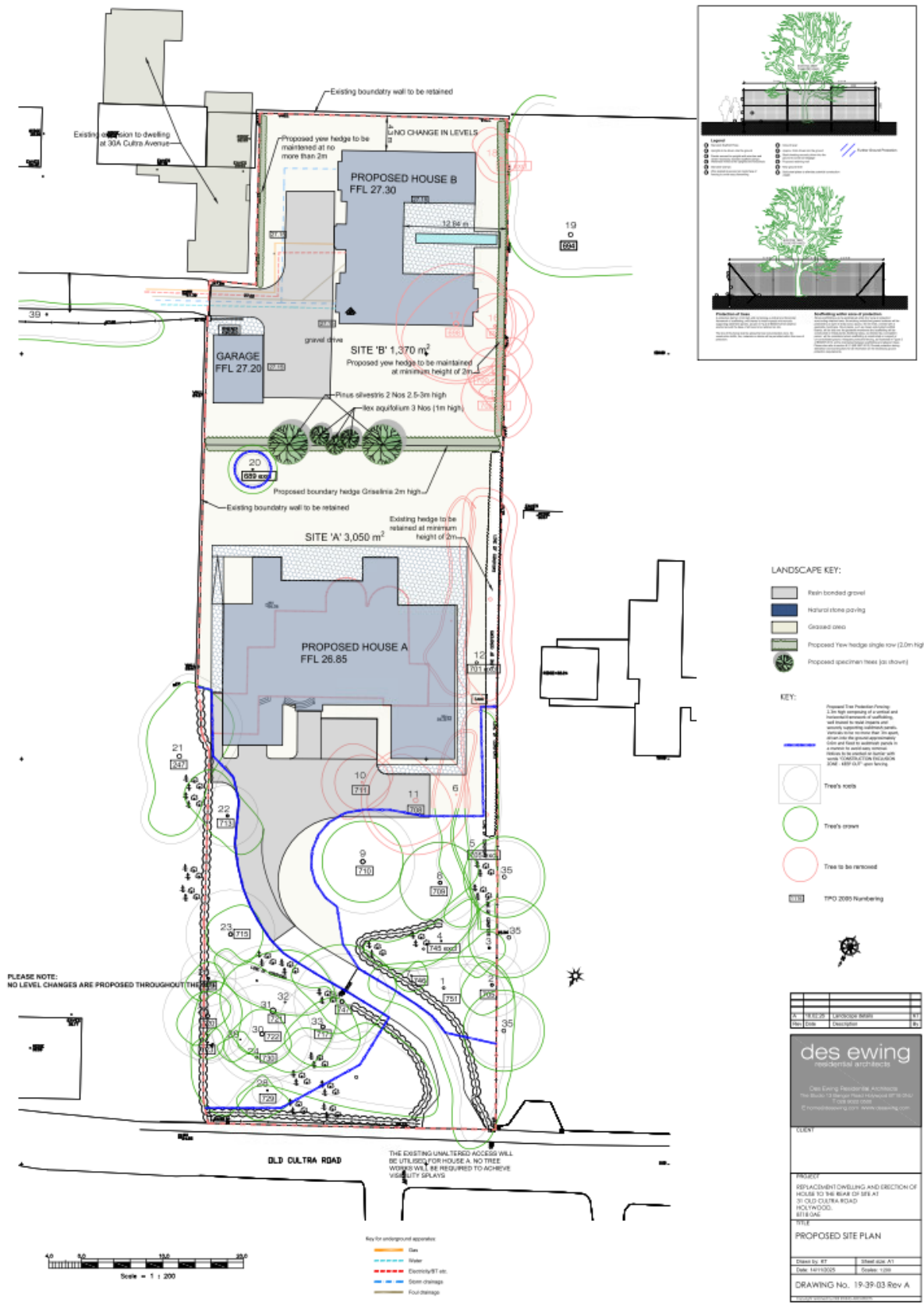
AREA WITHIN RED LINE 0.57 ha

<p>des ewing residential architects</p> <p>Des Ewing Residential Architects The Studio 13 Bangor Road Hollywood BT18 0NU T 028 9022 0500 F 028 9022 0505 E home@desewing.com www.desewing.com</p>	<p>PROJECT</p> <p>REPLACEMENT DWELLING AND ERECTION OF HOUSE TO THE REAR OF SITE AT 31 OLD CULTRA ROAD HOLYWOOD, BT18 0AE</p>	
	<p>TITLE</p> <p>SITE LOCATION MAP</p>	
	<p>Drawn by: KT</p>	<p>Sheet size: A4</p>
	<p>Date: 23/03/2020</p>	<p>Scales: 1:1250</p>
<p>CLIENT</p> <p>MR & MRS DEREK ALLEN</p>		<p>DRAWING No. 19-39-01</p>

Drawing LA06/2024/0222 01 Site Location Plan



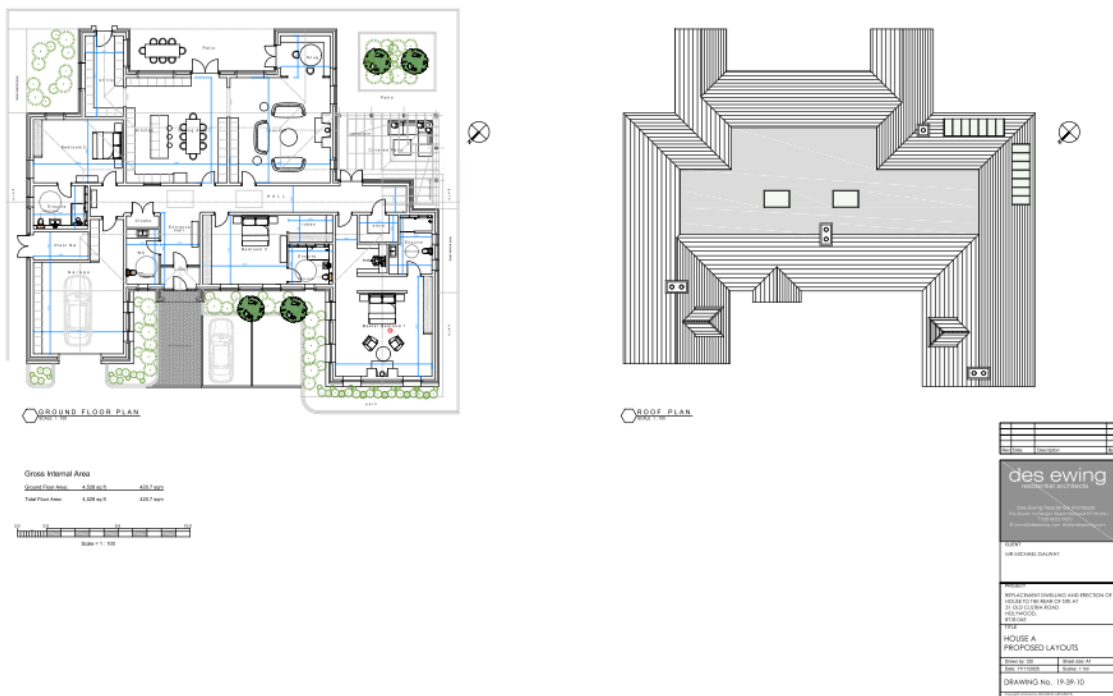
Drawing LA06/2024/0222 02 Existing Site Plan



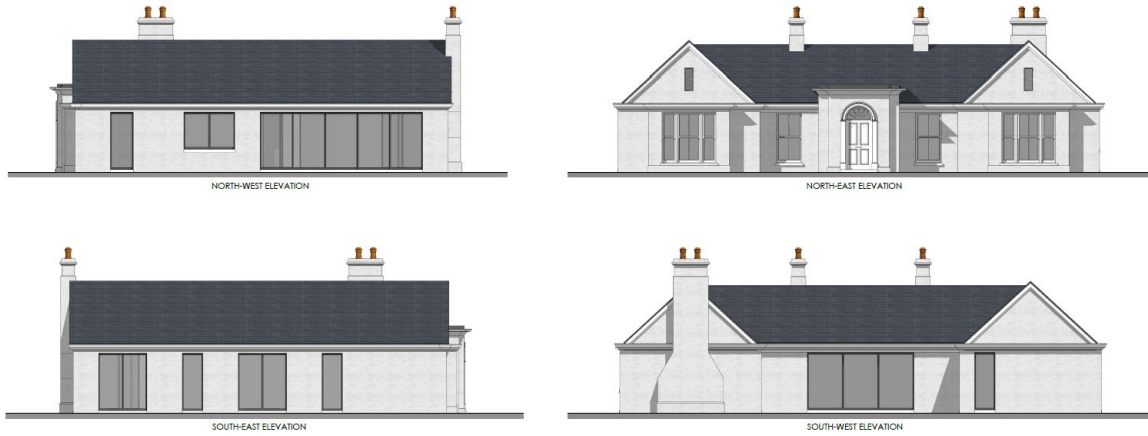
Drawing LA06/2024/0222 8C Revised Proposed Site Plan



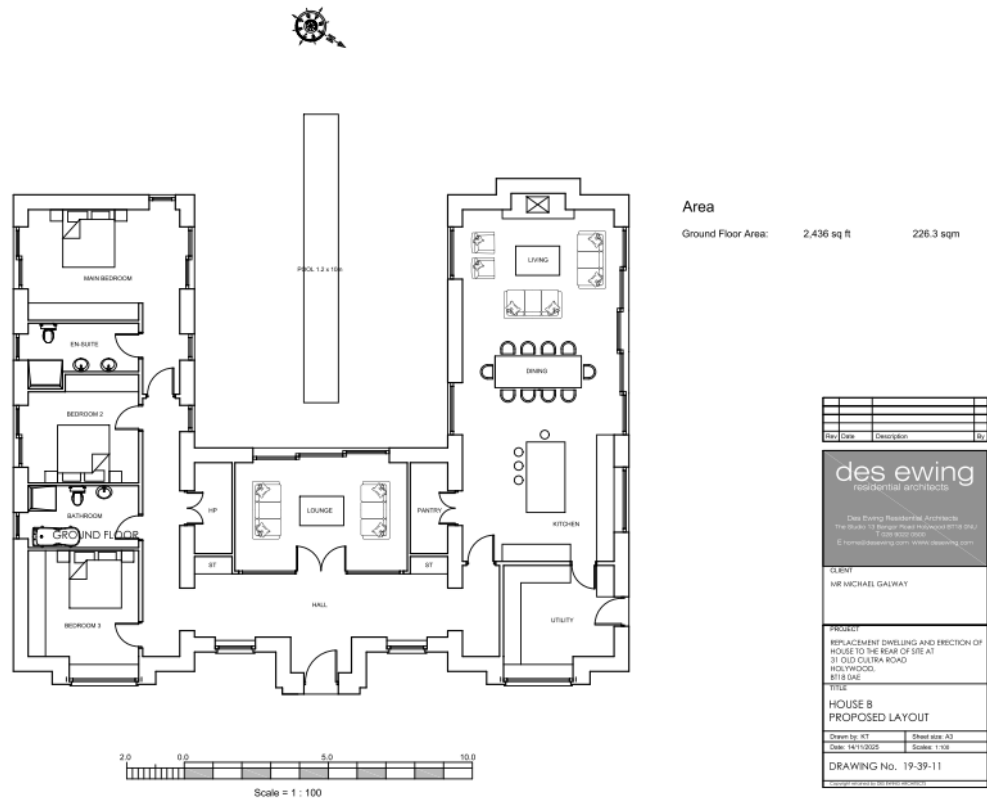
Drawing LA06/2024/0222 03A House A Elevations



Drawing LA06/2024/0222 04A House A Floor Plans



Drawing LA06/2024/0222 05B House B Elevations



Drawing LA06/2024/0222 06A House B Floor Plans

Site Photographs



Photo 1 – Front elevation 31 Old Cultra Road



Photo 2 – Rear Elevation 31 Old Cultra Road



Photo 3 (Composite) - Variety of House Types in Surrounding Area



Photo 4 Boundary with neighbour no 29 Old Cultra Road



Photo 5 Boundary with neighbour no 29 Old Cultra Road



Photo 6 Boundary with neighbour no 29 Old Cultra Road



Photo 7 Boundary with neighbour no 29 Old Cultra Road



Photo 8 Existing Boundary with neighbouring property 34 Cultra Avenue



Photo 9 Existing Boundary with neighbouring property 34 Cultra Avenue



Photo 10 Existing Boundary with neighbouring property 34 Cultra Avenue



Photo 11 Existing Boundary with neighbouring property 34 Cultra Avenue



Photo 12 looking towards the rear of site with nos 3, 4 and 5 Orchard Way beyond



Photo 13 looking towards the rear of site with nos 3, 4 and 5 Orchard Way beyond



Photo 14 of boundary with Nos 30B & 30A Cultra Avenue (with extension)



Photo 15 of boundary with Nos 30B & 30A Cultra Avenue (with extension)



Photo 16 of boundary with No. 32, 30B and 30A Cultra Avenue



Photo 17 Old Cultra Road Access looking from front of 31 Old Cultra Road



Photo 18 Private Access Lane to 31 Old Cultra Road (rear) from Cultra Avenue

Item 4.4a

Addendum to Case Officer Report LA06/2024/0222/F

Proposal: Demolition of existing dwelling and erection of 2 no. dwellings and 1 detached garage.


Address: 31 Old Cultra Road, Hollywood

Update on Proposed Visibility Splay Condition

Further to the drafting of the Case Officer Report, DFI Roads has visited the site and confirmed in an e-mail dated 16 March that the visibility splays to the laneway accessed off Cultra Avenue are in place. This assessment by DFI Roads followed on from communication from the Agent that the visibility splays at this access were already in place/met standards. DFI Roads has also confirmed this laneway access is satisfactory. The standard splays condition below will now not need to be included in the Decision Notice for any approval.

The vehicular access (private laneway), including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No.LA06/2024/0222 09, prior to the commencement of the 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.

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2025/0405/F	DEA: Comber	
Proposal:	Change of use from bookmakers to hot food unit.		
Location:	61 Castle Street, Comber, BT23 5DY		
Applicant:	Paul Brannigan		
Date valid:	21.05.2025	EIA Screening Required:	No
Date last advertised:	29.05.2025	Date last neighbour notified:	21.11.2025
Letters of Support: 0	Letters of Objection: 7 (3 separate addresses)	Non-committal: 0	
Environmental Health		No objections subjects to conditions	
Summary of main issues considered: <ul style="list-style-type: none"> • Scale, Design & Appearance; • Impact on Amenity of Neighbouring Dwellings; • Impact on Character & Appearance of the Area; • Impact on Landscape Features & Environmental Quality; • Impact on Biodiversity. 			
Recommendation: Grant Planning Permission Report Agreed by Authorised Officer			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal.			

1. Site and Surrounding Area

Site consists of a bookmakers within the town centre of Comber. The building is single storey at the front with a rear two storey extension. The application site is located on a corner where Castle Street meets Castle Lane.

There is a mixture of uses within the immediate area consisting mainly of commercial premises, retail, hot food bars and residential dwellings.



61 Castle Street, Comber

2. Site Location Plan



Site Location

3. Relevant Planning History

No material planning histories.

4. Planning Assessments

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

- Ards & Down Area Plan 2015 (ADAP)
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Development Control Advice Note 4 – Restaurants, Cafes and Fast-Food Outlets

Principle of Development

Despite its end date, ADAP currently acts as the LDP for this area. The site is within the settlement of Comber and within the town centre designation. No other material designations affect the site. There are no listed buildings in close proximity, the area is not noted as being of archaeological interest, and there are no environmental designations affected by the development.

The SPPS sets out the guiding principle relating to development. This states that sustainable development should be permitted, having regard to the development plan and all other material consideration, unless the proposed development will cause demonstrable harm to interests of acknowledge importance.

In relation to Town Centre and Retailing, the SPPS acknowledges it is important that planning supports the role of town centres and contributes to their success. The aim of the SPPS is to support and sustain vibrant town centres through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions.

The strategic objectives of the SPPS for town centres include a town centre first approach for the location of retail and other main town centre uses. The proposed hot food unit would be considered as a main town centre use and would therefore comply with this strategic objective. The SPPS also requires a sequential approach with Primary Retail Cores as the primary location and then town centres. As Comber has no designated Primary Retail Core the location within the town centre meets the sequential test.

As presented, this application relates to a change of use from a Bookmakers to a hot food carry out premises, which is classified under prevailing legislation as a “Sui Generis” land use. (Sui Generis – ‘of its own kind’: in this context, refers to land uses which do not fall into any particular use class in the Planning (Use Classes) Order (Northern Ireland) 2004.)

Whilst there is no specific planning policy that can be prescriptively applied to a hot food takeaway, it is stated within PPS 4 that guidance contained within that publication may be “useful in assessing proposals for other sui generis¹ employment uses.”

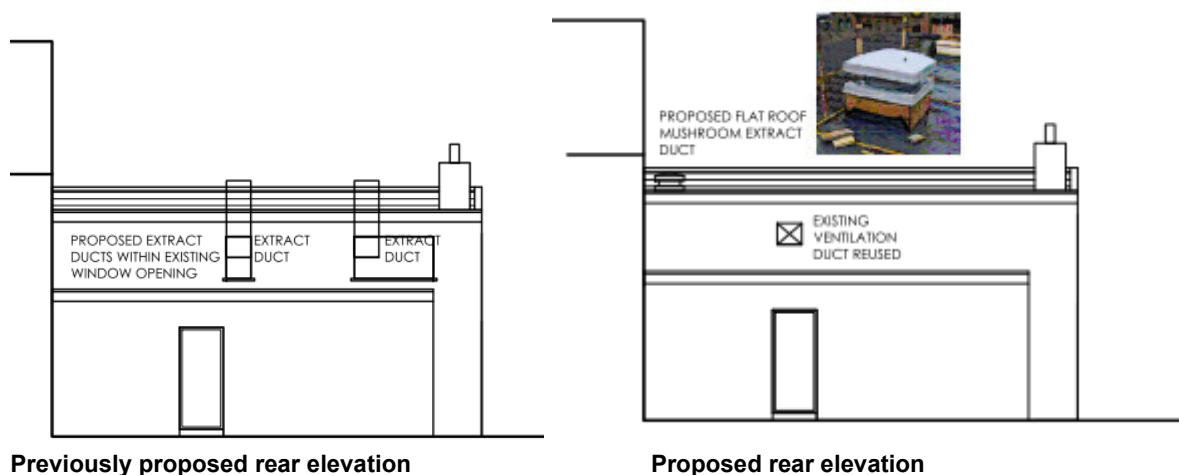
As it currently stands, the vacant unit was previously host to bookmakers which was deemed appropriate in context of the commercial surroundings of the site.

In my professional judgement then, use as a takeaway premises is equally conducive to the commercial setting of Comber and as a continued source of employment in would be a positive addition to the site.

Impact on Character

I do not consider there to be any material change of the local character. The only alterations relate to the removal of Velux windows at the front and replacement of front door and windows. The plans also indicate larger signage to the front which will need separate advertisement consent permissions. The windows to the rear shall also be removed and one additional door added. The existing rear storage area shall be removed from site.

A small discrete extraction vent shall be positioned on the flat roof to the rear. Original drawings indicated two larger, aluminium vents to be positioned on the rear of the building. However, due to the exposed site, the applicant was asked to reconsider this as it would be highly visible from the surrounding area. Discussions took place between the applicant and Environmental Health (who requested the vent) where a more aesthetically pleasing vent was submitted for consideration (drawings below).



Previously proposed rear elevation

Proposed rear elevation



Existing rear elevation – storage area (in black) to be removed.

The building faces onto a busy road and has a mixed character. Houses are located to the rear and side, with the main road to the front and commercial/residential buildings opposite. It is not considered, given the proposed minor elevational changes, that the change of use will have a detrimental impact on the local character.



Existing front Elevation

Proposed front elevation

Residential Amenity

Whilst the operations associated with a takeaway premises, may have some potential to impact upon neighbouring dwellings, submitted plans are inclusive of a cooking odour abatement system which is to be installed prior to the opening of the business and maintained in full working order thereafter.

DCAN 4 recognises that applications for fast food outlets, especially those in proximity to residential dwellings, generally give rise to a number of issues and objections which include noise disturbance, smells and fumes, refuse and litter, traffic considerations and parking.

The proposed site is within a mixed-use area fronting onto Castle Street and is located immediately adjacent to a charity shop. There are residential dwellings surrounding the application site with the closest dwelling immediately opposite the front of the premises (12.6m separation distance). The extraction flue shall be located to the rear of the building where the closest residential property is located over 20m away. A Noise Impact Assessment was carried out and submitted with the application. The assessment found that a background noise level of 35dB LA90 is representative of the mixed use town centre location. The Predicted Noise Level of the commercial plant noise (Extraction System, Air Intake System, AC Unit & Cold store compressor) is 33.4dB at No.1 Mill Street, and 32.1dB at No.1 Castle Lane. As the existing background noise level is not exceeded at each of the nearest residential receptors, Environmental Health has confirmed it is content that no unacceptable noise impact would occur as a result of the proposed extraction system. In addition, given the town centre location which already includes two hot food units within close proximity (Happy Valley Chinese takeaway and Express Pizza) which are open for business in the evenings, I am satisfied that the footfall and traffic associated with the proposed hot food unit at this location would not result in any significantly greater impact on existing residential properties by way of noise or disturbance. Furthermore to ensure that residential properties will not be disturbed late at night, Environmental Health has recommended that any planning approval should be subject to a condition restricting opening hours for customers to the premises to 10:00hrs - 23:00hrs with the premises open between 23:00hrs – 00:00hrs for deliveries only.



Separation distances from application site to nearby residential dwellings

An Odour Impact Assessment has also been prepared and submitted with the application. Environmental Health has considered this along with the proposals for a new odour abatement system and is content that there would be no adverse impact on the amenity of surrounding residential properties subject to the recommended mitigation measures which can be secured by planning conditions. These include:

- Installation of an extraction and odour abatement system capable of achieving a high level of odour control in accordance with EMAQ+ Guidance on the 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (2022) prior to the operation of the unit.
- Permanent retention and cleaning and maintenance of the kitchen extraction and odour abatement system in accordance with manufacturer's instructions and be retained thereafter to ensure a high level of odour control.
- A duct silencer shall be incorporated into the extraction flue, as prescribed within Revised Noise and Odour Impact Assessment, prepared by Layde Consulting (September 2025).

I am content that the separation distances between the unit and the nearest residential properties along with the above mitigation measures, will ensure that there will be no unacceptable impact on existing residential properties by way of odour or fumes.

Access, Road safety and Parking

Policy AMP 7 of PPS3 states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.

The policy goes on to advise that beyond areas of parking restraint identified in a development plan, a reduced level of car parking provision may be acceptable where the development is in a highly accessible location well served by public transport or where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking.

The property which was last used as a bookmakers, has no vehicular access from the public road and no in curtilage parking. This will remain unchanged for the proposed hot food unit.

Bookmakers are not listed specifically in the Parking Standards however as a similar Sui Generis town centre use, the parking requirements would likely be similar to those of a Hot Food Unit. For Hot Food Takeaways, 1 space per 3sqm Net Floor Area and 1 space per 3 staff is required under the parking standards. Based on this requirement, the proposed hot food unit with a Net Floor Area of approximately 18sqm and 4 staff would require a total of 8 in curtilage parking spaces. In this instance, given the restricted town centre site, there is no option to provide the required in curtilage parking as is the case for the majority of street frontage shops and businesses located within town centres. As already outlined, the last lawful use of the property as a Bookmakers also had no in curtilage parking provision, therefore this represents the base line for this site and remains as a fall back position. As outlined above, it is not anticipated that the parking requirements for the hot food unit and number of visitors to the premises would be significantly greater than those associated with the bookmakers.

It is acknowledged that the unit will continue to rely primarily on on-street parking provision. While there are parking restrictions immediately adjacent to the site around the Castle Street/Castle Lane junction, there is on street parking available within reasonable walking distance further along Castle Lane, further along Castle Street and also along Mill Street. It is acknowledged that there are already two hot food takeaways within close proximity of the site on Castle Street and that therefore on street parking provision along this particular stretch of the street is likely to be over capacity during peak times at weekends and in the evenings. However as outlined above, the site is in close proximity to other on street parking in Castle Lane and further along Mill Street (see images below). The nature of hot food takeaways is also such that any on street parking would be very short term therefore ensuring a fast turnaround of available on street parking spaces.

Taking into account all of the above material factors, including the town centre location of the site where it is commonplace that the majority of established businesses have no dedicated in -curtilage parking, I am content that the proposed use would result in not significantly greater impact on parking than the last lawful use and therefore the proposal meets the requirements of policy AMP7 of PPS3.



Existing parking restrictions at site around Castle Lane/Castle Street (Google Streetview August 2025)



Example of On-Street Parking at Castle Lane (Google Streetview August 2025)



Example of On-Street Parking at Mill Street (Google Streetview August 2025)

Designated Sites/Natural Heritage Interests

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. The proposal relates to a change of use and will not involve any construction or excavation. The surrounding area is developed and there is no potential for any pollution to a waterway. The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

In terms of protected and priority species, Part 2 of the Checklist was referred to and did not identify a scenario where survey information may reasonably be required. The proposal does not involve demolition or conversion. No trees or hedges to removed. It is therefore considered the impact on any such species to be negligible.

5. Representations

7 representation to consider from 3 separate addresses.

The business owner of a nearby fast food restaurant, Pizza Express, 39 Castle Street, objected to the application on the following grounds (4 separate objections);

- Traffic and parking management.

Consideration: Considered above under 'Access, Road Safety and Parking'

- The Noise and Odour Impact Assessment relies entirely on the hypothetical correct operation of technical equipment and fails to

consider realistic risk scenarios, including equipment failure, degradation over time, and lack of proper maintenance.

Consideration: Whilst the objector does not agree with the soundness of the submitted report, there is no evidence provided to back up claims. Environmental Health was consulted and are content with the proposal subject to conditions including the long term maintenance of the extraction system.

Occupier at No. 5 Mill Street objected on the following grounds;

- Congested traffic and road safety.

Considered above.

- Residential Amenity Impact.

Considered above.

- Environmental Impact – Noise, Odour & Waste

Considered above.

- Impact on Local Businesses

Consideration: This is not a material planning consideration.

An individual who is interested in buying a nearby new build property is objecting on the following grounds;

- increased noise from, vehicles, delivery drivers, customer activity, and business operations. This is not suitable directly adjacent to newly built homes, particularly for families and individuals seeking a quiet residential area.

Consideration: all issues raised above have been previously considered.

No. 1 Castle Lane was neighbour notified on 19/11/2025. A letter from Rosskyle Developments was received confirming that the dwelling is being used as a temporary site office during the construction of nearby dwellings. No. 1 Castle Lane is therefore not occupied and does require to be notified under legislation.

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. Prior to operation of the development hereby approved, an extraction and odour abatement system capable of achieving of a high level of odour control in accordance with EMAQ+ Guidance on the 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (2022) shall be installed to suppress and disperse odours created from cooking operations on the premises, as prescribed within Revised Noise and Odour Impact Assessment, prepared by Layde Consulting (September 2025).

Reason: To ensure nearby residents are not adversely affected by noise or cooking odours

3. The kitchen extraction and odour abatement system as detailed in condition 1 above, shall be permanently retained and shall be cleaned and maintained in accordance with manufacturer's instructions to ensure a high level of odour control.

Reason: To ensure nearby residents are not adversely affected by noise or cooking odours

4. A duct silencer shall be incorporated into the extraction flue, as prescribed within the Revised Noise and Odour Impact Assessment, prepared by Layde Consulting (September 2025) and shall be permanently retained and maintained thereafter.

Reason: To ensure nearby residents are not adversely affected by noise or cooking odours

5. Prior to 10:00hrs and after 23:00hrs the premises shall not remain open for business and the extraction system shall not be in operation, with the exception of home delivery services which may operate until 00:00.

Reason: In the interests of residential amenity.

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

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

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.

Item 4.5a

Addendum to Planning Report

LA06/2025/0405/F – Retrospective change of use from bookmakers to hot food unit. Proposal includes retrospective installation of extraction vent to rear, alterations to the front and rear elevations and increase in ridge height of rear return, 61 Castle Street, Comber.

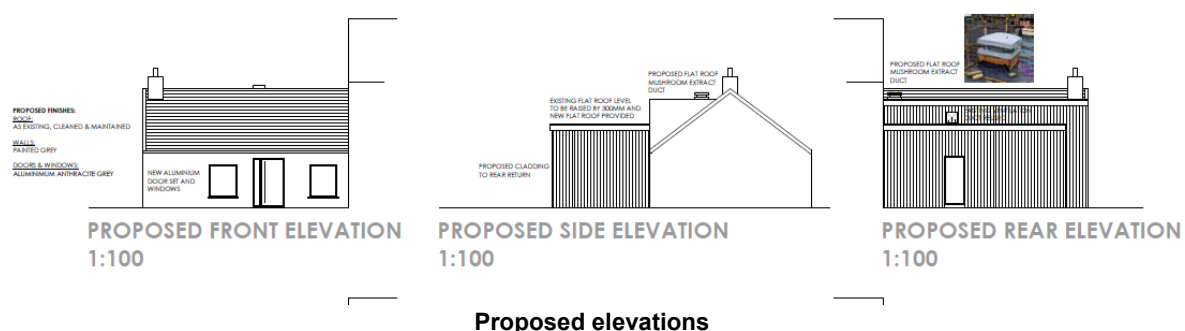
Application LA06/2025/0405/F was included on the delegated list of 24th November 2025 with a recommendation to approve. Following a complaint received from a member of the public on 26th November regarding works already commenced on site and alleged unauthorised alterations and extension to the building, investigations were carried out by the Planning Enforcement Team. It was confirmed that some of the works carried out on site were not in accordance with the plans submitted under the current planning application. The agent was asked to submit accurate plans accordingly. Amended plans and an amended proposal description were received on 3rd December to reflect the works carried out on site. The application was subsequently re-advertised on 11th December 2025 and neighbours re-notified following receipt of amended plans/proposal. During this time, works to the building continued with the unit opening for business on 20th December 2025. On this basis, the proposal description was amended to 'retrospective' and the application was re-advertised for a final time on 22nd January 2026.

This addendum has been prepared to consider the amended plans and additional objections received.

Amended Drawings

The amended drawings include the following changes;

The rear return extension as built measures 3.6m in height. The original proposed height for this rear return was 3m. The finished materials of the proposed rear return are also different – originally render and now grey steel cladding. On the front elevation, the advertising band has been omitted. The applicant was made aware that any proposed signage requires separate advertising consent to be submitted to the Council for consideration. An application was submitted on 10th February 2026 and is under consideration. The images below show the amended plans.



Visual Assessment and Impact on Character

The impact of the proposal on the local character was assessed in detail in the original report. The changes as described above are considered to be minor in nature and do not deviate significantly from the proposal as originally assessed. The site is located on a corner where Castle Lane meets Castle Street, therefore highly visible site. However, I do not consider the increase in height of the rear return to have a detrimental impact on the surrounding area. The height of the rear return (3.6m) is in-keeping and subordinate the host building and is considerably smaller than the rear return of the adjacent building.

The grey steel cladding will also have a negligible impact on this town centre location. Buildings within the immediate area vary in style and finishes and are both commercial and residential in nature. The finishes are more commercial in appearance than originally assessed but given the location of the building and the small scale of the rear return, the finishes are considered acceptable. The overall appearance of the building has been rejuvenated.

It is therefore still considered that there would be no adverse visual impact on the character of the area.



Retrospective works carried out to rear of building – increase in height to return and new steel clad finishes

Consideration of Further Representations

Since the original report was issued, 9 further objections and one petition have been submitted. This equates to a total of 16 objections (from 5 separate addresses) and 1 petition. As the total number of objections now received is 6, the application must be considered by Planning Committee. The additional material planning considerations raised in the further representations received are considered below.

The resident of 66A Castle Street objected on the following grounds;

- Site located on a busy junction – will cause difficulty for pedestrians.

Consideration: Works shall be carried out on the applicant's land and the existing public footpath will be unaffected.

- Smells and noise will cause a nuisance.

Consideration: Previously considered in detail in original report. Environmental Health were consulted and had no objections to the proposal subject to the recommended mitigation conditions as listed in the planning report.

A further individual objected (no address provided) on the following grounds;

- No dedicated parking or safe stopping areas for customers or delivery drivers on Castle Street and Mill Street.

Consideration: Parking has been considered in detail in the original report. While there are double yellow lines around the junction, these do not extend the full length of the unit's frontage on Castle Street, therefore a vehicle could park short term here and be in close enough proximity to unload deliveries etc. This is the current arrangement for the other two hot food units along this stretch of Castle Street. Given the town centre location, this is the arrangement for the majority of existing commercial premises for deliveries etc.

An original objector sent a further 7 representations. A number of these representations were requesting information/clarification however the further issues raised include:

- Unsuitability of site and road safety concerns – the site is hemmed in with no loading bays for delivery and service vehicles.

Consideration: The site is located within the town centre. Businesses along this stretch of Castle Street do not benefit from loading bays. Deliveries of goods to the unit will be accommodated from the existing public roads as is the arrangement for many other existing small commercial premises within the town centre. It is acknowledged that there are double yellow line parking restrictions immediately adjacent to the site at the corner of Castle Street and Castle Lane however there are only single yellow line parking restrictions along the remainder of Castle Street which will still allow delivery vans and service vehicles to stop short term in close proximity to the unit. The onus will be on the operator of the unit to ensure that deliveries and servicing are appropriately managed and undertaken during quieter times of the day rather than peak hours.

- Fails to Protect Residential Amenity.

Consideration: Previously considered in detail in the original report. Environmental Health had no objections to the proposal subject to mitigation conditions.

- The proposal is incompatible with the surrounding residential use.

Consideration: The application site is on the edge of the town centre. The surrounding area is made up of a mix of both residential and commercial uses. It is not considered the proposed use is unacceptable for its location.

- Over concentration of Hot Food Premises:

Consideration: It is not considered that there will be an over concentration of hot food premises within the immediate area. There will be three units along

this immediate stretch of Castle Street which is not considered to be excessive within the context of the town centre. It is not considered that the cumulative impact of all three units would result in any unacceptable adverse impact on the amenity or character of the area. Environmental Health has been consulted and has raised no objections by way of any potential cumulative noise or smell impact.

- Inadequate waste management and pest nuisance.

Consideration: Adequate bin storage has been provided for the unit at the rear of the premises. Any issues arising regarding pest nuisance would be a matter to be dealt with under separate legislation outside of the planning process and should be reported to the Council's Environmental Health Department for investigation.

- Serious odour and extraction management failures.

Consideration: Environmental Health raised no issues in regard to this and are content with the proposal subject to the recommended planning conditions to secure mitigation measures. The Council is therefore satisfied that the proposal will not result in any unacceptable odour or extract management failures.

- Non-Compliance with Building Control:

This is not a planning matter.

Conclusion

Following the submission of amended drawings and further representations, all additional information has been carefully considered. The amended drawings of the proposal do not deviate greatly from the original proposed drawings. Changes are minor and relate mainly to the small increase in ridge height and finishes of rear return. Minor elevational changes to the front facade also proposed. Although these changes will be visible from the public road, they are minor and will not detract from the town centre location.

Photographs (taken 28th January 2026)



View of Castle Street



Front Elevation



Rear of Application Site



Rear Side/Back of Application Site

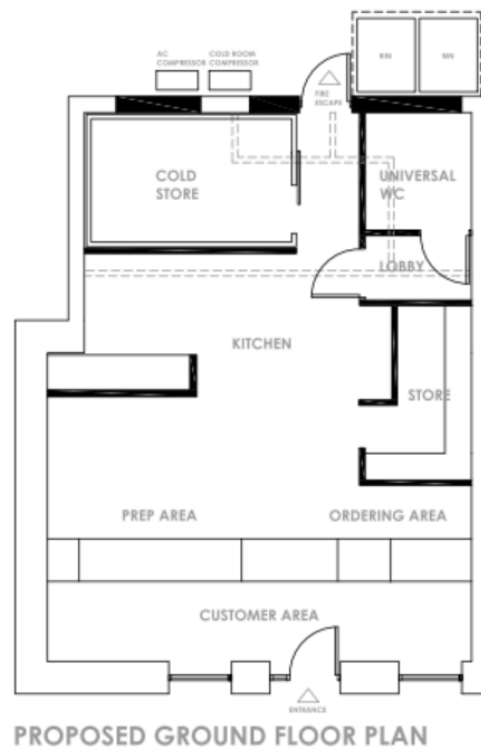
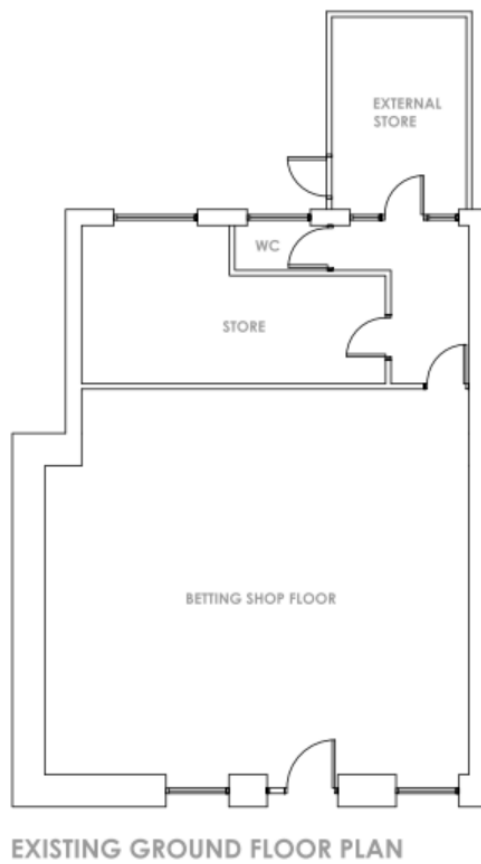
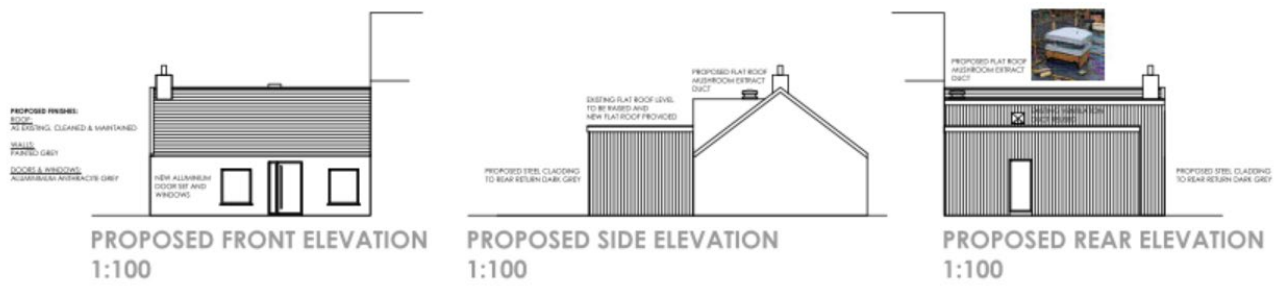
Plans




SITE LOCATION MAP 1:1250



SITE BLOCK PLAN 1:500



Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2023/2108/F	DEA: Ards Peninsula	
Proposal:	Two agricultural buildings (retrospective) and erection of one agricultural building (proposed).		
Location:	50m West and 88m NW of 17 Abbacy Road, Portaferry		
Applicant:	Alexis Clarke		
Date valid:	15.08.2023	EIA Screening Required:	Yes
Date last advertised:	27.11.2025	Date last neighbour notified:	14.11.2025
Letters of Support: 1	Letters of Objection: 20 relating to one third party address at 15b Abbacy Rd	Petitions: 0	
Consultations – synopsis of responses:			
DfI Roads	No objection.		
DAERA	The farm business ID identified on the P1C has been in existence for more than 6 years. The business has claimed SFP in the last 6 years. The Business ID is in Category 1 and was issued in 1996.		
EHO	No objections.		
SES	No objections subject to a condition.		
NIEA WMU	No objections subject to conditions.		
NIEA NED	No objections subject to conditions.		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Design, integration and impact on rural character • Residential amenity • Access and parking • Designated Sites and Natural Heritage Interests 			
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 Northern Ireland Planning Portal.			

1. Site and Surrounding Area

The site is located at 17 Abbacy Road, a few miles north of Portaferry and is within open countryside.

The site is accessed via an existing lane that serves the applicant's existing farm complex and farmhouse as well as a third party dwelling at 15B Abbacy Road. The site for the proposed new agricultural sheds is located within the main group of farm buildings.

The site lies outside any designated settlement limit as per the Ards and Down Area Plan 2015 and is not within a designated AONB. Abbacy Road is not a protected route.

2. Site Location Plan

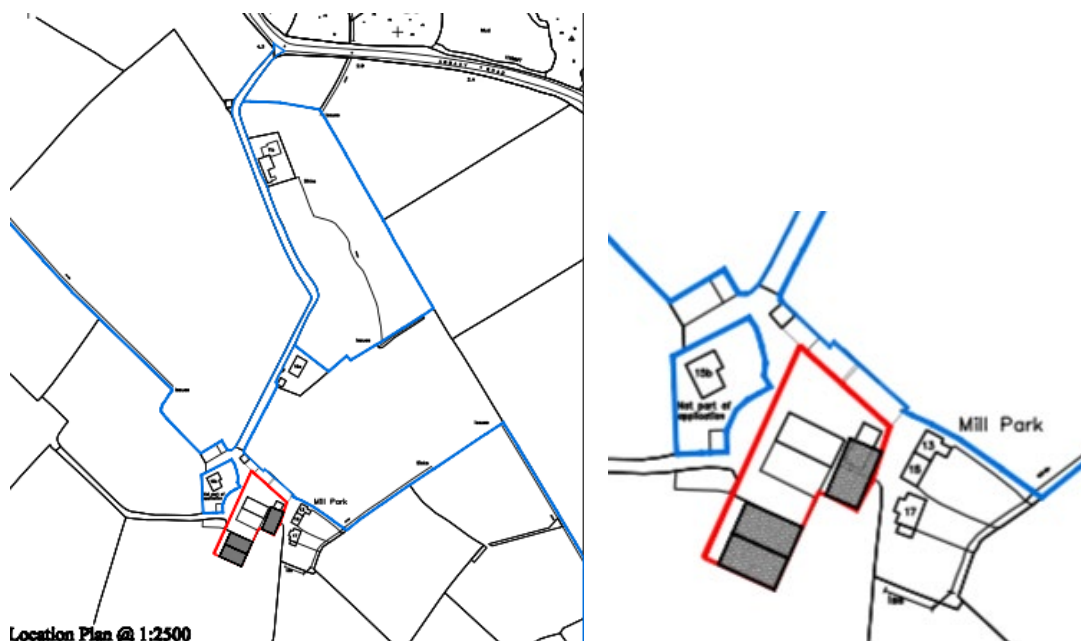


Figure 1 Site location plan



Figure 2 Aerial image of the proposed site layout

3. Relevant Planning History

The most relevant planning permission was granted in 2023 (LA06/2021/1238/F) for one agricultural building (retrospective) and erection of two agricultural buildings with dry storage below one of proposed buildings.

The retrospective building has been completed and one of the approved buildings is almost complete. The construction of the second approved building has not yet commenced and has been taken into consideration of this assessment of the current application.

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 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland Edition 2 (SPPS2)
- 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

Principle of Development

The Ards and Down Area Plan 2015 sets out the land use proposals that will be used to guide development within the area. The site is located outside any settlement and is within the countryside as designated in the Ards and Down Area Plan 2015 and is located within a designated AONB.

The Proposal

The original proposal was for two agricultural buildings (retrospective) and erection of three newbuild agricultural buildings (total of five new buildings). The applicant was advised shortly after the application was submitted in 2023, that the proposal was unacceptable and could not be justified against the need test in Policy CTY12, given the buildings approved in the 2023 permission had not yet been built.

Since 2023, two of the three buildings approved have now been constructed and are in use. The third building is still to be constructed.

The proposal was reduced and an amended scheme was submitted which now proposes three additional agricultural buildings, two of which have already been constructed and are in use (and seeks retrospective permission). The third building will

be a replacement building for an existing building which has been severely damaged due to storm damage.

PPS 21 – Development in the Countryside

Regional planning policies of relevance are set out in the SPPS2 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. This includes the erection of agricultural buildings in accordance with Policy CTY 12. The relevant criteria will be considered in the assessment below.

CTY12, in line with the provisions of the SPPS2, states that permission will be granted for development on an active and established agricultural holding where five stated criteria are met. In determining what constitutes an active and established holding, Paragraph 5.56 of PPS21 refers to criteria set out in CTY10 and also in Paragraph 6.73 of the SPPS2 which both clearly state that the agricultural business must be currently active and established for a minimum of 6 years. The application form states that the farm business ID was allocated in the year 1996. Associated farm maps have been made available. DAERA has confirmed that the business referred to on the application form has been established for more than 6 years and that the business has claimed SFP in each of the last 6 years. DAERA has also commented that the Business ID is in Category 1 and was issued in 1996. It is considered that the agricultural holding has been established for more than 6 years and therefore meets this initial part of the policy test.

Policy CTY 12 – Agricultural and Forestry Development

Planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

- it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- in terms of character and scale it is appropriate to its location;
- it visually integrates into the local landscape and additional landscaping is provided as necessary;
- it will not have an adverse impact on the natural or built heritage; and
- it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of 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.

Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where:

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.

Criterion (a) of CTY12 requires it to be demonstrated that the proposed buildings are necessary for the efficient use of the agricultural holding. The applicant advised that the

farm currently has 150 cows on their holding and operates a farm to fork approach by providing a professional butchering service to sell their beef which has been operating for 25 years. They make their own meal for the cows which requires a building for the produce and storage, and also a building to feed the cows in. They also produce their own straw and hay which requires storage and also then storage for a significant amount of fertiliser to help produce the straw and hay. The farm machinery also requires to be stored in a building for protection from weather damage and theft.

The applicant has stated that the additional buildings are necessary for the efficient use of the holding as follows: the proposed building is replacing an existing storm damaged building that is now unusable, with a new modern building so effectively this is not an additional building but is a replacement building.



Figure 3 Photographs of the existing shed which is in a bad state of repair and is to be replaced by Structure B annotated on the site plan.

The replacement building will be used to store fertiliser which needs to be stored separately from straw, and also for general purpose use. The new replacement building

will be larger than the existing building and will be cover the existing footprint and an area to the south.

The two buildings that have already been constructed are used to store all the farm machinery, as before these buildings were constructed the majority of the machinery had to sit outside which meant they were exposed to weather damage and theft. The applicant also advised that some of the machinery had to be stored in rented buildings off site.

The applicant has stated that at present all other existing farm buildings are at full capacity either being used for housing livestock or for general storage, and thus two additional buildings will enable for more efficient running of the agricultural business. The proposed site plan below in Figure 4 shows the two recently constructed buildings seeking retrospective permission coloured in blue and labelled as ‘Structure A’ and the proposed replacement building coloured in purple and labelled as ‘Structure B’.



Figure 4 Proposed site plan showing the proposed buildings Structure A (coloured blue) and Structure B (coloured purple).

During the site inspection the applicant demonstrated that each building was being used to full capacity as set out below.

The shed to the north of the farmyard and north of 15B Abbacy Road is used to house cattle – see Figure 5 below.



Figure 5 Existing shed to the north of 15B Abbacy Road

The two sheds to the left of the position of the proposed replacement building (coloured purple in Figure 4 above) are also used to house cattle and an area of the shed has been sectioned off to allow the animal feed to be produced – see Figure 6 below.



Figure 6 Photographs showing the existing buildings used to house cattle and the meal preparation station.

The two buildings immediately to the north of the position for the new replacement building (coloured purple) have only recently been constructed as planning permission was only granted in 2023. The Council accepted that they were necessary for the storage/protection for existing machinery which has to sit outdoors and that there were no other buildings on the farm that could be used for that purpose. Two of the three buildings approved have since been erected. The building furthest to the east is used primarily as a farm workshop, however due to a lack of storage space the fertilizer has to be stored in here also– see photos below. It is not ideal to house fertiliser in a workshop so the proposed replacement general purpose building (coloured purple on the site plan) will be used to store the fertiliser instead of in this shed.



Figure 7 Photographs showing the use of one of the shed recently granted permission in 2023.

The shed adjacent to the above shed was only erected the week prior to the site inspection and has not yet been completed as the sides still have to be installed – see photograph below. This shed will house the round straw bales as shown in the photograph below.



Figure 8 Photograph showing the second shed approved in 2023 used to store straw and hay.

The third building approved under LA06/2021/1238/F has not yet been completed, and when built it will also store straw and hay.

Without the proposed buildings subject of this application there is still nowhere for the applicant to store the farm machinery, of which there is quite a lot. The recently

constructed sheds were, from reading the case officer’s report, intended to store the farm machinery however since that permission was granted in 2023, the farm group has increased in size with an additional 35 acres further justifying the need for additional space. The two retrospective sheds are currently being used to house the farm machinery, which was tightly packed on the day of the site inspection. The applicant’s agent forwarded a list of farm machinery that the applicant owns and uses and during the site inspection every item on the list was confirmed to be housed in the shed or parked elsewhere on the farm as it was in recent use.

- Machinery List**
 Newholland Tractor 8340
 Newholland Tractor 7840
 Newholland Tractor 7840
 Newholland Tractor TS110
 Newholland Tractor TS115
 Ford Tractor 7810
 Ford Tractor 7000
 Ford Tractor 4140

- Newholland Combine 1530
 Silage trailers 12ton x3
 Slurry Tankers 1550 x2
 West Manure Spreader
 McHale Round Baler
 McHale Bale Wrapper
 McHale Bale Handler

- Lely Grass Tedder
 Lely Mower
 Class 6.8 meter rake
 JF900 Silage Harvester
 Vicon Fertilizer Spreader
 Kverneland Plough
 Amazone One Pass
 Crop Sprayer
 Kane Lowloader
 Watson Roller
 Slurry Mixer
 Chieftain 12ton dump trailer
 Renault Tractor and Loader
 Ford 4630 and Loader
 Cattle trailer
 Dale Kane Triaxle Trailer
 Dale Kane Double axle trailer
 Silage Pusher
 Wylie Buckrake
 Mobile Grain Roller
 Vecter Post Driver
 Land Leveler
 Red rocker Slurry Mixer

- Meal Mixer
 Tractor Mixer
 Portequip Bull Feeders x3
 NC Linkasweep



Figure 9 List of farm machinery owned and used by the applicant. Photographs of the proposed retrospective sheds (Structure A) housing the farm machinery as listed.

It is noted from the site visit that some machinery is parked outside including these slurry tanks. It is considered that the existing farm buildings, including the proposed retrospective sheds, are being used to capacity. No other buildings have been applied for and it remains that case that all farm buildings are in use.

It is considered that the applicant has demonstrated that the proposed buildings are necessary for the efficient use of the agricultural holding and therefore meets part (a) of Policy CTY 12 of PPS 21.

In terms of criteria (b), (c), (d) and (e), it is considered that the proposed buildings will not have an adverse impact on the visual appearance of the area. The buildings are all sited within the existing group of farm buildings and will be read as part of the farm complex. The buildings that have already been constructed are located towards the south of the farm towards the rear and satisfactorily integrate into the farm complex and are of a suitable scale. Furthermore they do not appear overly dominant in relation to no 15b. The replacement building will have a concrete finish to the lower walls with the upper walls and the roof in slate blue/grey cladding which will help to blend the building with the existing farm buildings. See Figure 10 below.

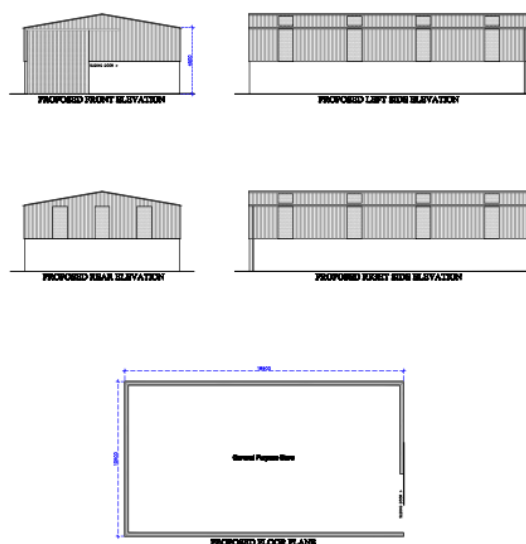


Figure 10 Proposed elevations and floor plan of the replacement building.

In terms of part (d) of Policy CTY12, it is considered that the proposal will have no adverse impact on built or natural heritage. There are no built heritage features close to the site. The sheds are for storage only, will hold no livestock and will be located within an existing farmyard therefore there will be no adverse impact on natural heritage interests. The sheds will be conditioned in any approval for storage only and that they shall not house livestock.

In terms of part (e) of Policy CTY12, the only dwelling that is not associated with the farm is No.15B Abbacy Road. Nos 13, 15 and 17 are in the ownership of the applicant; 13 is currently derelict, 15 is the applicant's residence and 17 is where the applicant's parents reside. It is considered that all the proposed buildings are a sufficient distance away from the third party dwelling at 15B so as not to be subjected to an unacceptable loss of residential amenity in terms of privacy, light, overshadowing and disturbance.

Policy CTY 12 states that in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- there are no suitable existing buildings on the holding that can be used
- the design and materials to be used are sympathetic to the locality and adjacent buildings
- the proposal is sited beside existing farm buildings.

The applicant has stated in the supporting statements, that there are no suitable existing buildings on the holding that can be used for the additional needs of the farm. In basic terms the working of the additional 35 acres and the increased number of cattle acquired since the previous permission was granted for the agricultural buildings, requires additional storage space for both the farm machinery and the straw and hay for the efficient running of the farm. The growth of the farm unit has been verified through the provision of farms maps dated 2015 and 2025. Whilst one shed from the previous approval on site has yet to be constructed, the applicant has indicated that it is intended to be used as well for further storage space. On this basis it is considered that the applicant has demonstrated that there are no suitable existing buildings on the holding that can be used.

As previously discussed, the proposed buildings are of an acceptable scale and design for this location and as they are sited immediately adjacent to the existing farm buildings, they will be read as part of the farm complex, ensuring there is no unacceptable impacts caused to the visual appearance and character of the locality.

In terms of the assessment against Policy CTY 12, it is considered that based on the information submitted in the application, the proposal meets the policy requirements of Policy CTY 12 of PPS 21.

Integration and design of buildings in the countryside

The proposed buildings are to be positioned adjacent to the existing farm buildings and will be read as part of the farm complex. The buildings will not be visible when travelling along Abbacy Road. On this basis, it is considered that the buildings will be integrated in the rural landscape and the proposal complies with Policy CTY 13 of PPS 13.

Rural Character

The proposed buildings will not be unduly prominent in the landscape and will not result in a build-up of development. The scale, design and finishes of the proposed buildings are a common type of farm building found in the countryside. It is considered that there is no loss of rural character as a result of this development and complies with Policy CTY 14 of PPS 21.

Impact on Area of Outstanding Natural Beauty

The site is within the Strangford and Lecale Area of Outstanding Natural Beauty (AONB) and a Design and Access statement has been submitted. It is considered that, as the proposal is for agricultural sheds within an established farm holding and the scale, massing and materials are sympathetic to the surrounding rural area, that the proposal is in keeping with the character of the AONB. The proposal will use the existing laneway and access off Abbacy Road that is currently used for the holding. There are

no features of importance to the character, appearance or heritage of the surrounding landscape within the site to respect or conserve. It is therefore considered that the proposal will have no adverse impact on the character of the AONB and will read with the existing farm holding.

Residential amenity

The SPPS2 recognises there are a wide range of environment and amenity considerations which should be taken into account by planning authorities when managing development. Policy CTY 12 also sets out a test in relation to detrimental impact on the amenity of residential dwellings outside the holding. The only dwelling that is not associated with the farm, that could potentially be impacted upon by the proposal is 15B. It is considered that the proposal will have no detrimental impact on the amenity of 15B in terms of noise, smell and pollution as the proposed sheds are for storage only (no livestock). This will be conditioned as part of any approval to ensure the amenity of nearby dwellings is protected.

The nearest part of the proposed development is between the closest part of the retrospective shed and the front elevation of 15B and has a separation distance of approximately 36m. This is an acceptable distance to ensure the buildings, which will be used for storage purposes, will not have any adverse impact on the amount of light received at this dwelling and the proposal meets the 25-degree angle light test.

Access and Roads Safety

The proposal has been assessed against PPS 3 Access Movement and Parking. The proposed buildings will utilise the existing lane. DfI Roads has been consulted and offers no objections. The proposal is in line with PPS 3.

Designated Sites and Natural Heritage

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Shared Environmental Services has been consulted. The Council in its role as the competent authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service (SES), dated 05/09/2025. SES has commented as follows:

Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site. The site is approximately 330m from Strangford Lough SAC/SPA/Ramsar. On the basis of the supporting information no livestock are to be housed and no slurry/manure to be stored in the proposed buildings therefore there will be no increase in ammonia emissions. There is therefore no source or pathway for operational impacts to the European sites. There is no hydrological connection to any European site. The following condition should be appended to any planning approval to ensure the proposal proceeds as assessed:

No livestock or animal manure shall be housed within the retrospective or proposed buildings at any time.

Reason: To ensure the project is not likely to have a significant effect on any European site.

DAERA Natural Environment Division (NED) was consulted and notes that a Biodiversity Checklist has been provided, advising the Council to review the checklist and to determine if further consultations with DAERA is necessary. Following review of the checklist, it is considered that no further consultations are necessary. The existing building to be replaced by Structure B does not have a roof and is very exposed so on this basis it is considered that there will be no adverse impact on any natural heritage issues and the proposal is not likely to adversely impact protected or priority species or habitats. It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2.

Conclusion

The proposal has been considered having regard to all material considerations, including the statutory development plan, planning policy and comments received from statutory bodies. The farm holding has been long established for more than the minimum requirement of 6 years as confirmed by DAERA. It has been demonstrated by the applicant that the proposed buildings are necessary for the efficient use of the agricultural holding. The applicant has demonstrated that there are no suitable existing buildings on the holding that can be used. Having weighed all material considerations, it is recommended that this application proceeds by way of an approval of planning permission.

5. Representations

20 representations of objection have been received to date and 1 letter of support.

7 people sent objections via emails however only 4 addresses were provided; the remainder of objectors did not provide a postal address. Each of the objectors that did not provide a postal address were emailed requesting confirmation of their postal address in order to make a full assessment of the proposal and to ascertain if the application needed to be presented before the Planning Committee. 3 objectors replied confirming their postal address resulting in a total of 4 postal addresses confirmed. The 3 remaining objectors will be taken as individual objections and together results in this application being required to be presented before the Planning Committee.

The objections all relate to the adjacent dwelling to the farm at 15b Abbacy Road.

All of the representations have been read in full. The main points of concern are summarised below:

- *Unacceptable impacts on 15b Abbacy Road including overdominance causing a loss of light.*

Due to the separation distance of approximately 36m between the sheds and No. 15B, there will be no unacceptable adverse impact on the amount of light

received at 15B and the proposal meets the 25-degree angle light test. It is also noted that the proposal has been reduced which would lessen any impact.

- *Increased levels of noise, dust, air, and smell pollution and rodents.*
Environmental Health, NIEA and Shared Environmental Service were consulted and raised no objections. A condition is recommended to ensure the sheds shall not house any livestock at any time without the prior consent of the Council. This will ensure the residential amenity of No. 15b and any environmental interests are protected. Nonetheless, the proposed works are to house materials and machinery which are already in use at the site and should not result in an increase in levels of noise, dust etc.
- *Contrary to Policy CTY12 A as it is only a small holding (90acres) and all the proposed sheds are not necessary.*
The applicant has acquired additional land (now 35 acres) and additional cattle and therefore additional covered storage space is now required. Following a site inspection it is clear that additional storage space already erected is in use to keep machinery and fodder undercover. The additional space will support the expansion of the business.
- *Schedule 3, Part 7 of The Planning (General Permitted Development) Order (Northern Ireland) 2015 recommends that a suitable separation distance should be at least 75m, however many of these structures are within 25m of 15b dwelling. Furthermore, the fire hazard risk posed is within 12m from the kitchen window of 15B.*
The Council's Environmental Health Department has assessed the proposal and has not raised any concerns as long as the proposed buildings are not to be used to house livestock/ store slurry. The closest part of the proposed buildings is approximately 36m from 15B. The Planning (General Permitted Development) Order (Northern Ireland) 2015 is for development that does not require a full planning application and sets out what is allowed under permitted development. It is important to note that each application is taken on its own merits and that the regulations set out in the Planning (General Permitted Development) Order (Northern Ireland) 2015 are not restrictions. On this basis, the same condition that was included as part of the planning permission for the previous buildings, will be included on any permission granted for this proposal.
- *Additional damage to 15b boundary wall from farm machinery accessing sheds at close proximity to 15b dwelling.*
This is not a material planning consideration and is a civil matter between the owner of 15b and whoever caused the damage.
- *The release of nitrogen emissions from the chicken litter within the close proximity to 15B.*
During the site visit, there was no evidence of chickens being present at the site. The applicant has not stated that he owns chickens. A condition will be included on any permission granted to ensure that the buildings are not to be used to house livestock.
- *24-hour tyre repair business running from the site.*

During the site visit, there was no evidence of a tyre repair business. The enforcement officer did not see any evidence of any alleged business activity either.

- *is there a limit to how many machinery sheds/stores an agricultural holding consisting of 91 cattle and 26.42 hectares requires to enable its efficient use.* There is no limit as to how many sheds an agricultural holding requires to enable its efficient use. Every case is determined on its own merits. In this case the applicant has taken on extra land, more machinery and more livestock thus more shed space is required.

- *The 'Proposed Site Layout' highlights one underground tank where 'all washings and run-off from any building to flow into NAP 2019 collection tank with no overflow to any waterways.' I am not satisfied that this site can currently and safely accommodate these sheds.*

The proposal has been reduced to propose 3 sheds in addition to the three buildings that were previously approved. The buildings will be used for storage purposes only and therefore there will not be a significant level of run-off and any run-off will go to the existing collection tank. DAERA and Shared Environmental Services were consulted and did not raise any objections.

- *This proposed development will make the family home at 15B feel hemmed in and will visually impact the quality of the surrounding landscape, bearing in mind, this site is within the Strangford and Lecale Area of Outstanding Natural Beauty. The visual impact of this development, and the build-up of development within a constrained site, needs to be considered by the planners as to the impact of the development on the character of the area and if it is in accordance with CTY 14 of PPS 21. Furthermore, this proposal of 7 sheds is in addition to the 3 sheds approved in 2023*

(LA06/2021/1238/F). These will certainly be a prominent feature in the landscape, and prominent to the residents of number 15b. This development will negatively impact the welfare of my family.

It is considered that the visual impact of the proposed development will not have a detrimental impact on the landscape as the proposed buildings will be read with the existing cluster of farm buildings. The proposal has been reduced to now propose 3 buildings, two of which have already been constructed. It is considered that the building are positioned an acceptable distance from 15B so as not to cause any unacceptable impacts to the residential amenity of the dwelling.

- *The application contains incorrect and inaccurate information.*

It was raised that elements of the supporting information provided contained inaccurate and incorrect information. The most recently submitted plans have been checked and are accurate, including the labelling of the buildings. Officer's have thoroughly assessed the application and sought consultation were appropriate. SES and DAERA's NED have been consulted and have not raised any issues. DfI Rivers was not consulted on this application as there is no statutory requirement to consult with it.

- *the applicant is using many of the sheds for commercial/business purposes rather than agricultural purposes.*
During the site visit there was no evidence of any commercial businesses running from the site.
- *The number of vehicles visiting the farm has increased significantly due to the businesses operating from the site, approximately 20-25 vehicles per day. This causes privacy issues for 15B.*
During the site inspection there was no evidence of any commercial business operating from the site. Ultimately the application as presented is for sheds to be used as storage in the function of the agricultural business. Conditions can be added to ensure they are used to this effect. Taking the application on its own merits, the proposal is unlikely to generate traffic outside of the already functioning farm business. In respect of the impact of privacy to 15B is not considered to be a form of unacceptable loss of significant adverse impact.
- *Inaccuracies in the application statement which the Council should not rely on – a visit to the site is required to gain understanding of the area.*
The application statement is the applicant/agent interpretation on how the proposal complies with the relevant planning policies. The Council will make its own determination against the relevant policies based on the information provided within the application, a site visit and comments from the relevant consultees.
- *Total amount of floorspaces approved equates to approximately 900sqm.*
The applicant is making improvements to the farm, including replacing dated buildings with new buildings. The justification for the additional storage space is due to the increased land take and number of cattle. Farm machinery was always left outside and now the applicant wants to improve the situation by storing it indoors. The test is that it is necessary and evidence has been provided. There is no policy provision which restricts floorspace.
- *Light pollution to 15B.*
The proposal does not include details of any proposed lighting.
- *The use of the sheds for straw storage or machinery storage*
The use of the sheds is for storage with the only restriction being that they are not used to house livestock. This will be included as a condition on any permission granted.

One letter of support has been submitted by a local MLA. No reasoning was provided.

6. Recommendation

Grant Planning Permission

7. Conditions

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the proposed development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The retrospective development hereby permitted is issued under Section 55 of the Planning Act (Northern Ireland) 2011 and takes effect from the date of this permission.

Reason: This is a retrospective application.

3. The agricultural buildings hereby approved will be used solely for storage and no livestock shall be housed within the buildings at any time without the prior written consent of the Council.

Reason: To ensure the development is not likely to have a significant effect on any European site and in the interests of residential amenity.

4. The farm buildings hereby permitted shall only be used for agricultural activity and for no other purposes at any time including no commercial enterprise.

Reason: To prevent the operation of an unauthorised use on the premises.

5. A suitable buffer of 10 metres shall be maintained between the location of all construction works refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the watercourse present along the south of the application site.

Reason: To ensure the development is not likely to have a significant effect on any European site or the water environment.

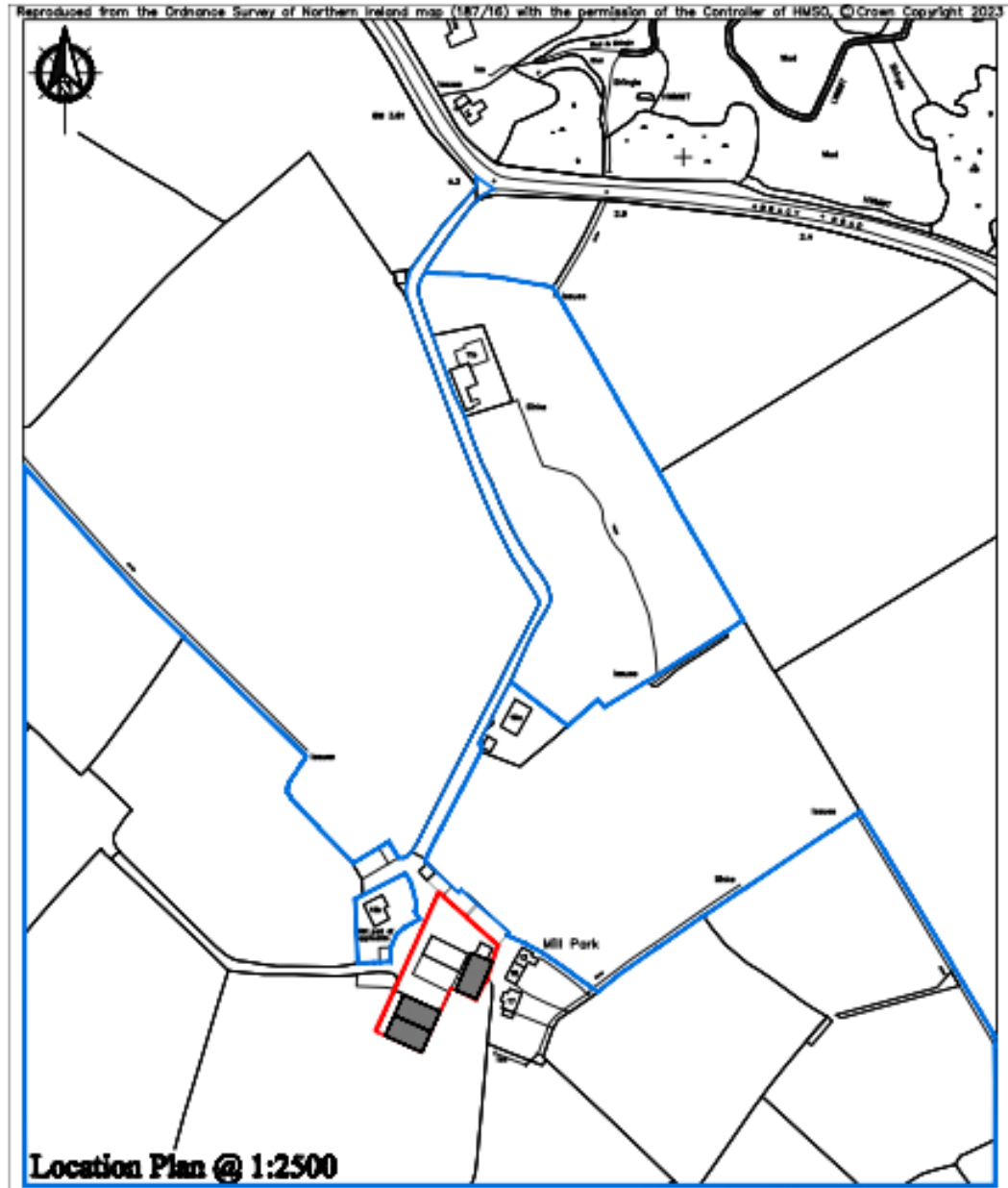
6. All contaminated run-off from the facility and, concrete apron shall be directed to an appropriate collection tank, with no overflow or outlet to any waterway or soakaway.


Reason: To ensure the development is not likely to have a significant effect on any European site or the water environment.

Informative

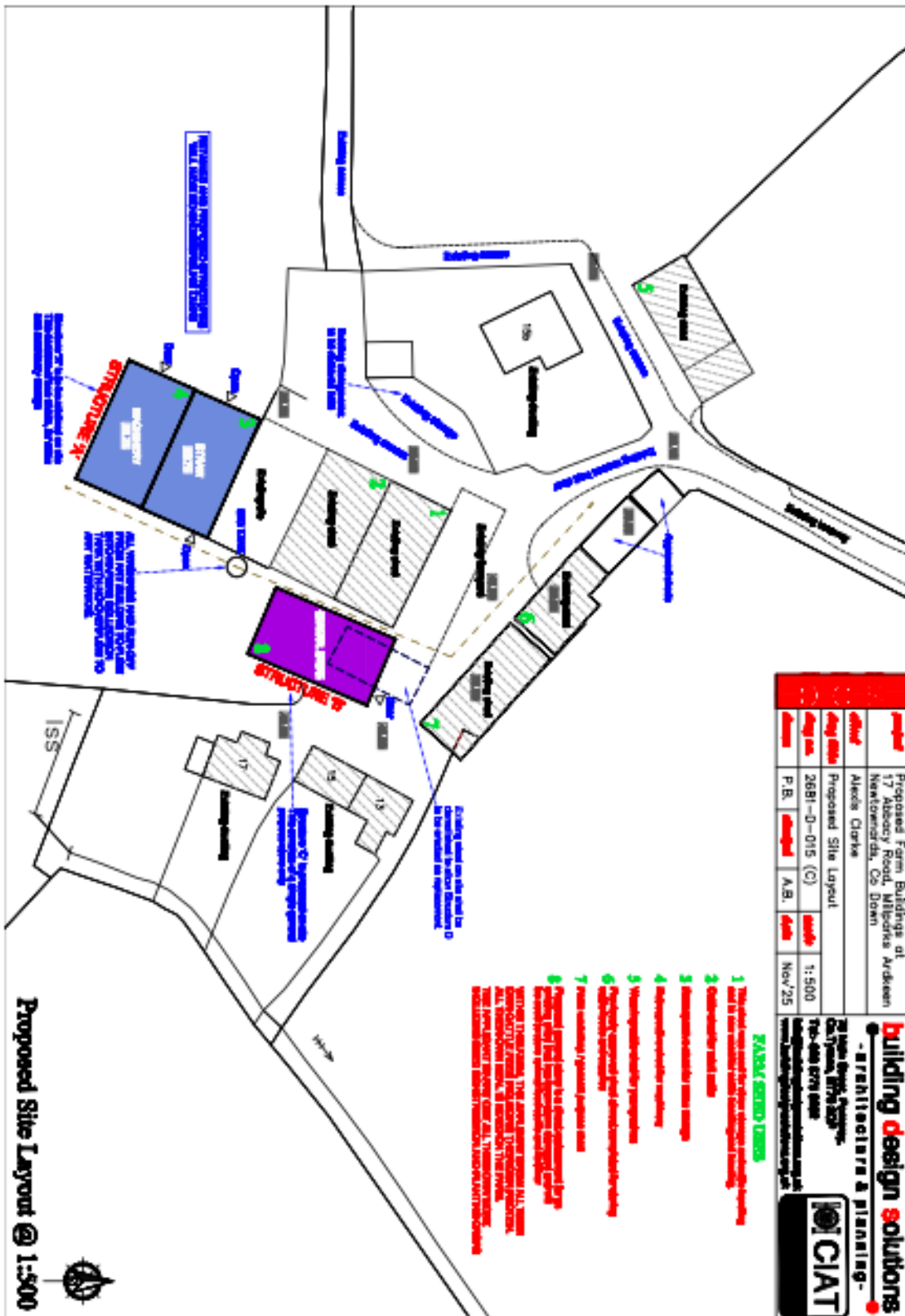
This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where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

Appendix 1 – Site Location Map

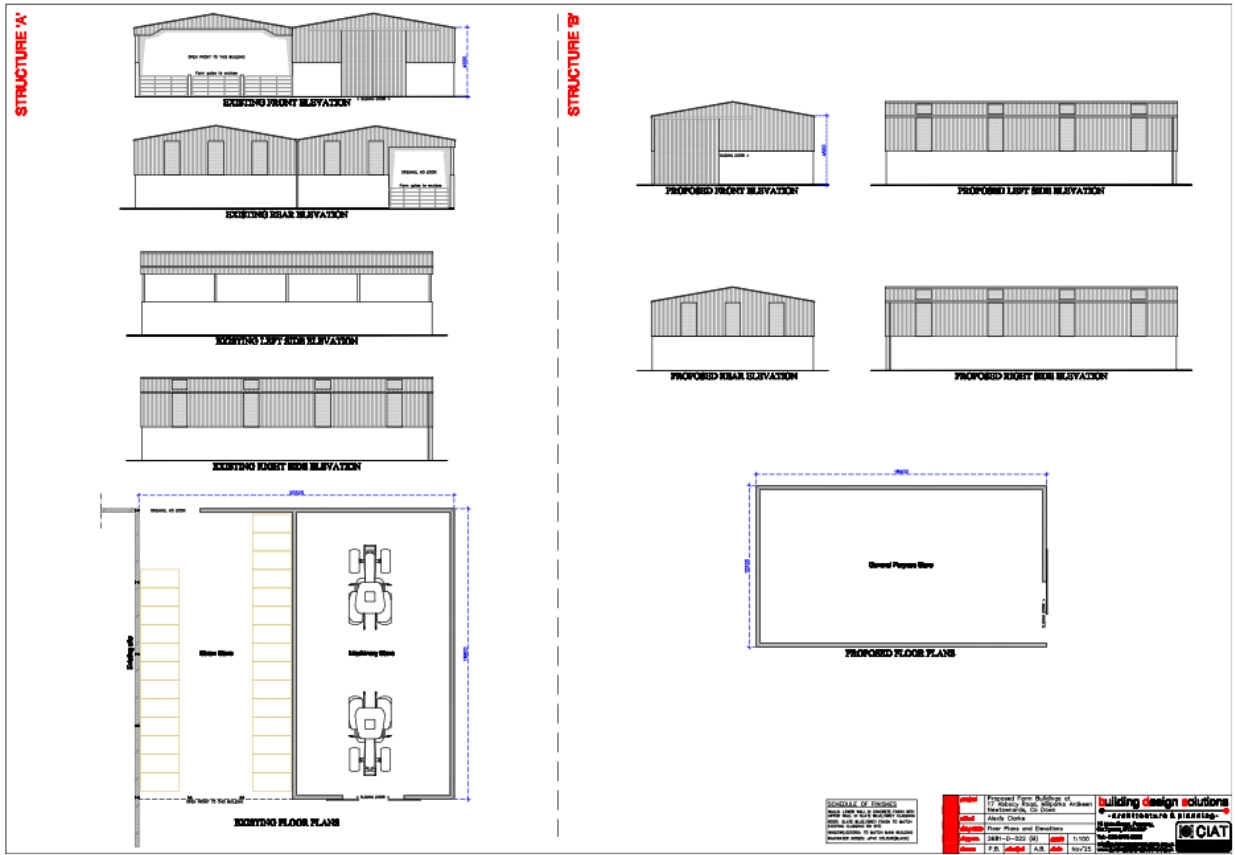


S C O P E	project Proposed Farm Buildings at 17 Abbey Road, Millparks Ardkeen Newtownards, Co Down				building design solutions - architecture & planning - 75 Main Street, Pomeroy, Co. Tyrone, BT70 5DP Tel: 028 6775 8282 info@buildingdesignsolutions.org.uk www.buildingdesignsolutions.org.uk	
	client Alexis Clarke					
	design title Location Plan					
	design no. 2681-D-014 (A)	scale 1:2500				
	drawn P.B.	checked A.B.	date Nov/25			

Appendix 2 – Site Layout



Appendix 3 – Floor Plans and Elevations



Appendix 4 - Photographs



Figure A Aerial image of the proposed site layout



Figure B. Photos show the existing shed which is in a bad state of repair and is to be replaced by Structure B annotated on the site plan.



Figure C. Existing shed to the north of 15B Abbacy Road



Figure D. Photos showing the existing buildings used to house cattle and the meal preparation station.



Figure E. Photos showing the use of one of the sheds recently granted permission in 2023.



Figure F. Photos showing the second shed approved in 2023 used to store straw and hay.



Figure G. Photographs of the proposed retrospective sheds (Structure A) housing the farm machinery as listed.

Unclassified

ITEM 5

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	31 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Response to Second Review of The Implementation of the Planning Act
Attachments	a. First Review Report b. Letter from Chief Planner 04 Feb 2026 b. Table of Planning Act and status of actions
File Reference (if applicable)	
Legislation	Other The Planning Act (Northern Ireland) 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	Multiple Multiple If multiple: 2-6

Background

Further to a report brought to the Committee on 03 March, this report is to advise Members of the proposed response to the Department's Second Review of the Planning Act.

Members will recall that a first review of the Implementation of the Planning Act was undertaken by the Department for Infrastructure in 2021 with its Report being published in 2022. A copy of that report is attached for ease of reference.

The Department is now preparing for its Second Review and the Chief Planner clarified in her letter of 04 February 2026 that there is no requirement to reiterate issues identified in responses to the First Review.

Detail

The purpose of this review 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 Regulations.

Dfi states that, given the councils' role in the implementation of much of the Act and associated subordinate legislation, it would welcome the Council's assessment 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.

The Department is seeking to build upon its existing body of evidence to assist the review, with a focus on supplementing that response to the 2021 Call for Evidence associated with the first Review. Therefore, the focus of this second review is to bring forward any additional comments the Council wishes to make.

Those elements that continue to be progressed via the outworkings of the NI Audit Report and Public Accounts Committee Report (Feb and March 2022 respectively) and/or within the Regional Planning Improvement Programme, are identified accordingly.

Matters were discussed amongst Heads of Planning and it was determined that any major issues of concern had been, or were in the process of being, addressed; however, it was determined appropriate to seek updates in relation to items whereby the Department had previously advised of no proposed action to be taken, but where the matter was to remain under review, alongside other elements of continued concern. Those elements are detailed overleaf.

It is the intention to therefore respond in this manner to DFI.

RECOMMENDATION

It is recommended that the Council Approves the approach as set out above and as set out overleaf.

Draft response to Department for Infrastructure's Second Review of the Implementation of The Planning Act (NI) 2011

Part 1 – Functions of Department

Request to realign wording in respect of the Department's responsibility to ensure policy is '*in general conformity with the regional development strategy*' and councils' requirement to '*take account of the regional development strategy*'

Part 2 – Local Development Plans

Two document approach

Section 6(2) of the Planning Act (Northern Ireland) 2011 establishes that the Development Plan documents comprise two separate documents, namely the Plan Strategy and the Local Policies Plan.

Consideration should be given to reforming the current approach to a single LDP document or parallel preparation of development plan documents. The current two-stage approach has proven to be resource intensive and time consuming, resulting in significant delays in the LDP process, including between the adoption of the Plan Strategy and the Local Policies Plan.

A streamlined, single-document approach, similar to approaches in other jurisdictions, would reduce duplication across plan preparation, consultation, and examination stages, enabling a more efficient and responsive plan-making process. This would be particularly beneficial in the context of rapidly evolving policy areas such as climate change, where lengthy plan preparation timelines risk Local Development Plans becoming out of date before completion. A simplified structure would support more agile plan review and updating, while also reducing the administrative and financial burden on planning authorities.

In the absence of a move to a single development plan document, the Council would be keen for the Department to reconsider measures to streamline the current two-stage process as established under the Planning Act (Northern Ireland) 2011. Specifically the Council questions the requirement for oversight by the Department and then via Independent Examination in respect of soundness.

Section 6 - Status of review of statutory consultee list

Part 3 – Planning Control

Section 29 – DFI call in – There needs to be a time period imposed on the Department for consideration of applications called in / notified under Section 29. Extended timeframes for the Department considering such applications can inevitably lead to significant delays to major developments, prejudicing investment and the delivery of housing and economic growth.

Section 41 – status of review of advertising requirements

Section 55 – introduction of increased fees for retrospective applications – in order to serve as an appropriate penalty for bypassing the legal, pre-approval process and to cover the increased administrative costs of dealing with unauthorised developments

Section 59 – status of proposal to disallow variation of development proposal at appeal

Section 63 – status of review whether technical amendments required iro commencement of development (and consistency of approach re PAC)

Section 67 – DFI should be enabled to make non material changes to applications it has determined. Councils have not been involved in the original assessment and determination of the application, and as such it is considered inappropriate for councils to be responsible for considering whether the amendment sought is non-material. This is a role that is best delivered by the original decision maker as the decision should be read in conjunction with the original permission.

Part 4 – Additional Planning Control

Section 80/104 – status of liaison with DfC re power for councils to vary/cancel CAs

Section 81 – status of liaison with DfC re Building Preservation Notices and compensation. DfC is the expert body in respect of these matters and is considered better placed to take action in relation to buildings that it considers could merit listing.

Section 105 – query benefit of CA consent notifications and review outcome

Section 122 – Status of DFI guidance required via NIPSO Report in Trees and proposals for councils to revoke/modify DOE TPOs.

Section 129 – seek update in relation to Ministerial position on ROMPs – acknowledging that DFI recently wrote to a council advising that it considered there was adequate provisions in place to negate the need to commence ROMPs.

Part 5 – Enforcement

The current enforcement regime is considered ineffective and resource intensive and carried significant cost to Council.

The Council would reiterate its desire to reintroduce 10-year limit for immunity, as set out in response to First review.

Introduce ability for Department to serve a Breach of Condition Notice or Injunction.

Section 131 – Increase DFI enforcement powers (to include ability to serve a Breach of Condition Notice, and require DFI to take its own enforcement action on applications approved by it.

Section 153 – status of review of applying Fixed Penalty Notices to advertising.

Section 179 – requirement for DFI to be responsible for compensation payments on modification/revocation by DFI.

Part 14 – Miscellaneous a& General Provisions

Part 229 – reiterate ongoing issue with resourcing of statutory consultees and impact on processing.

General Comments

It is considered that the issue of Third Party Appeals should be reviewed again, especially in light of the rising number of applications for leave to judicially review and associated costs to councils.

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.

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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 its 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 SPSS 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 SPSS 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	<p><u>Local Development Plan Guidance</u></p> <p>The Department will add/amend development plan guidance as required by the review of current processes following adoption of a number of LDPs.</p>
PT2-4	<p><u>Consultation Bodies in Plan-Making</u></p> <p>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.</p>
<p>PT2-6</p> <p>PT3-17</p> <p>PT5-2</p>	<p><u>Digitization in the Planning System</u></p> <p>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.</p>

Part 3 - Planning Control	
Issue Ref	Action
PT3-1	<p><u>Categories of Development</u></p> <p>The Department will review existing thresholds and categories of development to determine the need for revisions.</p>
PT3-3	<p><u>Pre-Application Community Consultation (PACC) and Notice</u></p> <p>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.</p>
PT3-4	<p><u>Call-In Applications</u></p> <p>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.</p>
PT3-5	<p><u>Incomplete Applications and Validation Check-Lists</u></p> <p>The Department will bring forward proposals to introduce statutory 'validation check-lists' and will seek to advance policy development at the earliest opportunity.</p>
PT3-7	<p><u>Time period for consultation responses</u></p> <p>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.</p>
PT3-10	<p><u>Pre-Determination Hearings (PDH)</u></p> <p>The Department will bring forward proposals to make PDH discretionary for councils in the exercise of their functions.</p>
PT3-14	<p><u>Matters Raised at Appeal</u></p> <p>The Department will bring forward proposals to supplement existing s.59 provisions which would disallow the variation of a development proposal at appeal.</p>
PT3-19	<p><u>DFI Directions</u></p> <p>The Department will undertake a general review of current departmental directions.</p>

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
<p>(PT1-1) Matters for the Department to take account of in the exercise of its functions.</p> <p>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.</p>	<p>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.</p> <p>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.</p>

	<p>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.</p>
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Table 2

Part 2 Local Development Plans (LDP)	Assessment
<p>(PT2-1) The two document approach to LDP preparation</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>Proposed Action: The Department will, in conjunction with councils and key stakeholders, monitor and review current processes following adoption of a number of LDPs.</p>
<p>(PT2-2) Local Development Plan Guidance</p> <p>You said – A small cross-section of respondents including some local government, business and NGOs suggested that</p>	<p>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</p>

<p>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.</p>	<p>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</p> <p>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.</p> <p>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.</p>
<p>(PT2-3) Matters to <u>take account of</u> in furthering sustainable development, and preparation of LDPs</p> <p>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’</p>	<p>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.</p>

<p>such strategic guidance documents in legislation is too flexible, while a few considered it to be too rigid.</p>	<p>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.</p> <p>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.</p>
<p>(PT2-4) Consultation Bodies in plan-making</p> <p>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.</p>	<p>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</p>

	<p>be quite numerous and include some which do not wholly operate within NI.</p> <p>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.</p>
<p>(PT2-5) Approach to LDP Timetabling</p> <p>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.</p>	<p>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.</p> <p>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.</p>
<p>(PT2-6) Digitization in the Planning System -</p>	<p>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</p>

<p>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.</p>	<p>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.</p> <p>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.</p>
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Table 3

Part 3 Planning Control	Assessment
<p>(PT3-1) Categories of Development</p> <p>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).</p>	<p>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.</p>

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.

	<p>Proposed Action: The Department will review existing thresholds and categories of development to determine the need for revisions.</p>
<p>(PT3-2) Pre-Application Discussions (PADs)-</p> <p>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.</p>	<p>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.</p> <p>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.</p>

<p>(PT3-3) Pre-Application Community Consultation (PACC) and Notice –</p> <p>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.</p>	<p>Our response - Guidance on current PACC and PAN processes is set out in Development Management Practice Note 10.</p> <p>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.</p> <p>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.</p> <p>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</p>
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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.

<p>(PT3-5) Incomplete Applications and Validation Check-Lists</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>

	<p>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.</p> <p>Proposed Action: The Department will bring forward proposals to introduce ‘validation check-lists’ and will seek to advance policy development at the earliest opportunity.</p>
<p>(PT3-6) Advertisement / Notification of Applications</p> <p>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.</p>	<p>Our response - Guidance on publicity and neighbour notification requirements in planning is set out in Development Management Practice Note 14.</p> <p>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.</p> <p>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</p>

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

	<p>enhance online / digital means of communication. This will include consideration of recommendations to emerge from the work of the Planning Engagement Partnership.</p>
<p>(PT3-7) Time period for consultation responses</p> <p>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 were 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.</p>	<p>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.</p> <p>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."</p> <p>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.</p> <p>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</p>

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.

<p>(PT3-8) Determination of applications</p> <p>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></p>	<p>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.</p> <p>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.</p> <p>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).</p>
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	<p>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.</p> <p>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).</p>
<p>(PT3-9) Statutory timeframes for determining applications</p> <p>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</p>	<p>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.</p>

<p>including; s.54 applications, Discharge of Conditions; CLUDs; Non-Material Changes.</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>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.</p>
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	<p>Proposed Action: The Department is not persuaded of the need to amend existing provisions but will monitor and keep this issue under review.</p>
<p>(PT3-10) Pre-Determination Hearings (PDH)</p> <p>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.</p>	<p>Our response - Guidance on PDH processes is already set out in Development Management Practice Note 17.</p> <p>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.</p> <p>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.</p> <p>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.</p>

(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 (or such other period as considered appropriate 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.

	<p>Proposed Action: The Department is not persuaded of the need to amend existing provisions but will monitor and keep this issue under review.</p>
<p>(PT3-12) Notices of Opinion</p> <p>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.</p> <p>Furthermore the Planning Appeals Commission would wish to see greater use of online arrangements for hearings or public local inquiries</p>	<p>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 Dfl Planning to the PAC or other independent body would result in significant process efficiencies. Indeed, such a move may cause further delay and</p>

	<p>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.</p> <p>The Department recognises the success throughout the pandemic in using online hearings and the associated efficiencies for the overall planning process.</p> <p>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).</p>
<p>(PT3-13) Retrospective Permissions</p> <p>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.</p>	<p>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.</p> <p>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</p>

	<p>retrospective permission to be a multiple of the usual fee, however, this is not currently provided for in Part 2 of the Fees Regulations.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<p>(PT3-14) Matters which may be raised at appeal</p> <p>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</p>	<p>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.</p> <p>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</p>

<p>only be determined on the basis of the application as originally refused by the council.</p>	<p>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.</p> <p>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.</p>
<p>(PT3-15) Third Party Right of Appeal</p> <p>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.</p>	<p>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.</p> <p>Proposed Action: The Department is not persuaded of the need to amend current provisions with regard to planning</p>

¹² <https://www.legislation.gov.uk/ukpga/1997/8/section/32A>

	<p>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.</p>
<p>(PT3-16) Non / Minor-material changes</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>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.</p>

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.

	<p>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.</p>
<p>(PT3-17) Digitization in the Planning System</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>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</p>
<p>(PT3-18) Permitted Development</p>	<p>Our response - Certain elements of The Planning (General Permitted Development) Order (NI) 2015 have been reviewed and</p>

<p>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.</p>	<p>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.</p> <p>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.</p>
<p>(PT3-19) DFI Directions</p> <p>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.</p>	<p>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.</p> <p>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.</p>

	<p>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.</p>
<p>(PT3-20) Commencement of Development</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>Commencing development means undertaking some limited works on site to commence a planning permission and thus keep it alive.</p> <p>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.</p> <p>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.</p>

	<p>Proposed Action: The Department will review this provision to establish if any technical amendments are appropriate.</p>
<p>(PT3-21) Planning Agreements</p> <p>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.</p>	<p>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).</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Most of the comments and suggestions in relation to planning agreements revolve around their use and practice or seeking</p>

	<p>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.</p> <p>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.</p>
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Table 4

Part 4 Additional Planning Control	
<p>(PT4-1) Temporary Listing / Building Preservation Notice (BPN)</p> <p>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.</p>	<p>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.</p> <p>Proposed Action: As these functions are the responsibility of another department, DfI will continue to liaise with DfC on these matters.</p>

¹³ <https://www.legislation.gov.uk/nisr/2016/76/contents/made>

<p>(PT4-2) Conservation Areas (CA)</p> <p>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.</p> <p>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.</p>	<p>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.</p> <p>Proposed Action: Given these functions are the responsibility of another department, DfI will continue to liaise with DfC on these matters.</p> <p>The Department intends to review the Conservation Area consent notification requirements (See also comments at PT3-19)</p>
<p>(PT4-3) Tree Preservation Orders (TPO)</p> <p>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.</p>	<p>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.</p>

	<p>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.</p>
<p>(PT4-4) Review of Old Mineral Permissions (ROMPs)</p> <p>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.</p>	<p>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).</p> <p>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.</p> <p>Proposed Action: The Minister is to consider options on the way forward with regards to ROMPs early in 2022.</p>

Table 5

Part 5 Enforcement	Assessment
<p>(PT5-1) Relevant authority for Enforcement</p> <p>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</p>	<p>Our response – Guidance on planning enforcement is set out in Enforcement Practice Notes 1-4.</p> <p>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</p>

<p>could further incentivise appropriate action by planning authorities.</p> <p>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.</p>	<p>in circumstances where, for example, a council has failed to issue enforcement or stop notices (and not before consulting the appropriate council).</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>
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¹⁴ These key objectives are as stated in paragraph 5.57 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) September 2015

	<p>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</p> <p>Proposed Action: The Department is not persuaded of the need to change the approaches to planning enforcement but will keep these matters under review.</p>
<p>(PT5-2) Digitization in the Planning System</p> <p>You said – Some councils and academia suggested that legislation should permit the electronic service of enforcement and other similar notices.</p>	<p>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.</p> <p>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)).</p> <p>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.</p> <p>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</p>

	<p>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.</p> <p>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.</p>
<p>(PT5-3) Fixed Penalty Notices (FPN)</p> <p>You said – A majority of councils and some individuals suggested that FPNs are punitive only, and would be better applied to unauthorised signage/advertisements.</p>	<p>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.</p> <p>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.</p> <p>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.</p>

	<p>This approach to FPN mirrors that in other jurisdictions and provides councils with an alternative means of remedy.</p> <p>Advertisements</p> <p>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.</p> <p>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.</p>
<p>PT5-4 Unadopted Roads / Private Streets Determinations (PSD)</p> <p>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.</p>	<p>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</p>

	<p>development process, and in terms of ensuring that road layouts are completed in a timely manner.</p> <p>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.</p>
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Table 6

Part 6 Compensation	Assessment
<p>(PT6-1) Liability as to Compensation</p> <p>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.</p>	<p>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</p> <p>Proposed Action: The Department is not persuaded of the need to change the approaches to compensation.</p>

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
<p>(PT10-1) Exercise of powers</p> <p>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.</p>	<p>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).</p> <p>https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-2019-march-2020</p> <p>https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-october-december-2020</p> <p>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.</p>

	<p>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.</p>
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Table 11

Part 11 Application of Act to Crown Land	Assessment
<p>You said – No comments.</p>	

Table 12

Part 12 Correction of Errors	Assessment
<p>(PT12-1) Correction of Errors</p> <p>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.</p>	<p>Our response: See paragraphs 4.5 – 4.6 of this report.</p> <p>Proposed Action: The Department proposes to make a minor amendment at an appropriate legislatively opportunity to remove this anomaly and subsequently commence Part 12</p>

Table 13

Part 13 Financial Provisions	Assessment
<p>(PT13-1) Planning Fees</p>	<p>Our response:</p>

<p>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.</p>	<p>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.</p> <p>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.</p>
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Table 14

<p>Part 14 Miscellaneous and General Provisions</p>	
<p>(PT14-1) Duty to respond to consultation</p> <p>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.</p>	<p>Our response: Refer to commentary at Table 3 (PT3-7) – ‘Time period for consultations’.</p> <p>Proposed Action: In conjunction with the recommendation at issue PT3-7 above, the Department will keep under review any consequential changes to this duty.</p>
<p>(PT14-2) Planning Register</p>	<p>Our response: Section 45 of the Planning Act (NI) 2011 (“the 2011 Act”) sets a requirement on the Department and councils to</p>

<p>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.</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>Proposed Action: The Department is not persuaded of the need to amend these provisions.</p>
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Table 15

<p>Part 15 Supplementary</p>	<p>Assessment</p>
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You said – No comments.	
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Table 16

Other Matters	Assessment
<p>(OM-01) Resources / Training</p> <p>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.</p>	<p>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.</p>
<p>(OM-02) Biodiversity Net Gain principles, Net Zero, and Nature Recovery Networks</p> <p>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.</p>	<p>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.</p> <p>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.</p>

<p>(OM-03) Review extant planning policy</p> <p>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.</p>	<p>Our response: The Department is of the view that this matter is out-with the scope of this review.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Proposed Action: The Department will, in the exercise of its functions, continue to keep extant planning policy under review.</p>
<p>(OM-04) Measurement of Planning Performance (Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015)</p>	<p>Our response: This issue is out-with the scope of this review.</p> <p>The Department monitors the performance of Councils through a number of mechanisms including 3 statutory planning performance</p>

<p>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.</p>	<p>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):</p> <p>https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-2019-march-2020</p> <p>https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-october-december-2020</p> <p>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).</p> <p>Proposed Action: The Department will keep this matter under review.</p>
<p>(OM-05) Infrastructure Commission / Independent Planning Body or Regulator</p> <p>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.</p>	<p>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.</p>

	<p>https://www.infrastructure-ni.gov.uk/news/ministerial-advisory-panel-infrastructure-present-report-minister</p> <p>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.</p>
<p>(OM-06) Belfast Metropolitan Area Plan (BMAP) Status</p> <p>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.</p>	<p>Our response: Such matters are out-with the scope of this review.</p> <p>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.</p> <p>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.</p>
<p>(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</p>	<p>Our response: This matter is out-with the scope of this review. [Please see comments above in relation to an Infrastructure Commission].</p>

<p>connected with the delivery of renewable energy or net zero carbon targets, via an accelerated / simplified planning process.</p>	
<p>(OM-08) Planning Judicial Reviews</p> <p>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.</p>	<p>Our response: This matter is out-with the scope of this review.</p> <p>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).</p>
<p>(OM-9) Planning Processing Agreements (PPA)</p> <p>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.</p>	<p>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</p>

	<p>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.</p> <p>Proposed Action: The Department will keep under review.</p>
<p>(OM-10) Consistency between terrestrial planning and Marine Planning regimes</p> <p>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.</p>	<p>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.</p>

¹⁶ <https://www.legislation.gov.uk/nia/2013/10/section/8>

	<p>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.</p> <p>Proposed Action: The Department is not persuaded of the need to amend the Planning Act in this way. (See also to PT2-3)</p>
<p>(OM-11) Retrofit / Reuse of existing buildings</p> <p>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.</p>	<p>Our response – The reuse and retrofitting of existing buildings as opposed to new builds, falls outside the scope of the this review.</p> <p>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>.</p> <p>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</p>

	<p>schemes where proposals involve the re-use or adaption of existing buildings.</p> <p>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.</p>
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Regional Planning Governance & Legislation

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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

Rosemary Daly

ROSEMARY DALY
Chief Planner & Director

cc Shane Mathers

Part	Chapter / Title	Sub Heading	Section	Detail	Subordinate Legislation	Comments Made	DFI Agreed to review?	Recs/Actions in 2022 Report	Action since 2022	RIPA / Other
1	Functions of Department		1	General functions of Dept		Y	N			
			2	Dept SCI						
2	Local Development Plans	General	3	Survey of district						
			4	Council SCI	The Planning (SCI) Regs (NI) 2015				DPPN updated Nov 2025	
			5	Sustainable Development						
		Local Development Plans	6	LDPs	The Planning (LDP) Regs (NI) 2015a	Y	Y & N	1. Review overall LDP Process after adoption of a number of LDPs; 2. Add/amend LDP Guidance for post adoption; 3. Review publicity/advertising reqs to enhance online/digital communications in plan-making; 4. Review stat consultee list to determine if remains relevant / appropriate - req amendment to DP Regs; NOT amending leg on matters to be taken account of in LDPs	Amends to 2 DPPN	1 & 2 - ongoing
			7	Preparation of timetable		Y	N	Not persuaded of need to amend timetable reqs or introduce fines	DPPN updated Nov 2025	
			8	Plan strategy						
			9	Local policies plan						
			10	Independent examination						
			11	Withdrawal of development plan documents					Recruiting Ind Exs	
			12	Adoption					DPPN updated Feb 2023	
			13	Review of local development plan						
			14	Revision of plan strategy or local policies plan						
			15	Intervention by Department						
			16	Department's default powers						
			17	Joint plans						
			18	Power of Department to direct councils to prepare joint plans						
			19	Exclusion of certain representations						
			20	Guidance						
			21	Annual monitoring report						
			22	Regulations						
3	Planning Control	"Development" and requirement of planning permission			Commencement Order (No. 2) (NI) 2015; The Planning (Use Classes) Order (NI) 2015					
			23	Meaning of "development"						
			24	Development requiring planning permission						
		Development management	25	Hierarchy of developments	The Planning (DM) Regs (NI) 2015			Review existing thresholds & categories of development	Consultation Dec 2023	4 - ongoing
			26	Department's jurisdiction in relation to developments of regional significance	The Planning (DM) Regs (NI) 2015	Y	Y & N	NOT amending provisions re Notices of Opinion or making PAC/other resp for RSD applications.	N/A	
			27	Pre-application community consultation	The Planning (DM) Regs (NI) 2015	Y	Y & N	Bring forward proposals for both on-line/electronic PACC public engagement; NOT persuaded to put PADs on legislative footing	DM Regs amended 2025 to include 'website' for PAN	14 - ongoing
			28	Pre-application community consultation report					Consultation Dec 2023	
			29	Call in of applications, etc., to Department		Y	Y	Review policy approach re criteria used for call ins & improve efficiency		5 - ongoing
			30	Pre-determination hearings	The Planning (DM) Regs (NI) 2015			Make discretionary for councils	Consultation Dec 2023	7 - ongoing
			31	Local developments: schemes of delegation	The Planning (DM) Regs (NI) 2015					
		Development orders	32	Development orders	The Planning (GDP) Order (NI) 2015a, The Planning (GPD) Order (NI) 2015					
		Simplified planning zone schemes	33	Simplified planning zones						
			34	Making and alteration of simplified planning zone schemes	The Planning (SPZ) Regs (NI) 2015					
			35	Simplified planning zone schemes: conditions and limitations on planning permission						
			36	Duration of simplified planning zone scheme						
			37	Alteration of simplified planning zone scheme						
			38	Exclusion of certain descriptions of land or development						
		Grant of planning permission in enterprise zones	39	Grant of planning permission in enterprise zones						
		Planning applications	40	Form and content of applications		Y	Y	Introduce statutory Validation Checklists legislation	GDPO amendment 2024	6 - Complete
			41	Notice, etc., of applications for planning permission		Y	Y & N	Review publicity/advertising reqs associated with applics to determine if can enhance through digita;/online comm; NOT persuaded re Site Notices as alternative		
			42	Notification of applications to certain persons						
			43	Notice requiring planning application to be made						
			44	Appeal against notice under section 43						

4	Additional Planning Control	Determination of planning applications	45	Determination of planning applications		Y	Y & N	Not agreeable to disallowing submission of further info or pause/amend (clock stop) but will address frontloading through Validation Checklist; Also not persuaded to introduce leg time frames for s54s/DoC, Certs of Lawfulness or NMCs	
			46	Power of council to decline to determine subsequent application					
			47	Power of Department to decline to determine subsequent application					
			48	Power of council to decline to determine overlapping application					
			49	Power of Department to decline to determine overlapping application					
			50	Duty to decline to determine application where section 27 not complied with	The Planning (DM) Regs (NI) 2015				
			51	Assessment of environmental effects	The Planning (EIA) Regs (NI) 2017				
			52	Conditional grant of planning permission					
			53	Power to impose aftercare conditions on grant of mineral planning permission					
			54	Permission to develop land without compliance with conditions previously attached					
			55	Planning permission for development already carried out		Y	Y & N	Will not remove provision, but will consider introduction of multiple fees as part of wider fee review	No progress
			56	Directions etc. as to method of dealing with applications	The Planning (GDP) Order (NI) 2015a	Y	Y	Undertake review of current directions	
			57	Effect of planning permission					
			Appeals	58	Appeals		Y	N	Not persuaded re Third Party Appeal
		59		Matters which may be raised in an appeal under section 58		Y	Y	Bring forward proposals to supplement existing provisions to disallow variation of development proposal at appeal	Unaware of any progress
		60		Appeal against failure to take planning decision					
		Duration of planning permission	61	Duration of planning permission		Y	Y & N	Not persuaded of need to amend existing provisions but will keep under review	N/A
			62	Duration of outline planning permission					
			63	Provisions supplementary to sections 61 and 62		Y	Y	To be reviewed to establish if any technical amendments are appropriate iro Commencement of Development	Unaware of any review
			64	Termination of planning permission by reference to time limit					
			65	Effect of completion notice					
			66	Power of Department to serve completion notices					
			67	Power to make non-material changes to planning permission		Y	N	Not minded to amend current provisions but will keep under review	Unaware of
			68	Revocation or modification of planning permission by council					
			69	Aftercare conditions imposed on revocation or modification of mineral planning permission					
			70	Procedure for section 68 orders: opposed cases					
			71	Procedure for section 68 orders: unopposed cases					
			72	Revocation or modification of planning permission by the Department					
			73	Orders requiring discontinuance of use or alteration or removal of buildings or works					
			74	Confirmation by Department of section 73 orders					
			75	Power of Department to make section 73 orders					
			76	Planning agreements		Y	N	Not minded to amend, and recommends Councils addressing charging and recoverable costs through Best Practice Guidance	N/A
			77	Modification and discharge of planning agreements	The Planning (Modification and Discharge of Planning Agreements) Regs (NI) 2015				
			78	Appeals	PAC (Decisions on appeals & making of reports((No. 2) Rules (NI) 2006; The Planning (Modification and Discharge of Planning Agreements) Regs (NI) 2015				
		Land belonging to councils and development by councils	79	Land belonging to councils and development by councils					
			80	Lists of buildings of special architectural or historic interest	The Planning (CA)(Consultation) Regs (NI) 2015; The Planning (CA)(Demolition) Regs (NI) 2015; The Planning (LBs) Regs (NI) 2015a	Y	Y	Re CAs DFI will liaise with DfC re varying/cancelling & will review the CA consent notification	Unaware of
		Chapter 1 Listed Buildings and Conservation Areas	81	Temporary listing: building preservation notices				Continue to liaise with DfC re BPN & compensation	Unaware of
			82	Temporary listing in urgent cases					
			83	Lapse of building preservation notices					
			84	Issue of certificate that building is not intended to be listed					
			85	Control of works for demolition, alteration or extension of listed buildings					
			86	Applications for listed building consent					
			87	Notification of applications for listed building consent to certain persons					
			88	Call in of certain applications for listed building consent to Department					
			89	Duty to notify Department of applications for listed building consent					
			90	Directions concerning notification of applications, etc.					
			91	Decision on application for listed building consent					

	Power to decline to determine application for listed building consent	92	Power to decline to determine subsequent application for listed building consent						
		93	Power to decline to determine overlapping application for listed building consent						
		94	Duration of listed building consent						
			95	Consent to execute works without compliance with conditions previously attached					
			96	Appeal against decision					
			97	Appeal against failure to take decision					
			98	Revocation or modification of listed building consent by council					
			99	Procedure for section 98 orders: opposed cases					
			100	Procedure for section 98 orders: unopposed cases					
			101	Revocation or modification of listed building consent by the Department					
	Areas of special architectural or historic interest		102	Applications to determine whether listed building consent required					
			103	Acts causing or likely to result in damage to listed buildings					
			104	Conservation areas		Y	N	Allege that only DfC can vary/cancel a CA (post 2016 restructure) - it will liaise with DfC on this matter	Unaware of
		105	Control of demolition in conservation areas				Will review its CA consent notification requirements	Unaware of	
		106	Grants in relation to conservation areas						
Land and works of councils		107	Application of Chapter 1, etc., to land and works of councils						
Chapter 2 Hazardous Substances		108	Requirement of hazardous substances consent	The Planning (Hazardous Substances) (No. 2) Regs (NI) 2015a					
		109	Applications for hazardous substances consent	The Planning (Hazardous Substances) (No. 2) Regs (NI) 2015a					
		110	Determination of applications for hazardous substances consent						
		111	Grant of hazardous substances consent without compliance with conditions previously attached	The Planning (Hazardous Substances) (No. 2) Regs (NI) 2015a					
		112	Revocation or modification of hazardous substances consent						
		113	Confirmation by Department of section 112 orders						
		114	Call in of certain applications for hazardous substances consent to Department						
		115	Appeals	The Planning (Hazardous Substances) (No. 2) Regs (NI) 2015a					
		116	Effect of hazardous substances consent and change of control of land	The Planning (Hazardous Substances) (No. 2) Regs (NI) 2015a					
		117	Offences						
		118	Emergencies						
		119	Health and safety requirements						
		120	Applications by councils for hazardous substances consent						
Chapter 3 Trees		121	Planning permission to include appropriate provision for trees						
				The Planning (Trees) Regs (NI) 2015					
		122	Tree preservation orders: councils		Y	Y & N	Bring forward proposals to enable councils to modify/revoke TPOs; also consider need for guidance to clarify certain TPO terms or definitions; NOT extending protection to ATCs	2023 NIPSO Report requires various actions by DFI & Councils - DFI has not yet complied	DFI attended latest Tree WG and talked about revocations
		123	Provisional tree preservation orders						
		124	Power for Department to make tree preservation orders						
		125	Replacement of trees						
		126	Penalties for contravention of tree preservation orders						
		127	Preservation of trees in conservation areas						
		128	Power to disapply section 127	The Planning (Trees) Regs (NI) 2015					
Chapter 4 ROMPs		129	Review of mineral planning permissions		Y	Y	Minister to examine options on way forward in 2022; Councils have enforcement powers available	Maintain position that no current need to commence	
Chapter 5 Advertisements		130	Control of advertisements	The Planning (Control of Ads) Regs (NI) 2015					
5 Enforcement	Introductory	131	Expressions used in connection with enforcement		Y	N	Not open to taking enforcement action on any approvals by Dept, but will keep under review	No change - continue to challenge	
		132	Time limits						
	Planning Contravention Notices	133	Power to require information about activities on land						
		134	Penalties for non-compliance with planning contravention notice						
	Temporary stop notices	135	Temporary stop notice						
		136	Temporary stop notice: restrictions						
		137	Temporary stop notice: offences						
	Enforcement notices	138	Issue of enforcement notice by councils						
		139	Issue of enforcement notice by Department						
140		Contents and effect of enforcement notice							
141		Variation and withdrawal of enforcement notices by councils							

		142	Variation and withdrawal of enforcement notices by Department					
		143	Appeal against enforcement notice					
		144	Appeal against enforcement notice - general supplementary provisions					
		145	Appeal against enforcement notice - supplementary provisions relating to planning permission					
		146	Execution and cost of works required by enforcement notice					
		147	Offence where enforcement notice not complied with					
		148	Effect of planning permission, etc., on enforcement or breach of condition notice					
		149	Enforcement notice to have effect against subsequent development					
		150	Service of stop notices by councils					
		151	Service of stop notices by Department					
	Breach of condition notices	152	Enforcement of conditions					
	Fixed penalties	153	Fixed penalty notice where enforcement notice not complied with	The Planning (Amount of FP) Regs (NI) 2015	Y	Y	To explore potential to apply FPNs to advertisement control	Not aware of
		154	Fixed penalty notice where breach of condition notice not complied with	The Planning (Amount of FP) Regs (NI) 2015				
		155	Use of fixed penalty receipts					
	Injunctions	156	Injunctions					
	Listed buildings	157	Issue of listed building enforcement notices by councils					
		158	Issue of listed buildings enforcement notices by Department					
		159	Appeal against listed building enforcement notice					
		160	Effect of listed building consent on listed building enforcement notice					
		161	Urgent works to preserve building					
	Hazardous substances	162	Hazardous substances contravention notice					
		163	Variation of hazardous substances contravention notices					
	Trees	164	Enforcement of duties as to replacement of trees					
		165	Appeals against section 164 notices					
		166	Execution and cost of works required by section 164 notice					
		167	Enforcement of controls as respects trees in conservation areas					
	Discontinuance orders	168	Enforcement of orders under section 73					
	Certificate of lawful use or development	169	Certificate of lawfulness of existing use or development					
		170	Certificate of lawfulness of proposed use or development					
		171	Certificates under sections 169 and 170: supplementary provisions					
		172	Offences					
		173	Appeals against refusal or failure to give decision on application					
		174	Further provisions as to appeals under section 173					
	Advertisements	175	Enforcement of advertisement control					
	Rights of entry for enforcement purposes	176	Rights to enter without warrant					
		177	Right to enter under warrant					
		178	Rights of entry: supplementary provisions					
6	Compensation	179	Compensation where planning permission is revoked or modified		Y	N	Not persuaded to change approach where Council fails to be liable to pay compensation for any modification/revocation by the Dept	No action - continue to raise concern
		180	Modification of the Act of 1965 in relation to minerals					
		181	Compensation where listed building consent revoked or modified					
		182	Compensation in respect of orders under section 73, 75 or 112					
		183	Compensation in respect of tree preservation orders					
		184	Compensation where hazardous substances consent modified or revoked under section 116					
		185	Compensation for loss due to stop notice					
		186	Compensation for loss or damage caused by service of building preservation notice	The Planning (Claims for Compensation) Regs (NI) 2015				
		187	Compensation for loss due to temporary stop notice					
		188	Compensation where planning permission assumed for other development					
		189	Compensation: failure of consultee to respond under section 229					
		190	Interpretation of Part 6					
7	Purchase of Estates	191	Service of purchase notice		Y			
		192	Purchase notices: Crown land					
		193	Action by council following service of purchase notice					
		194	Further ground of objection to purchase notice					
		195	Reference of counter-notices to Lands Tribunal					
		196	Effect of valid purchase notice					
		197	Special provision as to compensation under this Part					
8	Further Provisions as to Historic Buildings	198	Historic Buildings Council		Y			
		199	Grants and loans for preservation or acquisition of listed buildings					
		200	Acquisition of listed buildings by agreement					

		201	Acceptance by Department of endowments in respect of listed buildings							
		202	Compulsory acquisition of listed buildings							
9	PAC	203	The Planning Appeals Commission			Y				
		204	Procedure of appeals commission	The PAC (Decisions on Appeals and Making of Reports) (Amendment) Rules (NI) 2015						
		205	Power to award costs							
		206	Orders as to costs: supplementary							
10	Assessment of Council's Performance or Decision Making	207	Assessment of council's performance			Y	N	Not persuaded of need to change approach to assessment	Being addressed through individual and collective reporting proposals	Performance Framework - ongoing
		208	Assessment of council's decision making							
		209	Further provision as respects assessment of performance or decision making							
		210	Report of assessment							
11	Application of Act to Crown Land	211	Application to the Crown			Y				
		212	Interpretation of Part 11							
		213	Urgent Crown development							
		214	Urgent works relating to listed buildings on Crown land							
		215	Enforcement in relation to the Crown							
		216	References to an estate in land							
		217	Applications for planning permission, etc. by Crown							
		218	Service of notices on the Crown							
12	Correction of Errors	219	Correction of errors in decision documents			Y	Y	Proposes minor amendment at appropriate legislative opportunity to remove anomaly and thus Commnce Part 12	Unknown	
		220	Correction notice							
		221	Effect of correction							
		222	Supplementary							
13	Financial Provisions	223	Fees and charges	The Planning (Fees) Regs (NI) 2015; The Planning Fees (Deemed Planning Applications and Appeals) Regs (NI) 2015; The Planning (Hazardous Substances) (No. 2) Regs (NI) 2015		Y	Y	General review & introduce automatic annual inflationary uplift & multiple fees for retrospective apps	Inflationary Uplifts; Consultation on charging for NMCs/DoCs completed 2025; No introduction of multiple fees; Financial sustainability being addressed through PIP	13 - ongoing
		224	Grants for research and bursaries							
		225	Grants to bodies providing assistance in relation to certain planning policy or development proposals							
		226	Contributions by councils and statutory undertakers							
		227	Contributions by departments towards compensation paid by councils							
14	Miscellaneous & General Provisions	228	Review of Act	The Planning Act 2011 (Review) Regs (NI) 2020						
	Review of Act	229	Duty to respond to consultation			Y	Y & N	Consider leg reqs re stat consultations inc timeframes, penalties for lateness & how to proceed in absence of response; NOT persuaded of introduction of 'deemed' consent if response not received within timeframe	Ongoing work with PSCF, but still issues re resourcing	12 - ongoing
	Application of Act in special cases	230	Minerals							
	Inquiries	231	Local inquiries	The Planning (Inquiry Procedure) Rules (NI) 2015						
		232	Inquiries to be held in public subject to certain exceptions							
		233	Directions: Secretary of State							
		234	Directions: Department of Justice							
		235	National security							
	Rights of entry	236	Rights of entry							
		237	Supplementary provisions as to powers of entry							
		238	Supplementary provisions as to powers of entry: Crown land							
	Miscellaneous & General Provisions	239	Service of notices and documents							
		240	Information as to estates in land							
		241	Information as to estates in Crown land							
		242	Planning register							
		243	Power to appoint advisory bodies or committees							
		244	Time limit for certain summary offences under this Act							
		245	Registration of matters in Statutory Charges Register							
		246	Directions			Y	Y	Undertake review of current directions	No change	9 - ongoing
		247	Regulations and orders	Commencement Order (No. 1) (NI) 2011 & Various						

		Amendment of Planning (NI) Order 1991	248	Amendment of certain time periods in relation to enforcement	Commencement Order (No. 1) (NI) 2011					
			249	Increased penalties for certain offences under the Planning (Northern Ireland) Order 1991						
15	Supplementary		250	Interpretation		Y				
			251	Further provision						
			252	Minor and consequential amendments						
			253	Repeals						
			254	Commencement	Commencement Order (No. 2) (NI) 2015					
			255	Short title						

Implemented
 Not Commenced

s63(1)(d)not commenced as para 3(1) of Sch 8 to Electricity (NI) Order 1992 not commenced. Await DfE commencing relevant provisions of 2006 Order then DfI will make further order to commence this section	Chapter 12 - Not commenced due to anomaly at s221 which would change date of decision. Minor technical proposed at appropriate legislative opportunity to remove anomaly and commence Part 12
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Unclassified

ITEM 6

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	31 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Request for Monies for Emergency Repairs to property in Millisle
Attachments	N/A
File Reference (if applicable)	
Legislation	Other Town Improvement (Ireland) Act 1854 Public Health Acts Amendmnet Act 1907
Resource Implications	Budget and Staffing 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	Multiple 4. A vibrant, attractive, sustainable Borough for citizens, visitors, businesses and investors If multiple:

Background

Officers have been made aware of a building located at 59 Main Street, Millisle, whereby the roof slates present a danger to members of the public using a portion of the Main Street footpath.

Key Issues

Roof slates are missing, and there are a number of dislodged slates. When open to the elements, in this situation, the roof continues to present a danger to those using the footpath.

While efforts continue to locate an owner to take responsibility for removal of the danger, initial efforts are not yielding success.

Consideration

Officers seek approval of Council for expenditure up to £3,000 to carry out works in this emergency situation should the owner not be found or should they default in making suitable arrangements to remove the danger.

It would be the intention of Officers to place a charge against the building for the full cost, should it be necessary to carry out these emergency repairs.

RECOMMENDATION

It is recommended that Council Approves emergency works up to £3,000 for this property.

Unclassified

Ards and
North Down
Borough Council

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ITEM 7

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	31 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	a. PAC Decision 2025/E0044 b. PAC Decision 2025/L0004
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 decision was issued on 6 March 2026, whereby the terms of the Enforcement Notice were varied.

PAC Ref	2025/E0044
Council Ref	LA06/2020/0227/CA
Appellant	Richard Cusick
Subject of Appeal	Alleged: Unauthorised building Unauthorised sale, storage and distribution use known as Maintech Solutions
Location	Land at 16a Cardy Road, Greyabbey

The Council served an Enforcement Notice (EN) on 31 July 2025.

The appeal was brought on Grounds (a), (d), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011 (the Act). There was a deemed planning application by virtue of Section 145(5).

The Appellant had submitted an application for a Certificate of Lawfulness of Existing Use or Development (CLEUD) on 11 July 2025 which sought to regularise the use of the land and three sheds (that appear as one building) but wasn't determined by the time of service of the EN due to lack of sufficient evidence.

The CLEUD was issued in November 2025 to state that the 'Use of building and yard area as an engineering business, including importation, storage and distribution' was lawful, but did not extend to a fourth building included within the certified yard. The operation development and use therein remained unauthorised.

In considering the ground (a) appeal for the fourth building, the Commissioner considered that the building increased the floorspace of the engineering business, thereby its capacity for storage on site and a greater number of vehicular movements, and as such a satisfactory means of access is required and the standard of sight splays sought by the Council and DFI were necessary. As such it was found that the appeal proposal offended Policy PED 9 of PPS 4 and concerns in respect of road safety were upheld and the deemed application refused.

The Notice was varied in respect of the removal of the elements certified as lawful, and the time to comply with removal of the shed extended.

2. The following appeal was upheld on 25 February 2026.

PAC Ref	2025/L0004
Council Ref	LA06/2025/0189/CLOPUD
Appellant	Alannah Savage
Subject of Appeal	Proof of commencement of works for dwelling - X/2008/0101/RM
Location	140m South of 10 Loughdoo Road, Kircubbin

The Council had refused to certify that works undertaken on site proved commencement of the development of a dwelling approved under X/2004/0446/O and X/2008/0101/RM within the requisite time frame.

The Council had considered that the access had not been constructed within the timeframe of the permission and that there was insufficient evidence to show that foundations had been poured within the timeframe, and that they were in a different location than the approval.

The Commissioner considered that given the original outline had been conditioned for the dwelling to be erected within a specific area, the fact that the location of the foundations were not exactly in alignment with the approved plans (but within the prescribed area) was not significant given the distance back from the road, and the dip in the landscape, this would be a non-material change to the reserved matters, and thus certified the works as lawful.

New Appeals

3. The following appeal was lodged on 27 February 2026:

PAC Ref	2025/E0075
Council Ref	LA06/2022/0134/CA
Appellant	Denis Crawford
Subject of Appeal	Alleged : i. Unauthorised erection of a building used as a dwelling unit; ii. Unauthorised laying of area of hardstanding; iii. Unauthorised erection of an oil tank
Location	Land adj to 2d Tullymally Road, Portaferry

4. The following appeal was lodged on 26 February 2026:

PAC Ref	2025/A0132
Council Ref	LA06/2024/0058/F
Appellant	Glenn McDowell
Subject of Appeal	Refusal of planning permission for two storey dwelling with attached garage

Location	Site between 45 Ballyhay Road and 11 New Line, Donaghadee
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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.



Enforcement Appeal Decision

Planning Appeals Commission
4th Floor
92 Ann Street
Belfast
BT1 3HH
T: 028 9024 4710
E: info@pacni.gov.uk

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Appeal Reference:	2025/E0044
Appeal by:	Mr Richard Cusick and Mrs Fiona Cusick
Appeal against:	An enforcement notice dated 31 st July 2025
Alleged Breach of Planning Control:	1. Unauthorised Building; 2. Unauthorised sales, storage and distribution use known as Maintech Solutions
Location:	Land at 16a Cardy Road, Cardy, Greyabbey, Down, BT22 2LS, shown edged in red on the attached map
Planning Authority:	Ards and North Down Borough Council
Authority's Reference:	LA06/2020/0227/CA
Procedure:	Informal Hearing on 16 th December 2025
Decision by:	Commissioner Trudy Harbinson, dated 6 th March 2026

Grounds of Appeal

1. The appeal was brought on Grounds (a), (d), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011 (the Act). There is a deemed planning application by virtue of Section 145(5).

The Notice

2. The Enforcement Notice (EN) was served on 31st July 2025. The land to which it relates is 'Land at 16a Cardy Road, Cardy, Greyabbey, Down, BT22 2LS, shown edged in red on the attached map.'. That attached map includes the laneway extending out to the main road, a yard and four buildings, three of which are connected appearing as one. Part 3 of the EN alleges matters which appear to constitute the breach of planning control as (1) unauthorised building and (2) unauthorised sales, storage and distribution use known as Maintech Solutions.
3. The Council stated at the time the EN was served the use within the site had not been established and it was operating without the benefit of planning permission. A Certificate of Lawfulness of Existing Use or Development (CLEUD) application (LA06/2025/0623/CLEUD) received by it on 11th July 2025 had not been determined prior to the EN being served as it had not been accompanied by sufficient evidence at that time. That CLEUD sought to regularise the use of the land and 3 sheds (that appear as one building) by Maintech Solutions.
4. On 20th November 2025 a CLEUD was issued to certify the 'Use of building and yard area as an engineering business, including importation, storage and

distribution' was lawful as it had been used for the purposes specified for an excess of five years prior to 11 July 2025 and is therefore immune from enforcement action. The certificate is in respect of the land specified and edged red on an attached Drawing 01. The land edged red on that drawing generally correlates with the land edged red on the map accompanying the EN. It includes the lane extending from the site to the main road, 3 sheds that appear as one building and the surrounding yard. It does not include the fourth building but the ground upon which that building sits is included within the certified yard.

5. Given the certification by the CLEUD the Council indicated part 3(2) of the EN no longer applied.
6. Section 144(2) of the Act allows the Commission to correct any misdescription, defect or error in the EN, or vary its terms if it is satisfied that the correction or variation can be made without injustice to the Appellant or to the Council.
7. At the hearing both the Appellant and Council were agreeable that the EN be amended to remove part 3(2). Given the amendment is to remove a matter that is no longer a breach as it has since been certified to be lawful, I find this change can be made without injustice to either the Appellant or Council.
8. Part 4 of the EN sets out 'What you are required to do' as (1) 'Remove the unauthorised building marked X on the accompanying map and restore the land to its condition before the breach took place within 150 days from the date the notice takes effect' and (2) 'Cease the unauthorised sales, storage and distribution use within 90 days from the date the notice takes effect.'
9. There was disagreement between the Appellant and the Council as to the relevance of part 4(2). The Council considered that in light of the CLEUD it should now be amended to refer to the use within the building marked X. The Appellant considered it to no longer be relevant and that it should be omitted in its entirety.
10. The Appellant argued the use of the yard upon which the building sits is certified for use as an engineering business and that use can continue even if the building is to be removed. The Council stated only the three sheds and yard are certified for that business and neither the fourth building nor its use is certified. There is no dispute that the yard, within which the alleged unauthorised building is erected, is certified for use by the engineering business. However, I consider the open nature of a yard to differ from the enclosure of a building. The two are not one in the same. The use of the building is integral to the alleged unauthorised structure. I agree with the Council that the EN at part 4(2), as a consequence of the omission of part 3(2), be amended to require 'Cease the unauthorised sales, storage and distribution use within the building marked X on the accompanying map within 90 days from the date the notice takes effect'. In any event, the use of the yard by the Appellant's engineering business is certified. I will return to the requirements of the EN later in this decision.

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

11. Section 132(1) of the Planning Act (Northern Ireland) 2011 sets out that where there has been a breach of planning control in relation to building, engineering, mining, or other operations in, on, over or under land, no enforcement action can be taken after the end of the period of 5 years beginning with the date on which the operations were substantially completed. Section 132(3) sets out that in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach.
12. The onus is on the Appellant to demonstrate, on the balance of probabilities, that no action could be taken in respect of the matters alleged in the notice at the time it was issued. The EN is dated 31st July 2025. For the building to be immune from enforcement action, the Appellant must demonstrate, on the balance of probabilities, that it was substantially complete by 31st July 2020.
13. The Appellant's argument under this ground was that no enforcement action could be taken against the 3 sheds and yard given the CLEUD that had since issued and that the EN can only apply to the uncertified building and its associated use, to which they argued the deemed planning application at ground (a) ought to be approved. As above, the confinement of the EN to the building alone is not in dispute. Whether or not planning permission ought to be granted for it is not relevant to consideration under this ground of appeal.
14. The Council were content that the time for taking enforcement action had not expired when the EN was served. Orthophotography was included in evidence, one dated 19 September 2019, in which the unauthorised building was not in situ and another dated 24 April 2021 in which it was. The Council stated it had received a complaint on 28 August 2020 which provided photographs of the metal framework of the building being constructed. As the building was only being erected at this time, it was not substantially complete by the critical date. The Council also indicated there was no established use in the building at the time of a site visit on 9 April 2021. The Appellant presented no evidence to the contrary. At the hearing the Appellant agreed the building and its use had not been in place at the dates presented by the Council.
15. Accordingly, I conclude on the balance of probabilities that the appeal building is not immune from enforcement action and consequently the appeal under ground (d) fails.

Ground (a) and the Deemed Planning Application – that planning permission ought to be granted for the matters stated in the Notice

16. Considering the agreed amendment to the EN, the deemed application is for the retention of the unauthorised building. The Council presented no draft reasons for refusal in respect of the deemed application. A third-party representation objecting to the appeal development was received in response to the EN appeal advert. That representation together with the evidence of another third party raised issues in respect of noise, disturbance, air quality, drainage, pollution, wildlife, visual impact and road safety.
17. Section 45(1) of the Act requires the Commission in dealing with an appeal, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations'. Where regard is to be had to

the LDP, Section 6(4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

18. The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the area within which the appeal site lies. In it, the appeal site is located within the countryside in an Area of Constraint on Mineral Developments. The ADAP advises that the policy contained in Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) will take precedence over the plan. There are no other provisions in the ADAP that are material to the appeal development.
19. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. On 11 December 2025, the Department for Infrastructure published the SPPS Edition 2 (SPPS2), which included new policy provisions on Renewable and Low Carbon Energy. The Preamble to the SPPS2 makes clear that all other policy provisions within the former SPPS are unchanged. The SPPS2 states that where a council adopts its Plan Strategy (PS), existing policy retained under the transitional arrangements shall cease to have effect in the district of that council. No PS has been adopted for this Council area. The SPPS2 retains the policy provisions of PPS21, Planning Policy Statement 4 Planning and Economic Development (PPS4) and Planning Policy Statement 3 Access, Movement and Parking (PPS3). 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.
20. Again, the wider site has now established a lawful use as an engineering business which is a material consideration. The engineering business is Maintech Solutions. It is located to the south west of the Appellant's single storey detached dwelling at 16a Cardy Road. A laneway providing access to the site from the Cardy Road runs parallel with the southeastern boundary of the dwelling. There is also an internal access between the rear of the dwelling and the site. On the eastern part of the site is a large building that comprises the three certified sheds with a yard to its north and west. To its north the hardstanding projects forward to provide a triangular pocket of hardstanding used for cars to park. The remainder of the yard has various vehicles, parts and components stored in the open.
21. The appeal building is located in the south western corner of the site. It is an L-shaped building comprising two main spaces, each with a roller shutter door entrance to the yard. There is an overhang on the roof of the southernmost part of the building that provides some cover over goods stored in cages, pallets and shelves alongside the external wall of the building. The building has a masonry base with dark grey profiled cladding to its upper walls. The buildings and yard sit some distance back from and at a lower level than Cardy Road, the laneway sloping down into a dip to the rear of the dwelling.
22. At the hearing I was told the unauthorised building, as per the certified building and yard, is used for the importation, storage and distribution of components as part of the engineering business. Maintech Solutions imports and distributes new and used engine and vehicle parts. Used parts are washed and cleaned with any waste collected by Irish Waste and taken to Belfast for recycling. The Appellant

indicated the business has certificates for the processes undertaken and that it operates within legislative rules.

23. The Appellant advised the building is used for storage and contains no active machinery other than forklift trucks. This concurs with my site inspection where I observed the storage of numerous engine and machine components. Internally, as well as various parts and boxes being stored on the ground, there was a series of multi-tier metal shelving units. In the southernmost space a shelving unit runs along the most part of the internal walls and a double shelving unit sits in the middle of the space. A similar shelving unit ran along two of the internal walls in the second space. Two forklift trucks were parked within, next to the roller shutter door entrance.
24. Both the Appellant and the Council presented an assessment of the appeal development against PPS21, PPS4 and PPS3. Policy CTY 1 'Development in the Countryside' of PPS 21 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, one of which is industry and business uses in accordance with PPS 4. It further states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. It states access arrangements must be in accordance with the Department's published guidance.
25. The policies in PPS4 set out the main planning considerations to be taken into account in assessing proposals for economic development uses. Policy PED 2 'Economic Development in the Countryside' of PPS4 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of a number of policies. Given the CLEUD for use of the wider site by the engineering business both the Council and Appellant considered the relevant policy to be Policy PED3 'The Expansion of an Established Economic Development Use'. Policy PED9 sets out general criteria that proposals for economic development use, in addition to the other policy provisions of PPS4, are required to meet.
26. PPS3, Access Movement and Parking, Policy AMP 2 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic.
27. The Council, having assessed the appeal building against the relevant policy, considered that as the use of the site as an engineering business is now established through the CLEUD, the appeal building is acceptable. It was content that subject to the conditions presented on a without prejudice basis in their evidence, the appeal development complied with policy. Those suggested conditions will be further considered below.
28. Third parties had not been aware of the CLEUD and their representation and written evidence generally related to the wider site, my assessment however must be of the unauthorised building. A CLEUD is a matter of fact and there is no

- statutory requirement for the Council to consult on such applications. The third parties were disappointed that the Council had not engaged more with them and at the accrual of immunity in the interim, however that is a matter between the parties.
29. There were third party complaints of increased noise, disturbance, odour and air pollution from commercial operations on the site. These fall to be considered under criteria (a), (b), (e) and (f) of Policy PED9 of PPS4 which require the economic development use to be compatible with surrounding land uses, not harm the amenities of nearby residents, not create a noise nuisance and be capable of dealing satisfactorily with any emission or effluent. Whilst it was difficult for the third parties to say these problems arose from the unauthorised building it was argued that it added to the existing works on the site. The diesel generators were said to run regularly. It was alleged they produced nitrogen oxides and harmful pollutants that degrade air quality, and that exhaust fumes from the site could be smelt dependent upon weather and wind direction.
 30. Outside of the appeal process the Appellant and a neighbouring third party had engaged with respect to noise levels, the Appellant agreeable to soundproofing. He indicated the generator had been tested in response to the neighbour's complaint and a fault had been identified at that time. In an effort to alleviate noise he had rehoused the generator within Shed 2. This is one of the three sheds within the certified building and is in the middle of Sheds 1 and 3. He said, with the exception of the forklifts, there was no machinery operated in the appeal building. This concurs with my own on site observations. The Appellant stated a photograph showing thick black smoke coming from the site was an isolated incident however the third party argued there was regular smoke from a flue as a result of burning on the site. There is no flue on the appeal building, I noted one on the certified building. I was presented with no actual evidence that waste products were being burnt on site.
 31. The Council considered the appeal building to have no detrimental impact significantly greater than what currently exists and was content the appeal building does not harm the amenity of the neighbouring residential dwellings. It had consulted with Environmental Health who advised they had received no complaints in relation to noise, light or odour arising from the site. The Council recommended a condition restricting the hours of operation of the appeal building. The third parties disagreed the Appellant operated within normal working hours and said that was not their experience as neighbours. The Council agreed the use of the wider site could not be restricted but considered the suggested condition would alleviate residents' concerns in respect of intensification of use at the site.
 32. Given the unfettered lawful use of the wider site I am not persuaded a condition limiting the hours of operation of the appeal building alone would achieve anything meaningful in protecting amenity. In the event the building is removed, the same activity could continue unrestricted in the same location without the containment of a building. Furthermore, notwithstanding the Council considered the condition could be enforced, to my mind it would be difficult to monitor the compliance of one building with restricted hours of operation within an otherwise unrestricted wider operation.

33. At the hearing reference was made to further expansion of hardstanding with machinery and vehicles close to a third-party objectors neighbouring property. The Council indicated those matters were subject to a separate enforcement investigation. It may be the case that there are amenity impacts from the immune use of the 3 buildings and yard or from other activities outside the confines of this EN. However, these are beyond my consideration under the ground (a) element of this appeal which can only relate to the appeal building. I was presented with limited evidence of amenity impacts attributable to it and I am not persuaded it results in unacceptable noise, disturbance, odour or air quality impacts. Criteria (a), (b), (e) and criterion (f), insofar as it relates to emissions, of Policy PED9 are met and the third party concerns in respect of these matters are not sustained.
34. There was third party objection in respect of impact on wildlife, biodiversity and river ecosystems. Again criterion (f) of Policy PED9 requires that the economic development use is capable of dealing satisfactorily with any effluent, criterion (c) requires it does not adversely affect features of the natural or built heritage. The neighbouring third party was concerned that drainage from the business runs through agricultural land on to their land and then into a stream lower down the fields. They had concern there was a risk of soil and water pollution from the activities on the appeal site resulting in accidental spillages of diesel, oil and chemicals. The Appellant advised there was one central drain in their yard for rain/surface water, he indicated it was within the confines of the CLEUD and that it's route through neighbouring land was historic. He further stated the yard was run in compliance with relevant industry legislation and he had not been approached about any such alleged incidents. The Council indicated Environmental Crime would be the relevant authority who would alert them of any wildlife issues but it had no such notification regarding any incidents on the appeal site. I was presented with no persuasive evidence of pollution risks from the appeal development. Based on the evidential context, criteria (c) and (f) of Policy PED9 are met and this concern is not sustained.
35. At the hearing the third party stated planting was required to mitigate the visual impact of the building within the rural area. Such matters fall to be considered under PPS21 Policy CTY13 'Integration and Design of Buildings in the Countryside', Policy CTY14 'Rural Character' and PPS4 Policy PED3 and PED9 criterion (m) which require integration into the landscape. The appeal building is not dissimilar in its scale, materials and design to agricultural buildings in the surrounding rural area. It is grouped with the existing building that comprises the three sheds on the site. It sits at a lower level and some 132m back from the public road. Its position and the surrounding topography reduce any visual impact. The Council were content it is not visible from any public viewpoints and integrates into the surrounding landscape. A wooden fence and planting are set back approximately 1m from and alongside the southern building elevation. The Appellant indicated he had also put in a post and wire fence, which I noted at my site visit, and was planting willow alongside this boundary. The building's east and north elevations are to the certified yard and its western elevation into a field behind. Notwithstanding there may be views from private neighbouring grounds I am content the appeal building visually integrates with its surroundings and that it does not cause a detrimental change to or further erode the rural character of the area.

36. In order to prevent any future encroachment into the countryside the Council had recommended a condition that the boundary of the site as shown on the site location map that accompanied the CLEUD be defined by a 1m high post and wire fence. The Appellant explained this was not possible as that boundary was synonymous with the external wall of the appeal building and a gap of at least 1m was required for access and maintenance purposes, but he had already put a post and wire fence in place, albeit set back from the building. The Council accepted the provision of a boundary fence outside the EN boundary would not be enforceable. I am content the boundary of the appeal building is sufficiently defined. Any development beyond the building or beyond the certified yard would require planning permission.
37. The Council also recommended a condition be attached to any permission requiring the remaining area of the yard be retained for the parking and movement of vehicles and not used for any other purpose. However, where the deemed application relates only to the appeal building it would be inappropriate to determine the use of lands outside the building. It is in the Appellant's interest to ensure that vehicles can easily park and manoeuvre within the site. If the business were to expand further, as feared by residents, planning permission would be required.
38. Whilst a third party was concerned the business at the site would devalue their property I was presented with no evidence that was the case.
39. Third party concerns were also raised in respect of road safety. This matter falls to be considered under Policy AMP2 of PPS3. Furthermore, Policy PED9 criteria (g) and (h) require the existing road network can safely handle any extra vehicular traffic the proposal will generate and adequate access arrangements, parking and manoeuvring areas are provided. There is a bend at Cardy Road/Cardy Road East to the south of the site. The third party referred to this as a 'bad bend' at 'Cardy Corner' and stated there had been numerous accidents there over the past number of years. They were concerned increased traffic and heavy vehicles in and out of the appeal site increased the risk of road accidents. They said postal visits and deliveries to the business were frequent as it sells parts online and that large vehicles undertake manoeuvres on the Cardy Road in an effort to access the laneway into the premises.
40. The Appellant did not dispute the third parties claims in respect of large vehicles entering and exiting the site. Their argument was that the use of the overall site was lawful and if the structure is removed the activities could continue in the yard regardless. He indicated that the structure constrains the height of goods stored and provides protection from the elements but that if removed the stored components could be covered with tarpaulin. As such it was argued the building had no impact on traffic movement and resulted in no intensification of the use of the access.
41. The Council had consulted with DfI Roads in respect of the deemed application who advised if the development creates any intensification of use the access would have to be laid out in accordance with Development Control Advice Note 15 'Vehicular Access Standards' (DCAN 15) in relation to visibility splays, access width and radii and that they would require 2.4 x 100 metre visibility splays in each direction. Following a site visit they confirmed to the Council that the required

visibility splays are not in place and would have to be constructed. In order to achieve the visibility splays they stated an Northern Ireland Electricity (NIE) pole and hedging would need to be set back. The Council considered the appeal building intensified the use and recommended a condition be attached requiring the said splays be provided within 3 months of any decision. The reason for the condition was to ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

42. At the hearing the Appellant indicated he does not have control of all the land that would be required to put the visibility splays in place. He is in negotiations with an adjacent landowner but, given those can take time, was not in a position to say he could comply with the suggested condition within the timeframe given if it were attached to any permission. Furthermore, it could be the case that he may not be able to acquire the land. He indicated a willingness to engage with DfI Roads to improve the entrance but his position was that given the structure does not generate any more traffic there is no requirement to do so. The Council remained steadfast that the appeal building had been considered policy compliant as an expansion (my emphasis) of an established use under Policy PED3 of PPS4 and their lack of objection to the deemed planning application was dependent on the sightlines required by DfI Roads being provided.
43. The Council's evidence indicates the existing buildings certified as part of LA06/2025/0623/CLEUD have a floorspace of 641sqm and that the appeal building has a floor space of 439.3sqm. It is accepted the appeal building does not result in an increase of the certified yard area. The building however represents an increase by some two thirds of the existing floorspace within that yard. Whilst it may be the case that in the event the building is removed the Appellant intends to continue storing the components within the yard, and I observed some external stacked cages, to my mind such an arrangement would not be as useful nor as practical. The multi-tier metal storage units within the building allow for stacked storage to its full height. Whilst the Appellant could cover goods in the yard with tarpaulin the building offers a degree of stability and security to the shelving units alongside its walls and the goods stored thereon that to my mind would be compromised by its removal.
44. Notwithstanding the lawful certification of the yard within which the building is located as an engineering business, the building increases the floorspace of that business, thereby also its capacity for storage on the site and a consequently greater number of vehicle movements in and out of the site. The Appellant themselves presented the development as an expansion of an established business in the countryside in compliance with Policy PED3. I am not persuaded that the expansion of the engineering business at this location does not result in intensification of its use. A satisfactory means of access is required and the standard of splays sought by the Council and DfI are necessary.
45. The access is due south of the Appellant's dwelling, the front boundary of which is defined by a low level brickwork wall. There is a field to its south. The laneway into the site is narrow, defined on each side by a hedge along its length. It widens out to a bellmouth at its access on to Cardy Road. There is planting and an NIE pole on both sides of the bellmouth. The speed limit on the Cardy Road is 60mph and vehicles I observed were travelling at or close to the speed limit. I found I had to edge my car forward on to the edge of the road to get a full view of traffic

approaching from the south. The site splays in situ fall short of the required visibility standard.

46. From the evidence before me the required standard of visibility to provide a safe access onto Cardy Road is not in place. As it stands the Appellant does not have control over the necessary land to provide the splays. Whilst negotiations may be ongoing with the relevant landowner, this process could take time and given the shortfall in visibility I am not persuaded that the Council's suggested condition requiring provision of the splay within a specified period of time would be appropriate. Firstly, as there is no guarantee negotiations will be successful, with the Appellant potentially facing a scenario where he could be in breach of a condition were negotiations not successfully concluded within the specified time period. More critically, the appeal development would be utilising an access with a substandard level of visibility onto a public road for a period of time. The Appellant indicated a willingness to improve the access however I was presented with no detail as to what those improvements would be nor explanation as to the acceptability of any reduced standard of visibility splay at this location. Whilst it may be the case that this matter can be overcome subject to agreement with the third-party landowner, for the reasons given above the appeal development would prejudice road safety, contrary to Policy AMP2 of PPS3 and Policy PED 9 criteria (g) and (h) of PPS4.
47. The appeal development offends Policy PED9 of PPS4 and as such is not a type of development considered to be acceptable in the countryside in compliance with Policy CTY1 of PPS21 and no overriding reasons as to why the development is essential have been advanced. The third-party concerns with respect to road safety are upheld and the deemed planning application is refused.

Ground (f) - that the steps required by the notice, or the activities required to cease, exceed what is necessary to remedy the breach of planning control or to remedy any injury to amenity caused by any such breach.

48. Section 140 of the Planning Act requires an EN to specify the steps required to be taken or the activities required to cease in order to achieve, wholly or partly, certain stated purposes. These purposes include remedying the breach of planning control by restoring the land to its condition before the breach took place or remedying any injury to amenity caused by the breach.
49. The matter to assess under ground (f) is whether the steps required by the notice exceed what is necessary to remedy the breach. The EN set out two requirements. The first to remove the unauthorised building marked X on the accompanying map and restore the land to its condition before the breach took place within 150 days from the date the notice takes effect. The second, as amended, requires the unauthorised sales, storage and distribution use within the building marked X on the accompanying map cease within 90 days from the date the notice takes effect.
50. Whilst the Appellant pleaded that the steps are excessive the substantive argument advanced under ground (f) is that the use of the existing buildings for the sales, storage and distribution of goods associated with Maintech Solutions are certified. It was argued that to seek removal of the unauthorised building is over enforcement as the building is grouped with existing buildings and does not cause any significant demonstrable harm as there are no neighbouring properties close

to the site. The Appellant stated this building and its use ought to be granted planning permission as an expansion to an established economic business in the countryside.

51. I have already considered under ground (a) that due to the lack of necessary visibility splays, planning permission ought not to be granted. Repetition of the arguments from the aforementioned ground of appeal does not assist the Appellant in respect of whether the steps are excessive
52. The Appellant offered no persuasive arguments as to why the steps required exceed what is necessary to remedy the breach of planning control. At the hearing they confirmed they had nothing to add to the arguments in their written evidence. I have been given no persuasive evidence that the steps required by the Notice are excessive and accordingly the appeal on ground (f) fails and the steps required by the EN are upheld.

Ground (g) - that any period for compliance specified in the notice falls short of what should reasonably be allowed.

53. The Appellant in their written evidence had stated the time permitted fell short of what should be reasonably allowed and respectively asked that the period be extended to 9-12 months to allow him to source alternative commercial premises for additional storage. At the hearing however he confirmed a period of 150 days to remove the shed was adequate.
54. The Appellant did not agree the use of the shed should cease within 90 days as that same use could continue on the ground. For reasons outlined earlier I consider the use of a yard and the use of a building to be different. Notwithstanding that I did not accept the Appellant's argument that 4(2) should be omitted in its entirety, I accept that he can lawfully continue to store items on the ground. However, to my mind this would be a less intensive activity than retention of the appeal building would allow for and it is likely the contents of the building will be reorganised and/or redistributed in preparation for its removal in any event. In these circumstances, given the Appellant's agreement that a period of 150 days to remove the shed was reasonable, I consider that period reasonable to cease the use of the shed. The ground (g) appeal succeeds to this extent only.

Decision

The decision is as follows:-

- The Notice is varied at Part 3 to omit (2);
- The appeal on ground (d) fails;
- The appeal on ground (a) fails and planning permission is refused;
- The appeal on Ground (f) fails; and
- The appeal on Ground (g) succeeds to the extent specified and the period for compliance is extended to 150 days in relation to Part 4 (2), from the date of this decision.

The enforcement notice as so varied is upheld.

COMMISSIONER TRUDY HARBINSON

List of Appearances

Planning Authority:- Wendy Murray, Ards and North Down Borough Council*

Appellant:- Gerry Tumelty Tumelty Planning Services
Richard Cusick Appellant

Third Party: - Deborah Anderson*
Objector: - Hilda Hall and Steven Benton*

* *Appeared remotely*

List of Documents

Planning Authority:- Statement of Case, Ards and North Down Borough Council

Appellant:- Statement of Case, Tumelty Planning Services.

Third Party: - Statement of Case, Deborah Anderson



Appeal Decision

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Appeal Reference:	2025/L0004
Appeal by:	Dr Alannah Savage
Appeal against:	Refusal of a Certificate of Lawfulness of Proposed Use or Development
Development:	Proof of commencement of works for dwelling-X/2008/0101/RM
Location:	140m South of 10 Loughdoo Road, Kircubbin
Planning Authority:	Ards and North Down Borough Council
Application Reference:	LA06/2025/0189/CLOPUD
Procedure:	Hearing on 17 th December 2025
Decision by:	Commissioner Diane O'Neill, dated 25 th February 2026

Decision

1. The appeal is allowed and a Certificate of Lawfulness of Proposed Use or Development is attached.

Reasons

2. The main issue in this appeal is whether the development has commenced in accordance with planning permission X/2008/0101/RM prior to its expiration on 11th June 2013.
3. Section 170 of the Planning Act (Northern Ireland) 2011 makes provision for the issuing of a certificate of lawfulness for a proposed use or development. Section 170(1) states that if any person wishes to ascertain whether any proposed use of buildings or other land or any operations proposed to be carried out in, on, over or under land, would be lawful, that person may make an application for the purpose to the appropriate council specifying the land and describing the use or operations in question. The application was made in accordance with Section 170 of the Act and was refused on 5th September 2025. This appeal was made under Section 173 of the 2011 Act.
4. Planning permission X/2008/0101/RM was granted on 11th June 2008 for a dwelling. Condition 1 of the planning permission stated that the permitted development was to begin before the expiration of 5 years from the grant of outline planning permission or the expiration of a period of 2 years from the date of the grant of reserved matters.
5. At the hearing the Council withdrew three of its four reasons for refusal. A sole reason remained which related to there being no evidence to confirm the date of the pouring of the concrete for the foundations, no Building Control inspection

followed the pouring of the concrete and that it therefore cannot be determined whether the construction of the dwelling fully commenced in time.

6. Building Control records dated 6th January 2010 noted the commencement of the appeal dwelling with the foundations partly excavated and pegs put in place; the works were to be concreted when the temperature permitted it. Although there is no record of a further visit from Building Control, I accept the appellant's written and verbal evidence that the delivery invoice for 4m³ of concrete mix dated 8th January 2010 demonstrates that the concrete was poured on this date.
7. Within their Statement of Case evidence, the Council accepted that foundations have been laid on the appeal site and provided orthophotography dated 3rd June 2010 which they stated indicated the presence of the foundations at that time. They also provided orthophotography dated 24th May 2013 which they stated showed the location of the foundations. It was not disputed by the appellant that second foundations were laid at the appeal site in 2023-24 as there was concern that the original foundations were not in the correct position to correspond with the approved location of the dwelling. There was however no reliance on the second foundations to prove that the commencement of development within the required timescale.
8. The Council considered that there was a material deviation of approximately 7.6m between the location of the 2010 foundations and the approved location of the dwelling which they regarded as having implications for the rural character of the area. The appellant however considered that the deviation to be immaterial; it was calculated to be approximately 4m due to the width of the boundary hedgerow from which the measurements were calculated.
9. Irrespective of whether the accepted 2010 foundations deviate by 4m or 7.6m from the approved location of the dwelling, they are setback by approximately 140m from the minor rural Loughdoo Road within a dip in the landform. The foundations have the same orientation as the approved dwelling and are located within the green shaded siting area indicated as where the dwelling should be located by the related outline planning permission (X/2008/0101/O).
10. If the appeal dwelling was constructed, the difference between the location of the accepted 2010 foundations and the approved modest approximately 6m high dwelling would be barely perceptible when viewed from the Loughdoo Road. It would not adversely impact rural character. This together with the same orientation and the fact that it is within the approved siting area leads me to conclude that the difference is insignificant and, in this case, constitutes a non-material change to the reserved matters planning approval.
11. Accordingly, the Council's refusal to grant the Certificate of Lawfulness of Proposed Use or Development is not well founded. The appeal succeeds and a CLOPUD is attached.

This decision is based on Drawing 01 1:2500 site location map dated January 2025.

COMMISSIONER DIANE O'NEILL

List of Documents

Planning Authority
(Ards and North Down Borough Council):-

Statement of Case PA 1

Appellant (Donaldson Planning-agent):-

Statement of Case A1
Cases presented at the
hearing A2

List of Appearances

Planning Authority
(Ards and North Down Borough Council):-

Ms Clare Rodgers*
Mr Michael Creighton*

Appellant:-

Mr David Donaldson
(Donaldson Planning)
Dr Alannah Savage
(appellant)
Mr William Savage
(appellant's father)
Mr Aaron O'Prey
(appellant's husband)

*attended remotely

Unclassified

ITEM 8

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
	If multiple:
Meeting	Planning Committee
Date of Meeting	31 March 2026
Responsible Director	Director of Place and Prosperity
Responsible Head of Service	Head of Planning and Building Control
Report title	Quarterly Update on Tree Preservation Orders and Works Requests
Attachments	N/A
File Reference (if applicable)	N/A
Legislation	Choose an item. The Planning (Trees) Regulations (NI) 2015
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	Priority 2: Environmental 4. A vibrant, attractive, sustainable Borough for citizens, visitors, businesses and investors If multiple:

Background

This report represents 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.

Detail

The table overleaf sets out the figures from the date of the last report to Committee, 3 February 2026, and brings this report back in line with quarterly reporting.

RECOMMENDATION

It is recommended that Council notes the content of this report.

Table 1 Tree Preservation Orders Served

TPO (Full or Provisional)	Date Served	Address
Provisional TPO	2 March 2026	Lands at 72 Crawfordsburn Road
Provisional TPO	12 March 2026	Lands to the rear of Nos 3, 3a and 4 Knocknatten Avenue and no. 10 Whinney Hill, Holywood

Table 2 Consent for Works Decisions

TPO or Conservation Area	Consent Granted / Notification Accepted*	Consent Refused
Tree Preservation Orders	3	0
Address		
1. Holy Trinity Church, 3 Seahill Road, Holywood		
2. Downshire House, 13 Maxwell Road, Bangor		
3. 27 Ballymullan Road, Crawfordsburn		
Conservation Area	2	0
Address		
1. 61 Victoria Road, Holywood		
2. 3 Bangor Road, Holywood		

* Notification refers to when the Council receives notification of proposed works to trees within a conservation area. If the Council does not accept the proposed works, it must serve a TPO within the 6-week period from the date of notification.

'Notification Accepted' means that the Council did not consider it necessary to serve a TPO and thus there is no objection to the proposed works

Detail

Works to Trees - Tree Preservation Order Protection

1. **Holy Trinity Church, 3 Seahill Road – remedial works to 4 no. trees**
 - Works were requested to 4 no. trees for management and maintenance reasons.
 - The Council considered that the works were appropriate and consented.
2. **Downshire House, 13 Maxwell Road, Bangor – felling of 3 no. trees and remedial works to 2 no. trees**
 - 3 no. trees were requested for felling for safety reasons. The Council noted that all three of these trees had small crowns with limited foliage, were of poor form and had a significant lean towards Downshire Road.

- Works were requested to the 2 no. remaining trees for management and maintenance reasons.
 - The Council considered the felling works acceptable for safety reasons and the remedial works acceptable and appropriate for management and maintenance reasons.
 - Replacement planting was conditioned with 3 no. standard native trees at a height of 3-3.5m. Replanting is to be located within the front garden area and carried out during the next available planting season following commencement of the works hereby permitted.
- 3. 27 Ballymullan Road, Crawfordsburn – felling of 7 no. trees**
- 7 no. trees were requested for felling for safety reasons. 2 no. trees were dead and therefore exempt under Section 122(5) of the Planning Act (Northern Ireland) 2011 and did not require consent from the Council for removal.
 - The Council noted that 1 no. of the trees showed a loss of vigour, had a restricted root structure and had outgrown its position, 1 no. tree showed a loss of vigour, and was in poor form and condition, 1 no. tree was almost dead and had very limited foliage, 2 no. trees were heavily suppressed by adjacent trees resulting in very poor form and condition given their location.
 - The Council considered all felling works acceptable for safety reasons.
 - Replacement planting was conditioned with 5 no. standard native trees at a height of 3-3.5m. Replanting is to be located within the curtilage of the property and carried out during the next available planting season following commencement of the works permitted.

Conservation Area Notifications

1. 61 Victoria Road, Holywood – works to 1 no. tree

- The applicant served notice on the Council of intent to carry out remedial works to 1 no. tree.
- The Council considered that these works were appropriate and acceptable for management and maintenance reasons.
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2. 3 Bangor Road, Holywood – felling of 1 no. tree

- The applicant served notice on the Council of intent to remove 1 no. tree.
- The Council considered that these works were appropriate and acceptable for safety reasons as the tree was in poor condition.