

Development Management Case Officer Report					
<b>Application Reference:</b> LA06/2020/0558/F		<b>DEA:</b> Bangor East & Donaghadee			
<b>Proposal:</b> Development of 4. no detached houses with detached garages and associated landscaping and ancillary works.					
<b>Location:</b> Lands adjacent to and north-east of 3 Warren Avenue, Donaghadee. Access via Warren Avenue to Warren Road					
<b>Applicant:</b> Geddis Development Limited		<b>Agent:</b> Donaldson Planning LTD			
<b>Date Valid:</b> 06/07/2020		<b>Environmental Statement Requested:</b> No (0.36ha)			
<b>Date last Advertised:</b> 29/07/2021					
<b>Date last Neighbour Notified:</b> 21/07/2021					
<b>Consultations:</b> Yes					
<b>Representations:</b> Yes					
<b>Letters of Support</b>	0	<b>Letters of Objection</b>	8*	<b>Petitions</b>	0
<b>Summary of Main Issues:</b> <ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Planning history of the site and surrounding area</li> <li>• Visual impact and impact on the character appearance of the area</li> <li>• Impact on residential amenity</li> <li>• Access, road safety and parking</li> <li>• Natural heritage and the potential effects on European Sites</li> <li>• Flood risk</li> </ul>					
*8 letters of objection from 6 separate addresses.					
<b>Case Officer:</b>	Dominic McLaughlin				
<b>Recommendation:</b> Grant Planning Permission					
<b>Agreed by Authorised Officer</b>					
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 <a href="https://epicpublic.planningni.gov.uk/publicaccess/">https://epicpublic.planningni.gov.uk/publicaccess/</a> .					

## 1. Description of Site and Surrounding Area

The 0.36-hectare site is on lands adjacent and north-east of 3 Warren Avenue in Donaghadee. It is located within the settlement limit of Donaghadee as identified in Ards and Down Area Plan 2015.

The site is accessed from Warren Road and is located on its eastern side. Donaghadee is located to the south-east. As can be seen in the image below, the site is currently vacant land. The boundaries consist of a hedgerow to the north and shrub and coastal grasses to the south. The west boundary is undefined and to the east is the coast. The site falls gently downwards to the coast to the south-east.



Figure 1 – Application site

The surrounding context is one of low-density residential development reflecting the location. Warren Road is residential along both sides and in Warren Avenue and Warren Gardens to the north-west. There is a mix of detached single to three-storey properties of varying designs and plot sizes. There are no hazards and constraints in this area, but the site is adjacent to the Outer Ards ASSI, Ramsar, SPA and SAC due to its proximity to the coast.

## 2. Site Location Plan



Figure 2 – Site location



Figure 3 – Aerial view of site

### 3. Relevant Planning History

There is no recent relevant planning history within the application site. However, a number of permissions have been granted for residential development in the immediate vicinity within recent years as follows:

#### **Nos. 6-8 Warren Avenue**

**Reference:** X/2007/0628/O

**Proposal:** Demolition of existing dwelling and construction of 8 no. apartments with enhanced access to Warren Road.

**Address:** 6-8 Warren Avenue, Donaghadee

**Decision:** PERMISSION GRANTED (27.05.2009)

**Reference:** X/2012/0233/RM

**Proposal:** Demolition of existing dwelling and construction of 8 no. apartments with enhanced access to Warren Road.

**Address:** 6-8 Warren Road, Donaghadee

**Decision:** PERMISSION GRANTED (08.08.2012)

The original building which contained Nos. 6-8 has been demolished.

#### **18 Warren Avenue**

**Reference:** LA06/2021/0481/F

**Proposal:** 2 storey detached dwelling (change of house type)

**Address:** 18 Warren Avenue, Donaghadee

**Decision:** PERMISSION GRANTED (30.09.21)

#### **3 Warren Gardens**

**Reference:** LA06/2021/0499/F

**Proposal:** 2 storey detached dwelling (change of house type)

**Address:** 3 Warren Gardens, Donaghadee

**Decision:** UNDER CONSIDERATION

#### **35 Warren Road**

**Reference:** LA06/2018/1383/F

**Proposal:** 6 no. detached dwellings and 4 no. detached single garages with associated car parking and landscaping.

**Address:** Lands at 35 Warren Road (south of 1 and 3 Warren Avenue), Donaghadee

**Decision:** PERMISSION GRANTED (14.10.2020)

#### **Site adjacent to 35 Warren Road**

**Reference:** X/2013/0256/F

**Proposal:** 2 no. dwellings (renewal of X/2010/0056/RM)

Address: Site adj. to 35 Warren Road (fronting Warren Road) Donaghadee  
**Decision:** PERMISSION GRANTED (24.01.2014)

**Reference:** X/2010/0056/RM  
**Proposal:** 2 no. dwellings.  
**Address:** Site adj. to 35 Warren Road, Donaghadee  
**Decision:** PERMISSION GRANTED (16.07.2010)

**Reference:** X/2007/1028/O  
**Proposal:** 2 no. dwellings.  
**Address:** Site adj. to 35 Warren Road, Donaghadee  
**Decision:** PERMISSION GRANTED (12.06.2008)

**4. Planning Policy Framework**

The relevant planning policy framework for this application is as follows:

- Ards and Down Area Plan 2015 (ADAP)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement (PPS) 2: Natural Heritage
- Planning Policy Statement (PPS) 3: Access, Movement and Parking
- Planning Policy Statement (PPS) 7: Quality Residential Environments
- Addendum to Planning Policy Statement (PPS) 7: Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 15: Planning and Flood Risk

**5. Supplementary Planning Guidance**

Relevant supplementary planning guidance for this application is as follows:

- Creating Places
- Living Places
- Development Control Advice Note (DCAN) 8 – Housing in Existing Urban Areas
- Development Control Advice Note (DCAN) 15 – Vehicular Access Standards

**6. Consultations**

Consultation was carried out with the following statutory and non-statutory consultees and a synopsis of responses is listed.

Consultee	Response
Environmental Health	No objection.
DFI Roads	No objection. Informative provided.
DAERA Water Management Unit (WMU)	No objection. Condition and informatives provided.

DAERA Natural Environment Division (NED)	No concerns.
DAERA Marine and Fisheries Division (MFD)	No objection. Informatives provided.
NI Water	No objection. Conditions and informatives provided.
DFI Rivers	No objection. Informatives provided.
Shared Environmental Service (SES)	No objection. Conditions provided.

## 7. Consideration and Assessment

### Principle of Development

The application site is located within the development limits of Donaghadee in a residential area.

Section 6 (4) of The Planning Act (NI) 2011 establishes that the planning system within the Councils will be plan-led and advises that 'Where, in making any determination under this Act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.' Until the Council adopts its new Local Development Plan, planning applications will continue to be assessed against the provisions of the Department of the Environment's development plans and Planning Policy Statements (PPSs) which contains the main operational planning policies for the consideration of development proposals.

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

### **Development Plan**

The application site is located within the settlement of Donaghadee as designated in the Ards and Down Area Plan 2015. The site is not designated for any particular use. The proposal is considered to be in conformity with the plan provided it complies with the relevant regional planning policies.

### **Strategic Planning Policy Statement**

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In practice, this means that development that accords with an up-to-date development

plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.

There is a presumption in favour of development as the site is within the settlement limit of Donaghadee. The SPPS retains the policy provisions of PPS 7 until they are replaced by a Local Development Plan for Ards and North Down Borough. The SPPS also refers to the continued materiality of Creating Places.

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

Policy QD1 of PPS7 provides policy for achieving quality in new residential development. The site is located within an established residential area (ERA). For such areas, Policy QD1 states that 'proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas'. The policy sets out criteria which proposals should meet. The Addendum to PPS7 titled 'Safeguarding the Character of Established Residential Areas (PPS7 Addendum)' was published in August 2010 and this document is also a material consideration for the proposal as it contains planning policies which must be read in conjunction with PPS7.

There are a range of house types in the immediate area comprising of single storey to 2 ½ storey in scale. Many of the dwellings fronting Warren Road are large detached or semi-detached blocks and the majority of dwellings on the coastal side of the road are relatively large properties set within generous plots.



**Figure 4 – View of application site from public road (Nos. 1, 2, 2A and 4 Warren Avenue)**

**Layout, Scale, Massing, Height, and Materials**

The proposal is for the erection of 4 No. detached dwellings with detached garages and associated landscaping and ancillary works. The original proposal submitted with the application was for 5 detached dwellings, however the Planning Department considered this would result in the overdevelopment of the site when considered within its context of relatively low-density development which would be out of character with the area, in terms of plot size, spacing and density. Following discussions with the agent, the scheme was reduced to 4 detached dwellings which shall be considered below.



**Figure 5 – Original proposal for 5 units**





Figure 6 – Proposed site plan

The application site is set back over 100m from Warren Road and the dwellings are positioned in pairs set between 12m and 18m apart. House types A and B are both rectangular in shape and have the same layout with a living room and combined kitchen and dining room on the ground floor and 4 no. bedrooms on the first. They have a ridge height of approx. 8m. Each dwelling has a detached single storey garage as well as 2 no. in-curtilage parking spaces. The external materials include rendered walls, timber doors and windows and slate roof tiles, all of which are in keeping with the established built form in the area. The only difference between house type A and house type B is that the garage adjoins the dwelling by an overhead link at the main entrance although the garage remains detached.



Figure 7 – House type A north elevation



**Figure 8 – House type B north elevation**

There is a gradual fall in ground level of approximately 1m across the site towards the coast. The proposed dwellings to the south of the site will have finished floor levels (FFLs) of 4.30 and 4.60. The existing levels in this area are approx. 3.77 to the south-east and 4.30 to the south-west. This represents a requirement for an increase in ground levels or an underbuild of between +0.53 to the south-east and +30 to the south-west. The dwellings to the north have FFLs of 4.40 and 4.70. The existing levels in this area are approx. 4.60 to the north-west and 3.70 to the north-east. This represents a requirement for an increase in ground levels or an underbuild of approx. 0.10 to the north-west and 0.7 to the north-east. I consider these increases to be modest in the context of the site and will not result in the dwellings with a height of 8m appearing overly prominent. Given the existing ground levels of the site, which slope downwards to the south-east, I consider that the proposal will respect the topography of the land which falls gently towards the coast.

The dwellings approved under LA06/2018/1383/F, fronting Warren Road to the immediate south of the site, are also large, detached units and the ridge height of the proposed dwellings is lower than the ridge height of these approved units (approved height of 9.5m) which are adjacent to the public road.



**Figure 9 – Dwellings approved under LA06/2018/1383/F**

The application site is set back from the public road behind existing built development including Nos. 1, 2, 2A, 3 and 4 Warren Avenue. The side elevations of the proposed dwellings will face in the direction of the public road which is similar to existing properties No. 2, 2A and 4. The highest dwellings will be House 3 and 4 (house type A) to the west side of the development which are both 8m high. The proposed dwellings are not significantly higher than the dwellings fronting Warren Road and therefore will not dominate the site. They are set back over 100m meaning they will also not dominate the area. The dwellings adjacent to the coast (house 1 and 2) are also 8m but sit on a lower ground level. These dwellings are set back over 140m from the public road.

Having inspected the existing dwellings in the vicinity of the application site I am satisfied that the form, materials and detailing are acceptable. The proposed design and materials used are in keeping with the surrounding area. I do not consider that the scale and design of the proposal will cause harm to the character of the area when viewed from the main critical viewpoints along the Warren Road and from coastal areas. Due to the variety of house types in the area, the proposed dwellings are also not considered to be out of character with the immediate area.

The overall layout, density, scale, height and massing of the proposed dwellings is in-keeping with the neighbouring dwellings and respects the character of the wider residential area and respects the surrounding context. I consider the layout, scale, proportions, massing and appearance of buildings and structures to be appropriate to the character and topography of the site. The proposed design will cause no detriment to the character of the area in terms of form, material and detailing and the external materials and finishes are in keeping with the existing dwellings in the surrounding area.

### Density/Plot Size

The proposed density of the site is approx. 11.11 dwellings per hectare (dph) for 4 units divided by 0.36ha.

Lands at No. 35 Warren Road is under construction for 6 no. detached dwellings (LA06/2018/1383/F) south of the application site (see Figure 10 below). The density for this development equates to 6.66dph (6 units divided by 0.9ha). However, the wider Established Residential Area (ERA) for the purposes of this assessment is considered to include residential development along Warren Road. Within this area the density fronting Warren Road ranges from approx. 8 dph to 16 dph. To the south along Warren Road, Warren Villas has a density of approx. 20dph (8 units divided by 0.4ha).



Figure 10 – Previously approved residential development adjacent to 35 Warren Rd



Figure 11 – Warren Villas

It is therefore considered that the density of the proposed development is not significantly higher than that found in the area. Furthermore, it is important to note that the 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 in detail above.

The proposed plots are comparable to other residential plots on Warren Road, e.g. The new housing immediately south of 35 Warren Road (0.1ha), Warren Villas (0.07ha) and 72-76A Warren Road (0.08ha). Each proposed plot has adequate provision for private amenity space and car parking.

#### **Impact on Existing Trees/Landscaping**

There are no existing trees or significant landscape features within the application site. The boundaries to the west and east are undefined, the north consists of a boundary hedgerow (with No. 16 Warren Avenue) and there is some shrub and coastal grasses to the south. Given the lack of existing trees/landscaping the application site would benefit from new landscaping.

#### **Proposed Hard and Soft Landscaping**

A landscaping plan has been submitted which indicates that new hedge and tree planting will be included in the development along with new landscaped garden areas

and hard landscaping to include 1.8m high wooden fencing, 1.2m high post and wire fencing, and 1.2m and 1.65m high walling.

#### **Public Open Space/Private Amenity Space**

The proposed private garden areas are as follows:

- House 1: 450sqm.
- House 2: 328sqm.
- House 3: 298sqm.
- House 4: 264sqm.

The private amenity spaces range from 264sqm to 450sqm within the curtilage of each dwelling which exceeds recommended standards in Creating Places (minimum 40sqm and average 70sqm for residential developments). Landscaping is provided to soften the visual impact of the development.

#### **Impact on Residential Amenity**

There is a separation distance of approx. 9.4m between house 1 (south) and 2 (north). Between house 2 and house 1 is the single storey detached garage of house 1 meaning there will be no views of the ground floor living room window. There is a separation distance of approx. 11.4m between house 3 (south) and 4 (north). The first-floor windows of house 4 will overlook the main entrance/ front door of house 3 and therefore no windows will be overlooked. The 9.4m and 11.4m separation distances provided are acceptable as discussed above. The houses have been designed and positioned in such a way that the opposing first floor windows will consist of bedrooms facing bathroom and landing windows to avoid unacceptable overlooking.

In terms of existing residential properties, the closest are Nos. 12 and 16 Warren Avenue to the north-west. There is a separation distance of over 30m and 25m from the northern boundary of the application site and these 2 properties meaning the distances are sufficient to ensure that there will be no unacceptable adverse overlooking between the existing and proposed properties.

The proposed design and layout will not conflict with neighbouring residential properties. I am satisfied that there are adequate separation distances to ensure that there will be no unacceptable adverse impact on the residential amenity of existing and proposed dwellings through overlooking, overshadowing, loss of light, dominance, noise or other disturbance.

The apartments approved to the west under X/2012/0233/RM have not been built but this permission has been commenced. The proposed dwellings 3 and 4 are closest to the western boundary and there is a distance of approx. 6m and 10m respectively. The approved apartment block is a further 5m to 10m from the western boundary. Due to the orientation of the dwellings and the proposed position of windows on both the dwellings and apartments, I am satisfied that there will be no unacceptable degree of

overlooking between both developments. The proposed dwellings have been designed in such a way that the side elevation faces the western boundary, and there are no windows on the first floor and only a hall window on the ground floor (side elevation of house type A). The rear wall of the approved apartment block faces north-east, and the side wall faces south-east, but the proposed dwellings are located to the east meaning there will be no opposing windows.

Given the position of the proposed dwellings to the east there will be no impact on the approved apartment block in terms of overlooking. There will also be no impact on the proposed dwellings from the approved apartment block when it has been built given its approved position and layout.

The rear wall of No. 3 Warren Avenue is located over 40m south-west of the southern boundary of the application site with the proposed dwellings located over 12m north of it meaning there will be no impact on the private rear of this property.

The rear wall of No. 16 Warren Avenue is over 18m north-west from the north-west corner of the application site. The closest proposed dwelling (House 4) is positioned over 12m south-east of the north-west corner of the site meaning there is a separation distance of just over 30m.

The proposed dwellings are located close to the boundaries but given the separation distances in place there will be no sustained views of the private rear amenity space which is the first 3 to 4m from the rear wall of the property.

#### **Access, Roads Safety and Car Parking**

The application site accesses onto the Warren Road via Warren Avenue which is in use. Warren Road is not a protected route. DFI Roads have been consulted and has raised no objection.

The proposed dwellings are 4-bed with 2 in-curtilage parking spaces and a detached single garage provided per dwelling. The site layout provides ample parking within the site for both residents and visitors.

Policy AMP 2 of PPS3 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.

The proposed development will be accessed via Warren Avenue which is a private road onto Warren Road to the west. The access to the site has planning approval under X/2012/0233/RM and is in use for existing residential properties along Warren Avenue.

Warren Road is not a protected route and DFI Roads has no objections to the proposal and offered no conditions.

Policy AMP 7 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 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.

Each dwelling is detached and has 4 no. bedrooms and 2 in-curtilage parking spaces. An additional parking space can also be accommodated in the garage given a total of 3 and an overall total of 12. In addition to this, the proposed site plan shows that there is additional room for undesignated parking spaces along the driveways that lead to the garages at House 3 and House 4.

The Parking Standards document recommends 3 spaces per dwelling therefore 12 spaces required in total. The parking schedule on drawing No. 16 shows that there are 13 spaces in total (2.75 per dwelling). This includes the spaces in the garages.

Paragraph A4 of the Parking Standards document advises that a carriageway width of 5.5m is intended to allow for parking by casual callers. The carriageway in this instance is 4.2m at the south entrance but the internal private road has a wider carriageway of 9m to the north extending to 16m at the designated turning area. This will allow for additional visitor spaces within the application site as indicated on the proposed site layout plan. The proposal therefore provides ample provision for car parking.

#### **Archaeology and Built Heritage**

No archaeological or designated built heritage have been identified in close proximity to the site. Landscaping is proposed as part of the overall development.

#### **Security from Crime**

I am satisfied that the proposal has been designed to deter crime and promote personal safety.

#### **Local Neighbourhood Facilities**

Necessary local neighbourhood facilities are not required for a proposal of this size.

#### **Designated Sites/Other Natural Heritage Interests**

The application site is in close proximity to the following national, European and international designated sites:



- North Channel SAC.
- Outer Ards and East Coast Marine SPA.
- Outer Ards Ramsar site.
- Outer Ards ASSI.

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.

The Shared Environmental Service (SES) has been consulted and has raised no concern subject to conditions. In its response SES stated that following an appropriate assessment and having considered the development proposal, it would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

In accordance with Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), Shared Environmental Service considered the nature, scale, timing, duration and location of the project and concluded that provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on the integrity of any European site.

#### **Marine and Fisheries Division (MFD)**

The application site is adjacent to the coast and consultation has been carried out with MFD who has considered the impacts of the proposal on the marine environment and raised no objection. MFD has stated that in its current form the proposal is unlikely to have a significant impact on marine protected areas and or species,

However, MFD has advised that further consideration should be given to climate change policy. In their response MFD has indicated that the site is in close proximity to the high water mark and may be vulnerable to impacts caused by sea level rise and coastal erosion arguing that if the proposal requires protection from the sea in future, MFD would have concerns that any requirement for hard engineered sea defenses could be detrimental to natural marine ecosystems as stated in the Draft Marine Plan for Northern Ireland.

Paragraph 100 of the Draft Marine Plan states:

*Increased temperatures, sea level rise and extreme weather events increase the risk of coastal erosion and flooding and should be taken into account by proposers and public authorities. Proposals should be located and designed to cope with current and future conditions. Care needs to be taken to ensure proposals do not adversely impact on natural ecosystems, particularly where the management of these contributes to measures to reduce or limit greenhouse gas emissions.*

Where the property is found to be at risk from sea flooding or erosion now or in the future, careful consideration should be given to the fact that this property may not be defensible in future. The susceptibility of all land to flooding is a material consideration in the determination of planning applications and new development may be directly at risk from flooding from a number of sources.

The Draft Marine Plan is not policy and a lot of development on the eastern side of Warren Road is in close proximity to the coast and therefore at risk from changes in coastal process as a result of climate change. I do not consider the threat of climate change and coastal processes to be a reason to withhold planning permission in this case unless concerns were raised by DFI Rivers in relation to Flood Risk under PPS15. This will be discussed in greater detail below.

### **Protected Species**

PPS2 Policy NH 2 states that planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. Ayre Environmental Consulting Ltd completed the NI Biodiversity Checklist and consultation was carried out with NED who considered the impacts of the proposal on natural heritage interests and has raised no concerns. No further surveys were recommended.

### **Other Material Considerations**

#### **Flood Risk**

The original proposal was for 5 no. dwellings and part of the site was located within the 1 in 200-year coastal flood plain. In their initial response DFI Rivers indicated that the Council should be aware of the DFI Technical Flood Risk Guidance in relation to Allowances for Climate Change in Northern Ireland (25th February 2019). For the coastline of NI, work by DFI Rivers and its consultants has led to the production of tidal models and mapping which take account of local coastal effects.

In relation to climate change this guidance document recommends that where a strategically important development is being designed or assessed for climate impacts or, where risk to life or major economic losses could occur a precautionary approach may be suitable. The example given was the major redevelopment of Belfast's Titanic Quarter which bounds Belfast Lough and comprises important new commercial, domestic and tourism developments.

However, in this case, the developer has amended the scheme to ensure that no part of the development is within the area identified as 1 in 200 coastal flood plain. Re-consultation was carried out with Rivers following the submission of additional information and plans (drawing No.17) to which Rivers responded to say that the developer had provided sufficient evidence to demonstrate that the site is above the 1 in 200-year coastal flood plain.

The developer provided a Flood Risk and Drainage Assessment by IE Consulting to which no objections were raised by DFI Rivers. DFI Rivers has indicated that the responsibility for the accuracy, acceptance and implementation of the proposed flood risk measures rests with the developer and their professional advisors.

No concerns were raised in relation to Policies FLD2, FLD3, FLD4 or FLD5.

#### **Drainage and Sewerage Infrastructure**

The P1 form states that the water supply and foul sewage will be mains and surface water will be disposed of via storm drains. NI Water has raised no objection and indicated that there is available capacity. WMU has raised no objection.

#### **Contamination**

Environmental Health (EH) has been consulted and raised no concerns.

### **8. Consideration of Representations**

A total of 8 objections have been received in relation to this application from 6 separate addresses:

- 1 Warren Avenue (2)
- 2A Warren Avenue (1)
- 3 Warren Avenue
- 24 Ballyvester Road, Donaghadee (co-owners of 3 Warren Avenue) (2)
- 12 Warren Avenue (1)
- 59 Blackhorse Lane, Hertfordshire (2)

The material planning concerns raised are summarised and considered as follows:

- Ecological and environmental impact on wildlife corridor along the coast (seals, otters, badgers, foxes and hares as well as sea birds).

NED have been consulted and raised no concerns.

- Coastal erosion.

MFD have been consulted and raised no objection in relation to the proposal in its current form with regard to coastal erosion.

- Impact on coastal area for people who use the area.
- Safety issues for pedestrians who use the site to walk to the beach.

The proposed dwellings are not located along the existing lane that leads to the coast. The developer has filled in Certificate A of the P1 form indicating that he is in ownership of the land including the lane that leads to the coast.

- Impact on sea wall that runs along the plot of No. 3 Warren Avenue.

The sea wall is marked on the site survey (drawing No. 17) and is outside the application site with the garden of No. 3 between.

- Impact of building line along coast.

A 'building line' is the primary front face of buildings along a street and in this case the application site is adjacent to the coast meaning there is no established building line. In terms of the building line along the coast, there is evidence in the area of buildings that are positioned closer to the coast including Nos. 27B and 29A Warren Road which are located to the south-east of the application site. Further along Warren Road to the south the existing properties Nos. 3 to 21 Warren Road sit in closer proximity of the coast. There is a variety of built development along the eastern side of Warren Road adjacent to the coast given the areas location within the development limits of Donaghadee.

- Road safety/traffic impact – on single lane Warren Avenue and on Warren Road.

The access to Warren Avenue is existing and in use. DFI Roads have been consulted on the application for 4 new dwellings and have raised no concerns regarding road safety or traffic impact.

- Parking – including the parking needed for the planning permission for 8 no. apartments.

The parking for this application has been assessed against parking standards and is deemed to be acceptable. The parking for the 8 no/ apartments is on a separate plot of land and was also deemed to be acceptable under X/2012/0233/RM.

- Impact on residential amenity of No. 1 Warren Avenue.

There is a separation distance of over 56m from the rear wall of No. 1 and the south-west corner of the application site. The closest proposed dwelling (house 3) is over 13m to the north-east meaning there is a total distance of over 69m in total. The existing residential property No. 3 Warren Avenue is located between No. 1 and the site. There are no concerns in relation to residential amenity given the distance and existing built development in the area.

- Impact on residential amenity of No. 3 Warren Avenue.

There is a separation distance of over 26m from the rear wall of No. 3 and the south-west corner of the application site. The closest proposed dwelling (house 3) is over 13m to the north-east meaning there is a total distance of over 39m in total. There are no concerns in relation to residential amenity given the distance. The first -floor windows of the proposed dwellings will have views towards the rear part of No. 3's plot however they will not directly overlook the most private rear amenity space of this property which is considered to be the first 3-4m from the rear elevation of the dwelling.

- Density.

This has been discussed in detail in section 8 above.

- Cumulative impact of approved apartments (X/2012/0233/RM) and proposed dwellings meaning new residential units would outnumber existing properties.
- Increased density in the area due to the previous approval of 8 no. apartments under X/2012/0233/RM on lands to the west.
- Piecemeal development – 8 no. apartments planned on the site already with 4 no. dwellings proposed (meaning 12 residential units in total) and potential for more.
- Proposal should be assessed in context of the potential development and its overall impact on the area as a whole.

Cumulative effects are defined as changes to the environment caused by the combined impact of past, present and future human activities and natural processes.

The outline permission X/2007/0628/O was granted prior to the RM and the development commenced with the creation of the access and the demolition of No. 6. The RM permission was granted in 2012 and was found to meet policy in consultation with the relevant statutory bodies. This permission represented a development to replace a significant dwellinghouse (No. 6 Warren Avenue) with an apartment block on roughly the same footprint.

The cumulative impact of the approval of the apartment block alongside the proposed dwellings can only be considered unacceptable if the new application does not meet planning policy or if a statutory consultee raised an objection to the new application as consultees are aware of and take into account the site history of the area.

The new application has been assessed against planning policy, consultation has been carried out with the relevant statutory bodies, and it has been deemed to be acceptable and no objections have been raised. Therefore, it cannot be considered that the cumulative impact of the proposal and the previous approval will have a detrimental impact on the area.

The site is within the development limit of Donaghadee, and it is not unusual for development to be carried out in stages within the development limit of Donaghadee where there is evidence of similar densities to that proposed including other apartment blocks and residential developments.

- Overdevelopment.

The proposal is not considered to represent overdevelopment.

- Impact on character of area.

This has been discussed in detail in section 8 above.

- Impact on amenity of area.

This has been discussed in detail in section 8 above.

- Noise and general disturbance.

All development works will result in building works and heavy plant and machinery for construction works meaning disruption and noise will be experienced. However, this will only occur during the construction period meaning it is not a valid reason to withhold planning permission if the proposal meets planning policy. The material planning matter to consider in this case is whether the proposal is acceptable and the proposal has been deemed to be acceptable under policy.

- Raising of land to facilitate development.

All development works will result in groundworks. An existing site survey (drawing No. 17) and proposed site plan (drawing No. 16) have been provided showing minimal changes in levels as discussed in section 8 above.

- Infrastructure is inadequate to cope with additional dwellings.
- Cumulative impact on services e.g., water, water pressure, electric, sewage and bin collection.

The site is within the development limit and no issues have been raised by statutory consultees.

- Unacceptable house type, size and scale, and density in comparison to existing residential properties in Warren Avenue.

The proposal has been considered and assessed in section 8 above. The character of the area includes not just Warren Avenue but Warren Road also. There is a variety of house types, designs and densities in the area.

- Flood risk.

This has been discussed in detail in section 8.

- Climate change.

This has been discussed in detail in section 8.

## 9. Conclusion

The proposal has been considered having regard to all the material considerations, the relevant planning policies, relevant planning history, representations and comments received from statutory bodies. The principle of residential development on the site is acceptable given the existing residential development in this area which is within the development limit of Donaghadee.

I consider that the proposal will not result in an unacceptable adverse impact on the character or appearance of the immediate area. The height, scale and massing of the proposed dwellings is in-keeping with the established built form exhibited in the area and the development will not result in any adverse impact on the residential amenity of the existing adjacent dwellings.

Having weighed all the considerations, it is my recommendation that this application should proceed by way of an approval of planning permission.

## 10. Recommendation

**Grant Planning Permission**

## 11. 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. All hard and soft landscape works shall be completed in accordance with Drawing Number 16, bearing the date stamp 17th June 2021, during the first available planting season following the occupation of the first dwelling hereby approved.

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

3. All finished ground levels and finished floor levels shall be carried out in accordance with the approved details as indicated on the proposed site plan, Drawing Number 01/A bearing the date stamp 17th June 2021. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Council. All hard and soft landscape areas and works shall be permanently retained in accordance with the approved details.

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

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. Each dwelling hereby approved shall not be occupied until provision has been made within its curtilage for the parking of cars in accordance with the details set out on Drawing Number 16, bearing the date stamp of 17th June 2021. This parking provision shall be permanently retained thereafter.

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

6. 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 any dwelling hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension of any of these dwellings requires detailed consideration to safeguard the amenities of the surrounding area.

7. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no buildings or structures shall be erected within the curtilage of the dwelling houses



hereby permitted without the grant of a separate planning permission from the Council.

Reason: The erection of buildings within the curtilage of these dwellings requires detailed consideration to safeguard the amenities of the surrounding area.

8. A final detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Council in consultation with DAERA Water Management Unit (WMU) at least 8 weeks prior to the commencement of development to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

9. A final detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved by Council in consultation with the Shared Environmental Service (SES) prior to the commencement of development. The final CEMP shall reflect all the mitigation and avoidance measures detailed in the outline CEMP. The final CEMP shall be adhered to and implemented throughout the construction period and in accordance with the approved details, unless otherwise agreed in writing by the Council.

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

10. 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 the project will not have an adverse effect on the integrity of any European site, ensure protection to the aquatic environment and to ascertain that a feasible method of sewage disposal is available.

11. The first-floor bathroom and landing windows on house types A and B as shaded GREEN on Drawing Numbers 12A and 14A, bearing the date stamp of 17th June 2021, shall be fitted with obscure glazing prior to occupation and this obscure glazing shall be permanently retained thereafter.

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

12. A clearly defined buffer of at least 10 metres shall be maintained between the location of all construction works including refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and the boundary of the European sites.

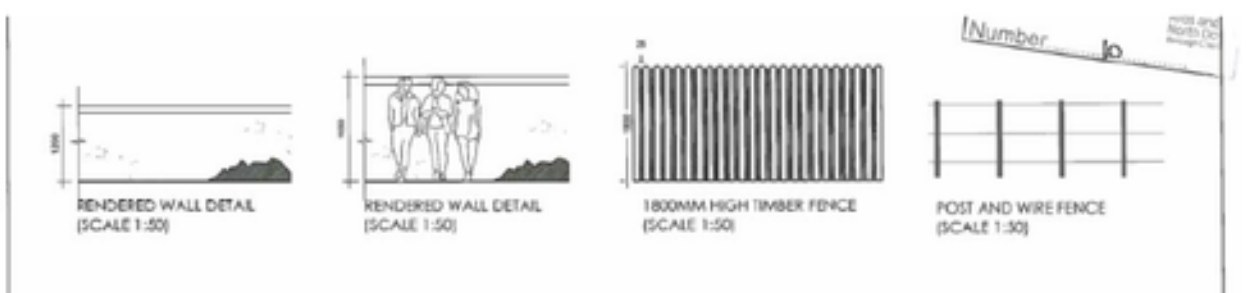
Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

**Informatives**

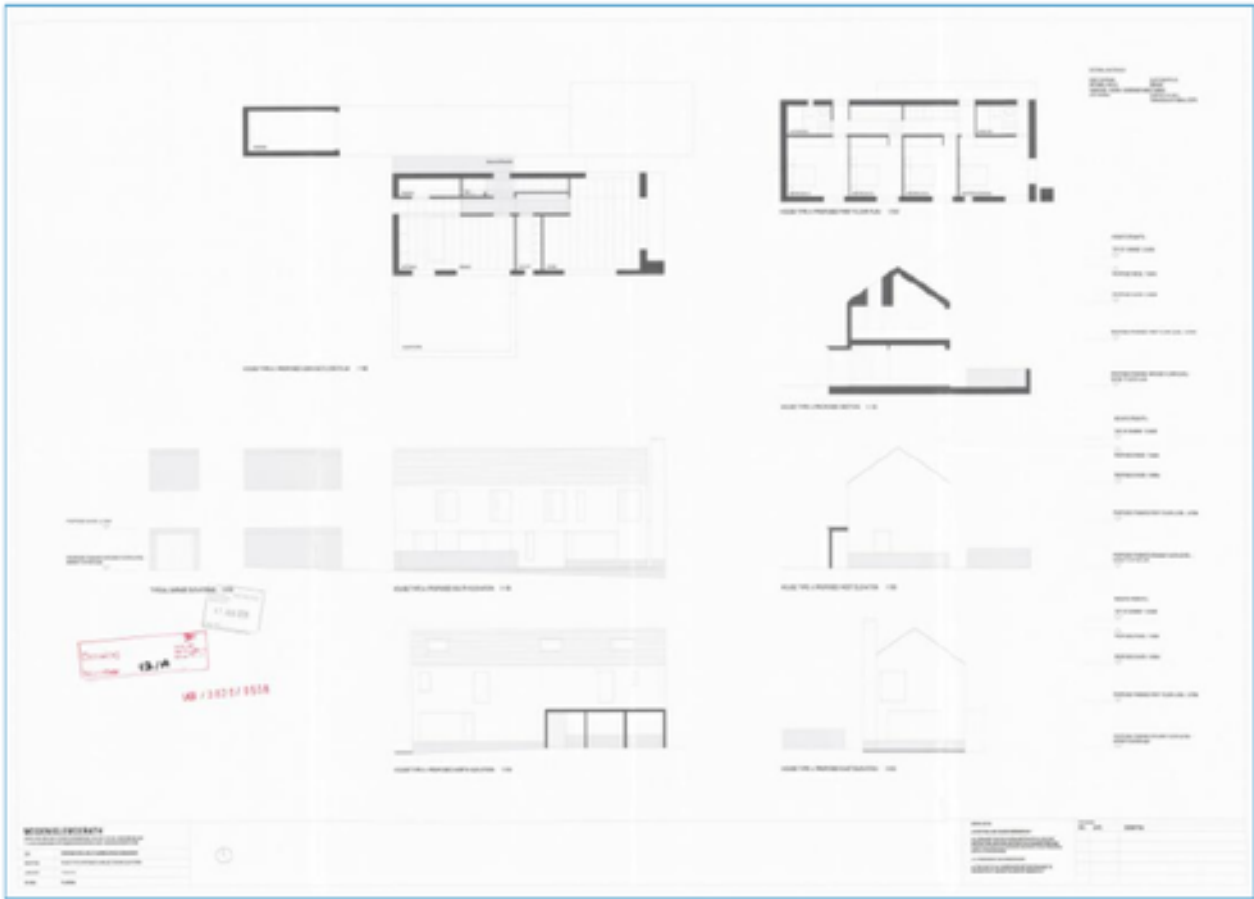
1. This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose.



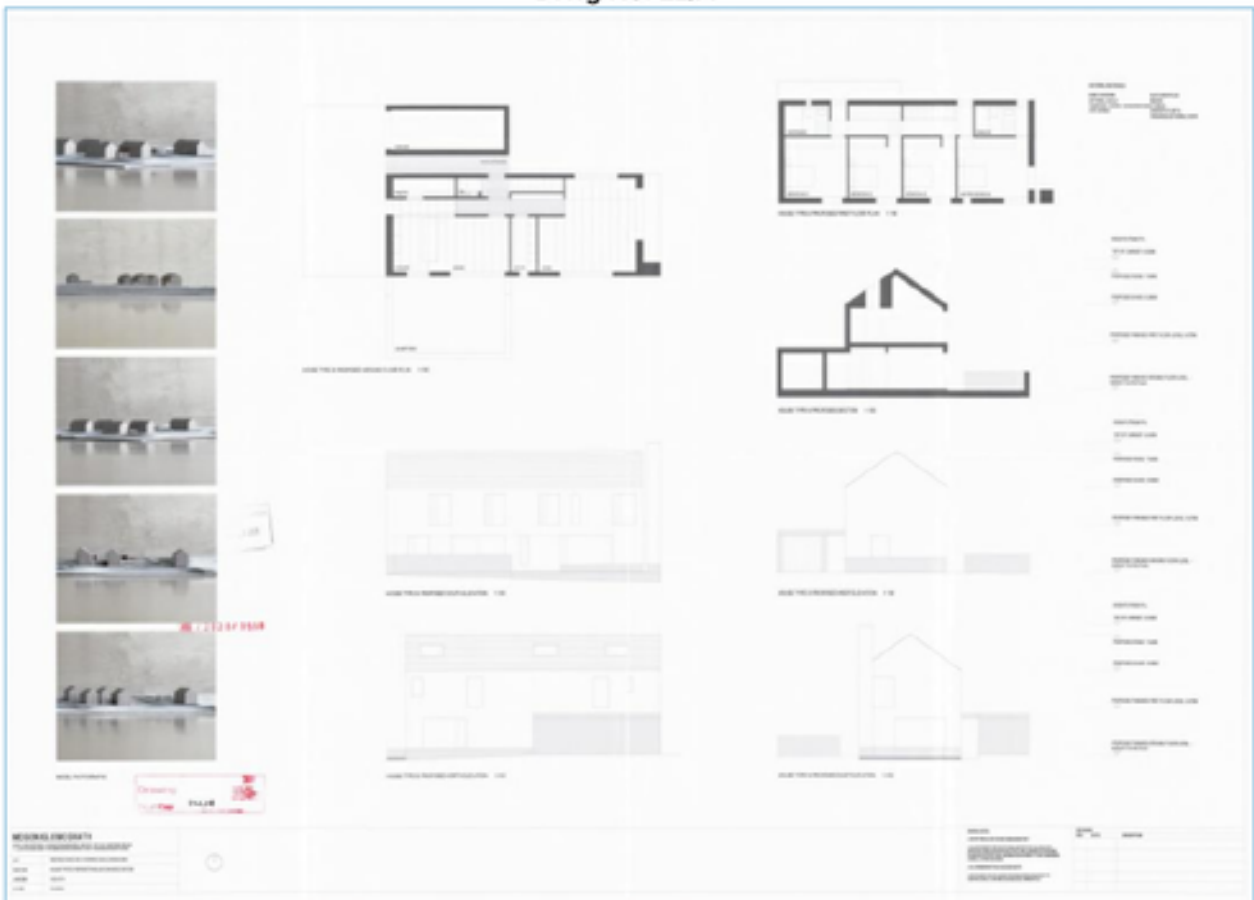
**Drwg No. 01/A**



**Drwg No. 10**



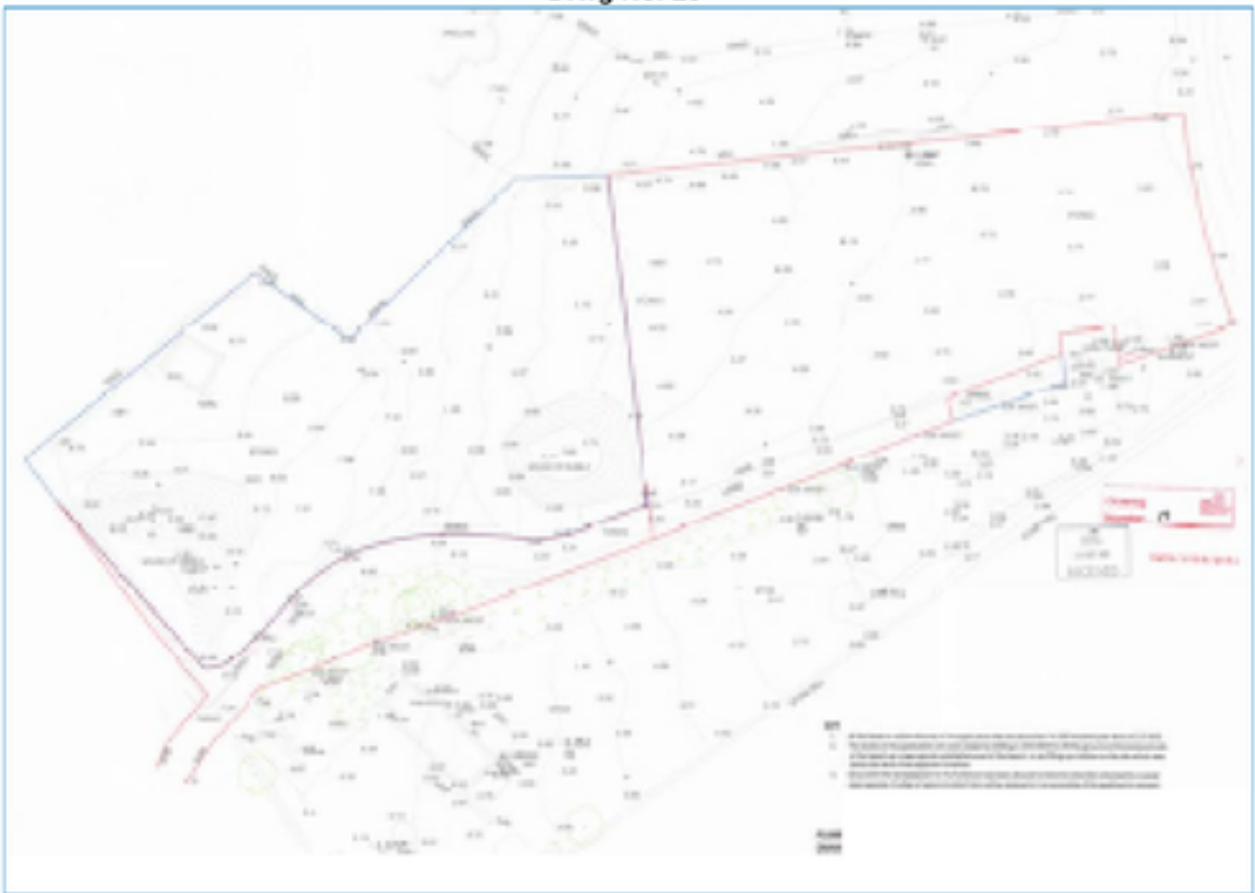
Drwg No. 12/A



Drwg No. 14/A



Drwg No. 16



Drwg No. 17











Development Management Case Officer Report					
<b>Application Reference:</b> LA06/2020/0558/F		<b>DEA:</b> Bangor East & Donaghadee			
<b>Proposal:</b> Development of 4. no detached houses with detached garages and associated landscaping and ancillary works.					
<b>Location:</b> Lands adjacent to and north-east of 3 Warren Avenue, Donaghadee. Access via Warren Avenue to Warren Road					
<b>Applicant:</b> Geddis Development Limited		<b>Agent:</b> Donaldson Planning LTD			
<b>Date Valid:</b> 06/07/2020		<b>Environmental Statement Requested:</b> No (0.36ha)			
<b>Date last Advertised:</b> 29/07/2021					
<b>Date last Neighbour Notified:</b> 21/07/2021					
<b>Consultations:</b> Yes					
<b>Representations:</b> Yes					
<b>Letters of Support</b>	0	<b>Letters of Objection</b>	8*	<b>Petitions</b>	0
<b>Summary of Main Issues:</b> <ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Planning history of the site and surrounding area</li> <li>• Visual impact and impact on the character appearance of the area</li> <li>• Impact on residential amenity</li> <li>• Access, road safety and parking</li> <li>• Natural heritage and the potential effects on European Sites</li> <li>• Flood risk</li> </ul>					
*8 letters of objection from 6 separate addresses.					
<b>Case Officer:</b>	Dominic McLaughlin				
<b>Recommendation:</b> Grant Planning Permission					
<b>Agreed by Authorised Officer</b>					
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 <a href="https://epicpublic.planningni.gov.uk/publicaccess/">https://epicpublic.planningni.gov.uk/publicaccess/</a> .					

## 1. Description of Site and Surrounding Area

The 0.36-hectare site is on lands adjacent and north-east of 3 Warren Avenue in Donaghadee. It is located within the settlement limit of Donaghadee as identified in Ards and Down Area Plan 2015.

The site is accessed from Warren Road and is located on its eastern side. Donaghadee is located to the south-east. As can be seen in the image below, the site is currently vacant land. The boundaries consist of a hedgerow to the north and shrub and coastal grasses to the south. The west boundary is undefined and to the east is the coast. The site falls gently downwards to the coast to the south-east.



Figure 1 – Application site

The surrounding context is one of low-density residential development reflecting the location. Warren Road is residential along both sides and in Warren Avenue and Warren Gardens to the north-west. There is a mix of detached single to three-storey properties of varying designs and plot sizes. There are no hazards and constraints in this area, but the site is adjacent to the Outer Ards ASSI, Ramsar, SPA and SAC due to its proximity to the coast.

## 2. Site Location Plan



Figure 2 – Site location



Figure 3 – Aerial view of site

### 3. Relevant Planning History

There is no recent relevant planning history within the application site. However, a number of permissions have been granted for residential development in the immediate vicinity within recent years as follows:

#### **Nos. 6-8 Warren Avenue**

**Reference:** X/2007/0628/O

**Proposal:** Demolition of existing dwelling and construction of 8 no. apartments with enhanced access to Warren Road.

**Address:** 6-8 Warren Avenue, Donaghadee

**Decision:** PERMISSION GRANTED (27.05.2009)

**Reference:** X/2012/0233/RM

**Proposal:** Demolition of existing dwelling and construction of 8 no. apartments with enhanced access to Warren Road.

**Address:** 6-8 Warren Road, Donaghadee

**Decision:** PERMISSION GRANTED (08.08.2012)

The original building which contained Nos. 6-8 has been demolished.

#### **18 Warren Avenue**

**Reference:** LA06/2021/0481/F

**Proposal:** 2 storey detached dwelling (change of house type)

**Address:** 18 Warren Avenue, Donaghadee

**Decision:** PERMISSION GRANTED (30.09.21)

#### **3 Warren Gardens**

**Reference:** LA06/2021/0499/F

**Proposal:** 2 storey detached dwelling (change of house type)

**Address:** 3 Warren Gardens, Donaghadee

**Decision:** UNDER CONSIDERATION

#### **35 Warren Road**

**Reference:** LA06/2018/1383/F

**Proposal:** 6 no. detached dwellings and 4 no. detached single garages with associated car parking and landscaping.

**Address:** Lands at 35 Warren Road (south of 1 and 3 Warren Avenue), Donaghadee

**Decision:** PERMISSION GRANTED (14.10.2020)

#### **Site adjacent to 35 Warren Road**

**Reference:** X/2013/0256/F

**Proposal:** 2 no. dwellings (renewal of X/2010/0056/RM)

Address: Site adj. to 35 Warren Road (fronting Warren Road) Donaghadee

**Decision:** PERMISSION GRANTED (24.01.2014)

**Reference:** X/2010/0056/RM

**Proposal:** 2 no. dwellings.

Address: Site adj. to 35 Warren Road, Donaghadee

**Decision:** PERMISSION GRANTED (16.07.2010)

**Reference:** X/2007/1028/O

**Proposal:** 2 no. dwellings.

Address: Site adj. to 35 Warren Road, Donaghadee

**Decision:** PERMISSION GRANTED (12.06.2008)

#### 4. Planning Policy Framework

The relevant planning policy framework for this application is as follows:

- Ards and Down Area Plan 2015 (ADAP)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement (PPS) 2: Natural Heritage
- Planning Policy Statement (PPS) 3: Access, Movement and Parking
- Planning Policy Statement (PPS) 7: Quality Residential Environments
- Addendum to Planning Policy Statement (PPS) 7: Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 15: Planning and Flood Risk

#### 5. Supplementary Planning Guidance

Relevant supplementary planning guidance for this application is as follows:

- Creating Places
- Living Places
- Development Control Advice Note (DCAN) 8 – Housing in Existing Urban Areas
- Development Control Advice Note (DCAN) 15 – Vehicular Access Standards

#### 6. Consultations

Consultation was carried out with the following statutory and non-statutory consultees and a synopsis of responses is listed.

Consultee	Response
Environmental Health	No objection.
DFI Roads	No objection. Informative provided.
DAERA Water Management Unit (WMU)	No objection. Condition and informatives provided.

DAERA Natural Environment Division (NED)	No concerns.
DAERA Marine and Fisheries Division (MFD)	No objection. Informatives provided.
NI Water	No objection. Conditions and informatives provided.
DFI Rivers	No objection. Informatives provided.
Shared Environmental Service (SES)	No objection. Conditions provided.

## 7. Consideration and Assessment

### Principle of Development

The application site is located within the development limits of Donaghadee in a residential area.

Section 6 (4) of The Planning Act (NI) 2011 establishes that the planning system within the Councils will be plan-led and advises that 'Where, in making any determination under this Act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.' Until the Council adopts its new Local Development Plan, planning applications will continue to be assessed against the provisions of the Department of the Environment's development plans and Planning Policy Statements (PPSs) which contains the main operational planning policies for the consideration of development proposals.

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

### **Development Plan**

The application site is located within the settlement of Donaghadee as designated in the Ards and Down Area Plan 2015. The site is not designated for any particular use. The proposal is considered to be in conformity with the plan provided it complies with the relevant regional planning policies.

### **Strategic Planning Policy Statement**

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In practice, this means that development that accords with an up-to-date development

plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.

There is a presumption in favour of development as the site is within the settlement limit of Donaghadee. The SPPS retains the policy provisions of PPS 7 until they are replaced by a Local Development Plan for Ards and North Down Borough. The SPPS also refers to the continued materiality of Creating Places.

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

Policy QD1 of PPS7 provides policy for achieving quality in new residential development. The site is located within an established residential area (ERA). For such areas, Policy QD1 states that 'proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas'. The policy sets out criteria which proposals should meet. The Addendum to PPS7 titled 'Safeguarding the Character of Established Residential Areas (PPS7 Addendum)' was published in August 2010 and this document is also a material consideration for the proposal as it contains planning policies which must be read in conjunction with PPS7.

There are a range of house types in the immediate area comprising of single storey to 2 ½ storey in scale. Many of the dwellings fronting Warren Road are large detached or semi-detached blocks and the majority of dwellings on the coastal side of the road are relatively large properties set within generous plots.



**Figure 4 – View of application site from public road (Nos. 1, 2, 2A and 4 Warren Avenue)**

**Layout, Scale, Massing, Height, and Materials**

The proposal is for the erection of 4 No. detached dwellings with detached garages and associated landscaping and ancillary works. The original proposal submitted with the application was for 5 detached dwellings, however the Planning Department considered this would result in the overdevelopment of the site when considered within its context of relatively low-density development which would be out of character with the area, in terms of plot size, spacing and density. Following discussions with the agent, the scheme was reduced to 4 detached dwellings which shall be considered below.



**Figure 5 – Original proposal for 5 units**





**Figure 6 – Proposed site plan**

The application site is set back over 100m from Warren Road and the dwellings are positioned in pairs set between 12m and 18m apart. House types A and B are both rectangular in shape and have the same layout with a living room and combined kitchen and dining room on the ground floor and 4 no. bedrooms on the first. They have a ridge height of approx. 8m. Each dwelling has a detached single storey garage as well as 2 no. in-curtilage parking spaces. The external materials include rendered walls, timber doors and windows and slate roof tiles, all of which are in keeping with the established built form in the area. The only difference between house type A and house type B is that the garage adjoins the dwelling by an overhead link at the main entrance although the garage remains detached.



**Figure 7 – House type A north elevation**



**Figure 8 – House type B north elevation**

There is a gradual fall in ground level of approximately 1m across the site towards the coast. The proposed dwellings to the south of the site will have finished floor levels (FFLs) of 4.30 and 4.60. The existing levels in this area are approx. 3.77 to the south-east and 4.30 to the south-west. This represents a requirement for an increase in ground levels or an underbuild of between +0.53 to the south-east and +30 to the south-west. The dwellings to the north have FFLs of 4.40 and 4.70. The existing levels in this area are approx. 4.60 to the north-west and 3.70 to the north-east. This represents a requirement for an increase in ground levels or an underbuild of approx. 0.10 to the north-west and 0.7 to the north-east. I consider these increases to be modest in the context of the site and will not result in the dwellings with a height of 8m appearing overly prominent. Given the existing ground levels of the site, which slope downwards to the south-east, I consider that the proposal will respect the topography of the land which falls gently towards the coast.

The dwellings approved under LA06/2018/1383/F, fronting Warren Road to the immediate south of the site, are also large, detached units and the ridge height of the proposed dwellings is lower than the ridge height of these approved units (approved height of 9.5m) which are adjacent to the public road.



**Figure 9 – Dwellings approved under LA06/2018/1383/F**

The application site is set back from the public road behind existing built development including Nos. 1, 2, 2A, 3 and 4 Warren Avenue. The side elevations of the proposed dwellings will face in the direction of the public road which is similar to existing properties No. 2, 2A and 4. The highest dwellings will be House 3 and 4 (house type A) to the west side of the development which are both 8m high. The proposed dwellings are not significantly higher than the dwellings fronting Warren Road and therefore will not dominate the site. They are set back over 100m meaning they will also not dominate the area. The dwellings adjacent to the coast (house 1 and 2) are also 8m but sit on a lower ground level. These dwellings are set back over 140m from the public road.

Having inspected the existing dwellings in the vicinity of the application site I am satisfied that the form, materials and detailing are acceptable. The proposed design and materials used are in keeping with the surrounding area. I do not consider that the scale and design of the proposal will cause harm to the character of the area when viewed from the main critical viewpoints along the Warren Road and from coastal areas. Due to the variety of house types in the area, the proposed dwellings are also not considered to be out of character with the immediate area.

The overall layout, density, scale, height and massing of the proposed dwellings is in-keeping with the neighbouring dwellings and respects the character of the wider residential area and respects the surrounding context. I consider the layout, scale, proportions, massing and appearance of buildings and structures to be appropriate to the character and topography of the site. The proposed design will cause no detriment to the character of the area in terms of form, material and detailing and the external materials and finishes are in keeping with the existing dwellings in the surrounding area.

### Density/Plot Size

The proposed density of the site is approx. 11.11 dwellings per hectare (dph) for 4 units divided by 0.36ha.

Lands at No. 35 Warren Road is under construction for 6 no. detached dwellings (LA06/2018/1383/F) south of the application site (see Figure 10 below). The density for this development equates to 6.66dph (6 units divided by 0.9ha). However, the wider Established Residential Area (ERA) for the purposes of this assessment is considered to include residential development along Warren Road. Within this area the density fronting Warren Road ranges from approx. 8 dph to 16 dph. To the south along Warren Road, Warren Villas has a density of approx. 20dph (8 units divided by 0.4ha).

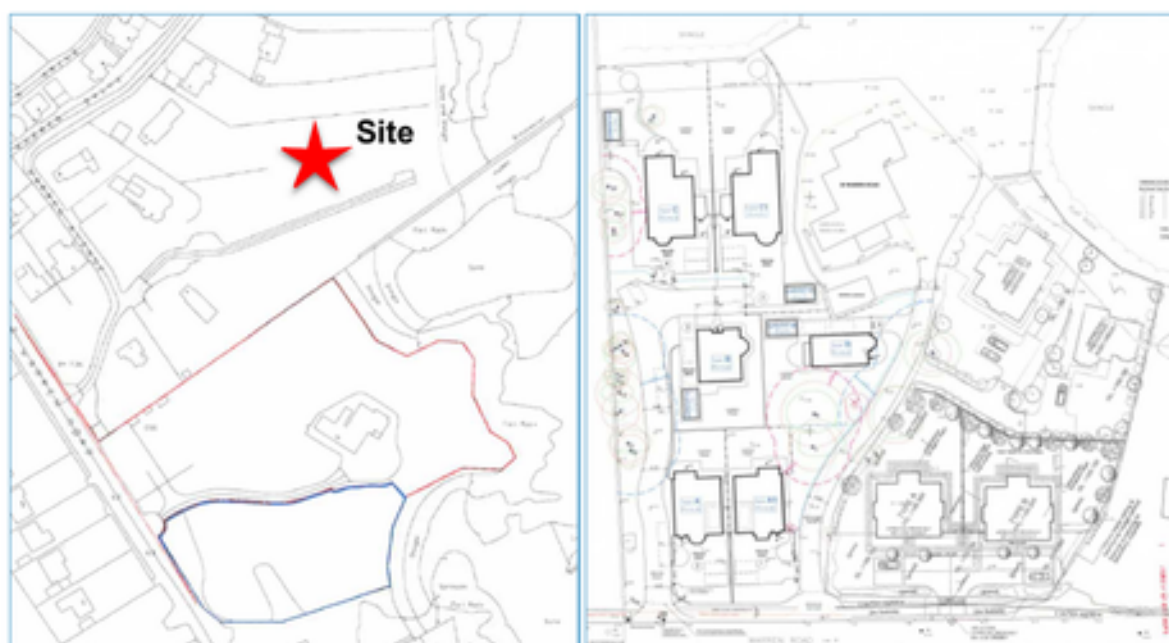


Figure 10 – Previously approved residential development adjacent to 35 Warren Rd



Figure 11 – Warren Villas

It is therefore considered that the density of the proposed development is not significantly higher than that found in the area. Furthermore, it is important to note that the 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 in detail above.

The proposed plots are comparable to other residential plots on Warren Road, e.g. The new housing immediately south of 35 Warren Road (0.1ha), Warren Villas (0.07ha) and 72-76A Warren Road (0.08ha). Each proposed plot has adequate provision for private amenity space and car parking.

#### **Impact on Existing Trees/Landscaping**

There are no existing trees or significant landscape features within the application site. The boundaries to the west and east are undefined, the north consists of a boundary hedgerow (with No. 16 Warren Avenue) and there is some shrub and coastal grasses to the south. Given the lack of existing trees/landscaping the application site would benefit from new landscaping.

#### **Proposed Hard and Soft Landscaping**

A landscaping plan has been submitted which indicates that new hedge and tree planting will be included in the development along with new landscaped garden areas

and hard landscaping to include 1.8m high wooden fencing, 1.2m high post and wire fencing, and 1.2m and 1.65m high walling.

#### **Public Open Space/Private Amenity Space**

The proposed private garden areas are as follows:

- House 1: 450sqm.
- House 2: 328sqm.
- House 3: 298sqm.
- House 4: 264sqm.

The private amenity spaces range from 264sqm to 450sqm within the curtilage of each dwelling which exceeds recommended standards in Creating Places (minimum 40sqm and average 70sqm for residential developments). Landscaping is provided to soften the visual impact of the development.

#### **Impact on Residential Amenity**

There is a separation distance of approx. 9.4m between house 1 (south) and 2 (north). Between house 2 and house 1 is the single storey detached garage of house 1 meaning there will be no views of the ground floor living room window. There is a separation distance of approx. 11.4m between house 3 (south) and 4 (north). The first-floor windows of house 4 will overlook the main entrance/ front door of house 3 and therefore no windows will be overlooked. The 9.4m and 11.4m separation distances provided are acceptable as discussed above. The houses have been designed and positioned in such a way that the opposing first floor windows will consist of bedrooms facing bathroom and landing windows to avoid unacceptable overlooking.

In terms of existing residential properties, the closest are Nos. 12 and 16 Warren Avenue to the north-west. There is a separation distance of over 30m and 25m from the northern boundary of the application site and these 2 properties meaning the distances are sufficient to ensure that there will be no unacceptable adverse overlooking between the existing and proposed properties.

The proposed design and layout will not conflict with neighbouring residential properties. I am satisfied that there are adequate separation distances to ensure that there will be no unacceptable adverse impact on the residential amenity of existing and proposed dwellings through overlooking, overshadowing, loss of light, dominance, noise or other disturbance.

The apartments approved to the west under X/2012/0233/RM have not been built but this permission has been commenced. The proposed dwellings 3 and 4 are closest to the western boundary and there is a distance of approx. 6m and 10m respectively. The approved apartment block is a further 5m to 10m from the western boundary. Due to the orientation of the dwellings and the proposed position of windows on both the dwellings and apartments, I am satisfied that there will be no unacceptable degree of

overlooking between both developments. The proposed dwellings have been designed in such a way that the side elevation faces the western boundary, and there are no windows on the first floor and only a hall window on the ground floor (side elevation of house type A). The rear wall of the approved apartment block faces north-east, and the side wall faces south-east, but the proposed dwellings are located to the east meaning there will be no opposing windows.

Given the position of the proposed dwellings to the east there will be no impact on the approved apartment block in terms of overlooking. There will also be no impact on the proposed dwellings from the approved apartment block when it has been built given its approved position and layout.

The rear wall of No. 3 Warren Avenue is located over 40m south-west of the southern boundary of the application site with the proposed dwellings located over 12m north of it meaning there will be no impact on the private rear of this property.

The rear wall of No. 16 Warren Avenue is over 18m north-west from the north-west corner of the application site. The closest proposed dwelling (House 4) is positioned over 12m south-east of the north-west corner of the site meaning there is a separation distance of just over 30m.

The proposed dwellings are located close to the boundaries but given the separation distances in place there will be no sustained views of the private rear amenity space which is the first 3 to 4m from the rear wall of the property.

#### **Access, Roads Safety and Car Parking**

The application site accesses onto the Warren Road via Warren Avenue which is in use. Warren Road is not a protected route. DFI Roads have been consulted and has raised no objection.

The proposed dwellings are 4-bed with 2 in-curtilage parking spaces and a detached single garage provided per dwelling. The site layout provides ample parking within the site for both residents and visitors.

Policy AMP 2 of PPS3 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.

The proposed development will be accessed via Warren Avenue which is a private road onto Warren Road to the west. The access to the site has planning approval under X/2012/0233/RM and is in use for existing residential properties along Warren Avenue.

Warren Road is not a protected route and DFI Roads has no objections to the proposal and offered no conditions.

Policy AMP 7 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 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.

Each dwelling is detached and has 4 no. bedrooms and 2 in-curtilage parking spaces. An additional parking space can also be accommodated in the garage given a total of 3 and an overall total of 12. In addition to this, the proposed site plan shows that there is additional room for undesignated parking spaces along the driveways that lead to the garages at House 3 and House 4.

The Parking Standards document recommends 3 spaces per dwelling therefore 12 spaces required in total. The parking schedule on drawing No. 16 shows that there are 13 spaces in total (2.75 per dwelling). This includes the spaces in the garages.

Paragraph A4 of the Parking Standards document advises that a carriageway width of 5.5m is intended to allow for parking by casual callers. The carriageway in this instance is 4.2m at the south entrance but the internal private road has a wider carriageway of 9m to the north extending to 16m at the designated turning area. This will allow for additional visitor spaces within the application site as indicated on the proposed site layout plan. The proposal therefore provides ample provision for car parking.

#### **Archaeology and Built Heritage**

No archaeological or designated built heritage have been identified in close proximity to the site. Landscaping is proposed as part of the overall development.

#### **Security from Crime**

I am satisfied that the proposal has been designed to deter crime and promote personal safety.

#### **Local Neighbourhood Facilities**

Necessary local neighbourhood facilities are not required for a proposal of this size.

#### **Designated Sites/Other Natural Heritage Interests**

The application site is in close proximity to the following national, European and international designated sites:



- North Channel SAC.
- Outer Ards and East Coast Marine SPA.
- Outer Ards Ramsar site.
- Outer Ards ASSI.

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.

The Shared Environmental Service (SES) has been consulted and has raised no concern subject to conditions. In its response SES stated that following an appropriate assessment and having considered the development proposal, it would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

In accordance with Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), Shared Environmental Service considered the nature, scale, timing, duration and location of the project and concluded that provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on the integrity of any European site.

#### **Marine and Fisheries Division (MFD)**

The application site is adjacent to the coast and consultation has been carried out with MFD who has considered the impacts of the proposal on the marine environment and raised no objection. MFD has stated that in its current form the proposal is unlikely to have a significant impact on marine protected areas and or species,

However, MFD has advised that further consideration should be given to climate change policy. In their response MFD has indicated that the site is in close proximity to the high water mark and may be vulnerable to impacts caused by sea level rise and coastal erosion arguing that if the proposal requires protection from the sea in future, MFD would have concerns that any requirement for hard engineered sea defenses could be detrimental to natural marine ecosystems as stated in the Draft Marine Plan for Northern Ireland.

Paragraph 100 of the Draft Marine Plan states:

*Increased temperatures, sea level rise and extreme weather events increase the risk of coastal erosion and flooding and should be taken into account by proposers and public authorities. Proposals should be located and designed to cope with current and future conditions. Care needs to be taken to ensure proposals do not adversely impact on natural ecosystems, particularly where the management of these contributes to measures to reduce or limit greenhouse gas emissions.*

Where the property is found to be at risk from sea flooding or erosion now or in the future, careful consideration should be given to the fact that this property may not be defensible in future. The susceptibility of all land to flooding is a material consideration in the determination of planning applications and new development may be directly at risk from flooding from a number of sources.

The Draft Marine Plan is not policy and a lot of development on the eastern side of Warren Road is in close proximity to the coast and therefore at risk from changes in coastal process as a result of climate change. I do not consider the threat of climate change and coastal processes to be a reason to withhold planning permission in this case unless concerns were raised by DFI Rivers in relation to Flood Risk under PPS15. This will be discussed in greater detail below.

### **Protected Species**

PPS2 Policy NH 2 states that planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. Ayre Environmental Consulting Ltd completed the NI Biodiversity Checklist and consultation was carried out with NED who considered the impacts of the proposal on natural heritage interests and has raised no concerns. No further surveys were recommended.

### **Other Material Considerations**

#### **Flood Risk**

The original proposal was for 5 no. dwellings and part of the site was located within the 1 in 200-year coastal flood plain. In their initial response DFI Rivers indicated that the Council should be aware of the DFI Technical Flood Risk Guidance in relation to Allowances for Climate Change in Northern Ireland (25th February 2019). For the coastline of NI, work by DFI Rivers and its consultants has led to the production of tidal models and mapping which take account of local coastal effects.

In relation to climate change this guidance document recommends that where a strategically important development is being designed or assessed for climate impacts or, where risk to life or major economic losses could occur a precautionary approach may be suitable. The example given was the major redevelopment of Belfast's Titanic Quarter which bounds Belfast Lough and comprises important new commercial, domestic and tourism developments.

However, in this case, the developer has amended the scheme to ensure that no part of the development is within the area identified as 1 in 200 coastal flood plain. Re-consultation was carried out with Rivers following the submission of additional information and plans (drawing No.17) to which Rivers responded to say that the developer had provided sufficient evidence to demonstrate that the site is above the 1 in 200-year coastal flood plain.

The developer provided a Flood Risk and Drainage Assessment by IE Consulting to which no objections were raised by DFI Rivers. DFI Rivers has indicated that the responsibility for the accuracy, acceptance and implementation of the proposed flood risk measures rests with the developer and their professional advisors.

No concerns were raised in relation to Policies FLD2, FLD3, FLD4 or FLD5.

#### **Drainage and Sewerage Infrastructure**

The P1 form states that the water supply and foul sewage will be mains and surface water will be disposed of via storm drains. NI Water has raised no objection and indicated that there is available capacity. WMU has raised no objection.

#### **Contamination**

Environmental Health (EH) has been consulted and raised no concerns.

### **8. Consideration of Representations**

A total of 8 objections have been received in relation to this application from 6 separate addresses:

- 1 Warren Avenue (2)
- 2A Warren Avenue (1)
- 3 Warren Avenue
- 24 Ballyvester Road, Donaghadee (co-owners of 3 Warren Avenue) (2)
- 12 Warren Avenue (1)
- 59 Blackhorse Lane, Hertfordshire (2)

The material planning concerns raised are summarised and considered as follows:

- Ecological and environmental impact on wildlife corridor along the coast (seals, otters, badgers, foxes and hares as well as sea birds).

NED have been consulted and raised no concerns.

- Coastal erosion.

MFD have been consulted and raised no objection in relation to the proposal in its current form with regard to coastal erosion.

- Impact on coastal area for people who use the area.
- Safety issues for pedestrians who use the site to walk to the beach.

The proposed dwellings are not located along the existing lane that leads to the coast. The developer has filled in Certificate A of the P1 form indicating that he is in ownership of the land including the lane that leads to the coast.

- Impact on sea wall that runs along the plot of No. 3 Warren Avenue.

The sea wall is marked on the site survey (drawing No. 17) and is outside the application site with the garden of No. 3 between.

- Impact of building line along coast.

A 'building line' is the primary front face of buildings along a street and in this case the application site is adjacent to the coast meaning there is no established building line. In terms of the building line along the coast, there is evidence in the area of buildings that are positioned closer to the coast including Nos. 27B and 29A Warren Road which are located to the south-east of the application site. Further along Warren Road to the south the existing properties Nos. 3 to 21 Warren Road sit in closer proximity of the coast. There is a variety of built development along the eastern side of Warren Road adjacent to the coast given the areas location within the development limits of Donaghadee.

- Road safety/traffic impact – on single lane Warren Avenue and on Warren Road.

The access to Warren Avenue is existing and in use. DFI Roads have been consulted on the application for 4 new dwellings and have raised no concerns regarding road safety or traffic impact.

- Parking – including the parking needed for the planning permission for 8 no. apartments.

The parking for this application has been assessed against parking standards and is deemed to be acceptable. The parking for the 8 no/ apartments is on a separate plot of land and was also deemed to be acceptable under X/2012/0233/RM.

- Impact on residential amenity of No. 1 Warren Avenue.

There is a separation distance of over 56m from the rear wall of No. 1 and the south-west corner of the application site. The closest proposed dwelling (house 3) is over 13m to the north-east meaning there is a total distance of over 69m in total. The existing residential property No. 3 Warren Avenue is located between No. 1 and the site. There are no concerns in relation to residential amenity given the distance and existing built development in the area.

- Impact on residential amenity of No. 3 Warren Avenue.

There is a separation distance of over 26m from the rear wall of No. 3 and the south-west corner of the application site. The closest proposed dwelling (house 3) is over 13m to the north-east meaning there is a total distance of over 39m in total. There are no concerns in relation to residential amenity given the distance. The first -floor windows of the proposed dwellings will have views towards the rear part of No. 3's plot however they will not directly overlook the most private rear amenity space of this property which is considered to be the first 3-4m from the rear elevation of the dwelling.

- Density.

This has been discussed in detail in section 8 above.

- Cumulative impact of approved apartments (X/2012/0233/RM) and proposed dwellings meaning new residential units would outnumber existing properties.
- Increased density in the area due to the previous approval of 8 no. apartments under X/2012/0233/RM on lands to the west.
- Piecemeal development – 8 no. apartments planned on the site already with 4 no. dwellings proposed (meaning 12 residential units in total) and potential for more.
- Proposal should be assessed in context of the potential development and its overall impact on the area as a whole.

Cumulative effects are defined as changes to the environment caused by the combined impact of past, present and future human activities and natural processes.

The outline permission X/2007/0628/O was granted prior to the RM and the development commenced with the creation of the access and the demolition of No. 6. The RM permission was granted in 2012 and was found to meet policy in consultation with the relevant statutory bodies. This permission represented a development to replace a significant dwellinghouse (No. 6 Warren Avenue) with an apartment block on roughly the same footprint.

The cumulative impact of the approval of the apartment block alongside the proposed dwellings can only be considered unacceptable if the new application does not meet planning policy or if a statutory consultee raised an objection to the new application as consultees are aware of and take into account the site history of the area.

The new application has been assessed against planning policy, consultation has been carried out with the relevant statutory bodies, and it has been deemed to be acceptable and no objections have been raised. Therefore, it cannot be considered that the cumulative impact of the proposal and the previous approval will have a detrimental impact on the area.

The site is within the development limit of Donaghadee, and it is not unusual for development to be carried out in stages within the development limit of Donaghadee where there is evidence of similar densities to that proposed including other apartment blocks and residential developments.

- Overdevelopment.

The proposal is not considered to represent overdevelopment.

- Impact on character of area.

This has been discussed in detail in section 8 above.

- Impact on amenity of area.

This has been discussed in detail in section 8 above.

- Noise and general disturbance.

All development works will result in building works and heavy plant and machinery for construction works meaning disruption and noise will be experienced. However, this will only occur during the construction period meaning it is not a valid reason to withhold planning permission if the proposal meets planning policy. The material planning matter to consider in this case is whether the proposal is acceptable and the proposal has been deemed to be acceptable under policy.

- Raising of land to facilitate development.

All development works will result in groundworks. An existing site survey (drawing No. 17) and proposed site plan (drawing No. 16) have been provided showing minimal changes in levels as discussed in section 8 above.

- Infrastructure is inadequate to cope with additional dwellings.
- Cumulative impact on services e.g., water, water pressure, electric, sewage and bin collection.

The site is within the development limit and no issues have been raised by statutory consultees.

- Unacceptable house type, size and scale, and density in comparison to existing residential properties in Warren Avenue.

The proposal has been considered and assessed in section 8 above. The character of the area includes not just Warren Avenue but Warren Road also. There is a variety of house types, designs and densities in the area.

- Flood risk.

This has been discussed in detail in section 8.

- Climate change.

This has been discussed in detail in section 8.

## 9. Conclusion

The proposal has been considered having regard to all the material considerations, the relevant planning policies, relevant planning history, representations and comments received from statutory bodies. The principle of residential development on the site is acceptable given the existing residential development in this area which is within the development limit of Donaghadee.

I consider that the proposal will not result in an unacceptable adverse impact on the character or appearance of the immediate area. The height, scale and massing of the proposed dwellings is in-keeping with the established built form exhibited in the area and the development will not result in any adverse impact on the residential amenity of the existing adjacent dwellings.

Having weighed all the considerations, it is my recommendation that this application should proceed by way of an approval of planning permission.

## 10. Recommendation

**Grant Planning Permission**

## 11. 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. All hard and soft landscape works shall be completed in accordance with Drawing Number 16, bearing the date stamp 17th June 2021, during the first available planting season following the occupation of the first dwelling hereby approved.

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

3. All finished ground levels and finished floor levels shall be carried out in accordance with the approved details as indicated on the proposed site plan, Drawing Number 01/A bearing the date stamp 17th June 2021. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Council. All hard and soft landscape areas and works shall be permanently retained in accordance with the approved details.

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

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. Each dwelling hereby approved shall not be occupied until provision has been made within its curtilage for the parking of cars in accordance with the details set out on Drawing Number 16, bearing the date stamp of 17th June 2021. This parking provision shall be permanently retained thereafter.

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

6. 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 any dwelling hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension of any of these dwellings requires detailed consideration to safeguard the amenities of the surrounding area.

7. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no buildings or structures shall be erected within the curtilage of the dwelling houses



hereby permitted without the grant of a separate planning permission from the Council.

Reason: The erection of buildings within the curtilage of these dwellings requires detailed consideration to safeguard the amenities of the surrounding area.

8. A final detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Council in consultation with DAERA Water Management Unit (WMU) at least 8 weeks prior to the commencement of development to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

9. A final detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved by Council in consultation with the Shared Environmental Service (SES) prior to the commencement of development. The final CEMP shall reflect all the mitigation and avoidance measures detailed in the outline CEMP. The final CEMP shall be adhered to and implemented throughout the construction period and in accordance with the approved details, unless otherwise agreed in writing by the Council.

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

10. 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 the project will not have an adverse effect on the integrity of any European site, ensure protection to the aquatic environment and to ascertain that a feasible method of sewage disposal is available.

11. The first-floor bathroom and landing windows on house types A and B as shaded GREEN on Drawing Numbers 12A and 14A, bearing the date stamp of 17th June 2021, shall be fitted with obscure glazing prior to occupation and this obscure glazing shall be permanently retained thereafter.

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

12. A clearly defined buffer of at least 10 metres shall be maintained between the location of all construction works including refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and the boundary of the European sites.

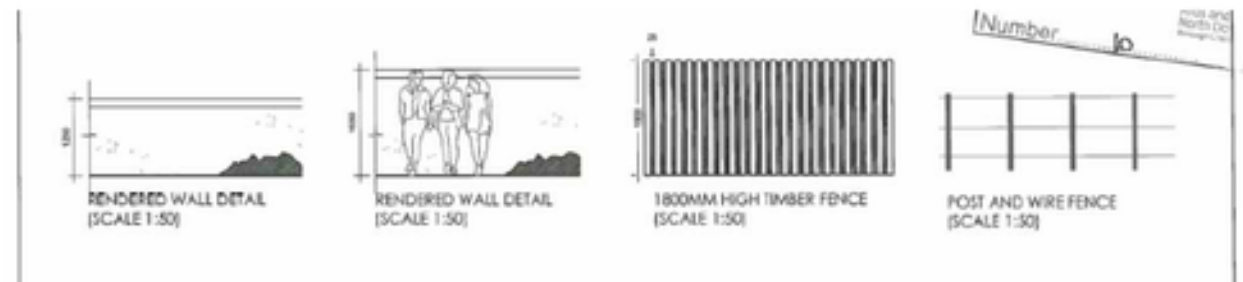
Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

**Informatives**

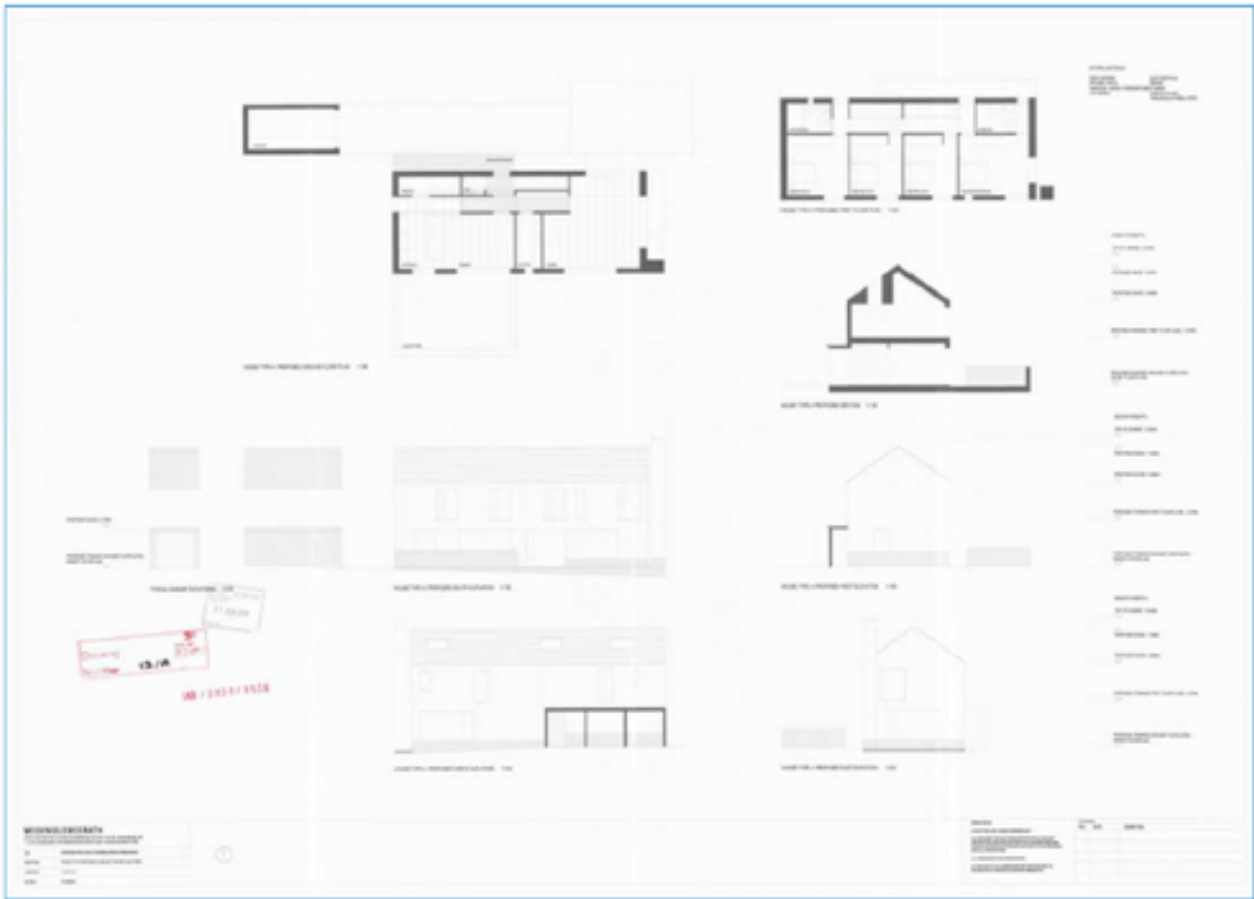
1. This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose.



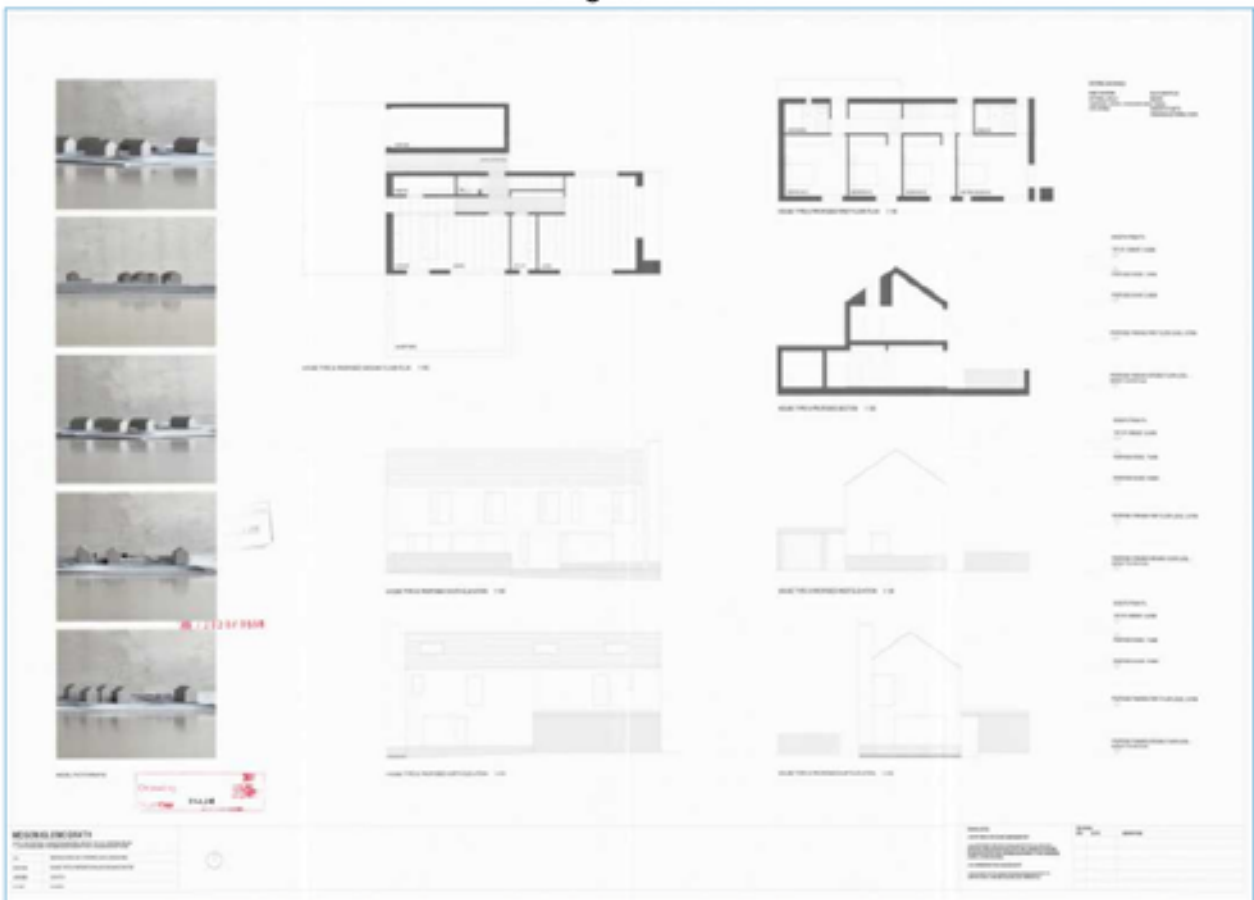
**Drwg No. 01/A**



**Drwg No. 10**



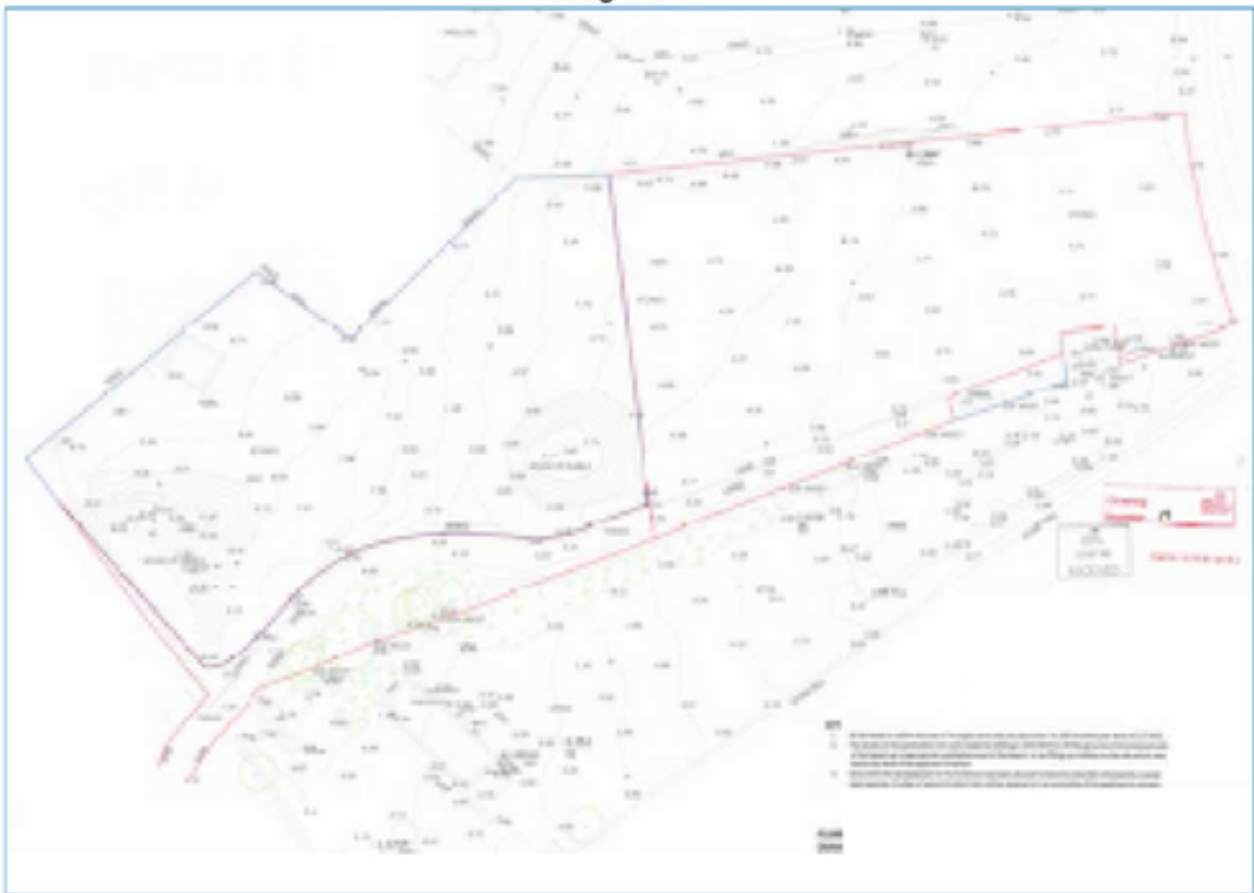
Drwg No. 12/A



Drwg No. 14/A



**Drwg No. 16**



**Drwg No. 17**












## ITEM 4.3

## Ards and North Down Borough Council

Application Ref	LA06/2022/0999/LBC
Proposal	Erection of Plaque on front elevation
Location	Ards Arts Centre, Town Hall, Conway Square, Newtownards DEA: Newtownards
Committee Interest	Council application
Validated	19/10/2022
Summary	<ul style="list-style-type: none"> <li>• Site located within development limit of Newtownards where presumption in favour of development</li> <li>• Newtownards Town Hall is a Grade B+ Listed Building, located in the Town Centre of Newtownards</li> <li>• Plaque is 560mm in diameter, with 5mm deep vivid blue face</li> <li>• Consultee HED no objections with condition requested</li> <li>• No objections received from 3<sup>rd</sup> parties</li> </ul>
Recommendation	<b>Consent</b>
Attachment	Item 4.3a – Case Officer Report

Development Management <b>Case Officer Report</b>			
<b>Reference:</b>	LA06/2022/0999/LBC	<b>DEA:</b> Newtownards	
<b>Proposal:</b>	Erection of Plaque on front elevation		
<b>Location:</b>	Ards Arts Centre Town Hall Conway Square Newtownards		
<b>Applicant:</b>	Ards and North Down Borough Council		
<b>Date valid:</b>	19.10.2022	<b>EIA Screening Required:</b>	No
<b>Date last advertised:</b>	03.11.2022	<b>Date last neighbour notified:</b>	n/a
<b>Letters of Support: 0</b>	<b>Letters of Objection: 0</b>	<b>Petitions: 0</b>	
<b>Consultations – synopsis of responses:</b>			
HED – Listed Buildings		No objections (subject to conditions)	
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>Impact on a Listed Building</li> </ul>			
<b>Recommendation: Grant Consent</b>			
<b>Report Agreed by Authorised Officer</b>			
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 <a href="https://epicpublic.planningni.gov.uk/publicaccess/">https://epicpublic.planningni.gov.uk/publicaccess/</a>			

## 1. Site and Surrounding Area

The application site consists of a substantial two-storey stone Town Hall, with a clocktower projecting from the centre. The building is a Grade B+ Listed Building, located in the Town Centre of Newtownards.



To the south of the site is Conway square, which is a large open paved area with planting and public seating around the perimeter. There are a mixture of land uses in the surrounding area, including residential and commercial, typical of a town of this size.

## 2. Site Location Plan



### 3. Relevant Planning History

No material planning history.

### 4. Planning Assessment

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

- Ards and North Down Area Plan 2009
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

#### **Principle of Development**

ADAP currently acts as the LDP for this area. The site is located within Newtownards Town Centre and in an Area of Archaeological Potential. The SPPS states that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance

Existing policy provisions that have not been cancelled by the SPPS are to remain a material consideration and are considered below.

PPS 6: Planning, Archaeology and The Built Heritage is the principal policy consideration in relation to this type of development. Policy BH 8 Extension or Alteration of a Listed Building.

Permission will normally only be granted to proposals for the extension or alteration of a listed building where all the following criteria are met:

- (a) the essential character of the building and its setting are retained, and its features of special interest remain intact and unimpaired;
- (b) the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- (c) the architectural details (e.g., doors, gutters, windows) match or are in keeping with the building.

Listed Building Consent is sought for the erection of a circular plaque on the wall to the right of the main entrance of the town hall building. The plaque will be 560mm in diameter, with a 5mm deep vivid blue acrylic face. The Ulster History Blue plaque on the Town Hall in Conway Square is in honour of the Viscount Castlereagh. It will state 'Robert Stewart, VISCOUNT CASTLEREAGH KG, 2<sup>ND</sup> MARQUESS OF LONDONDERRY, 1769-1822, Statesman lived in Newtownards.

Owing to its modest scale, the plaque would have deemed consent under Schedule 3, Part 1, Class 2(3) of the Planning (Control of Advertisements) Regulation (NI) 2015. However, Listed Building Consent is required given it will be fixed to a listed building.

HED have been consulted on this application and consider the alterations are minor in nature and do not affect the essential character of the listed building. A condition has been suggested and is detailed in Section 7. Although HED recommend that the plaque should be metal, it seems the Ulster History Circle do not to provide metal plaques. HED comment they will accept the acrylic, considering the plaque is to be placed at quite a high level, making it more difficult to determine the material.



*Proposed Elevation*

Overall, the changes make minimal impact on the appearance of the property and HED are now content the special character and features of the listed building will be preserved.

## 5. Representations

No representations were received.

## 6. Recommendation

**Grant Consent**

## 7. Conditions

1. The proposed works must be begun not later than the expiration of 5 years beginning with the date on which this consent is granted as required by Section 94 of the Planning Act (Northern Ireland) 2011.

Reason: Time Limit.

2. The proposed plaque shall be in accordance with Drawing 01 bearing the date stamp 29<sup>th</sup> September 2022. It shall have no more than three reverse pins drilled into the listed fabric for fitting the plaque and where possible, pins shall be fixed into the mortar joints and not the stonework.

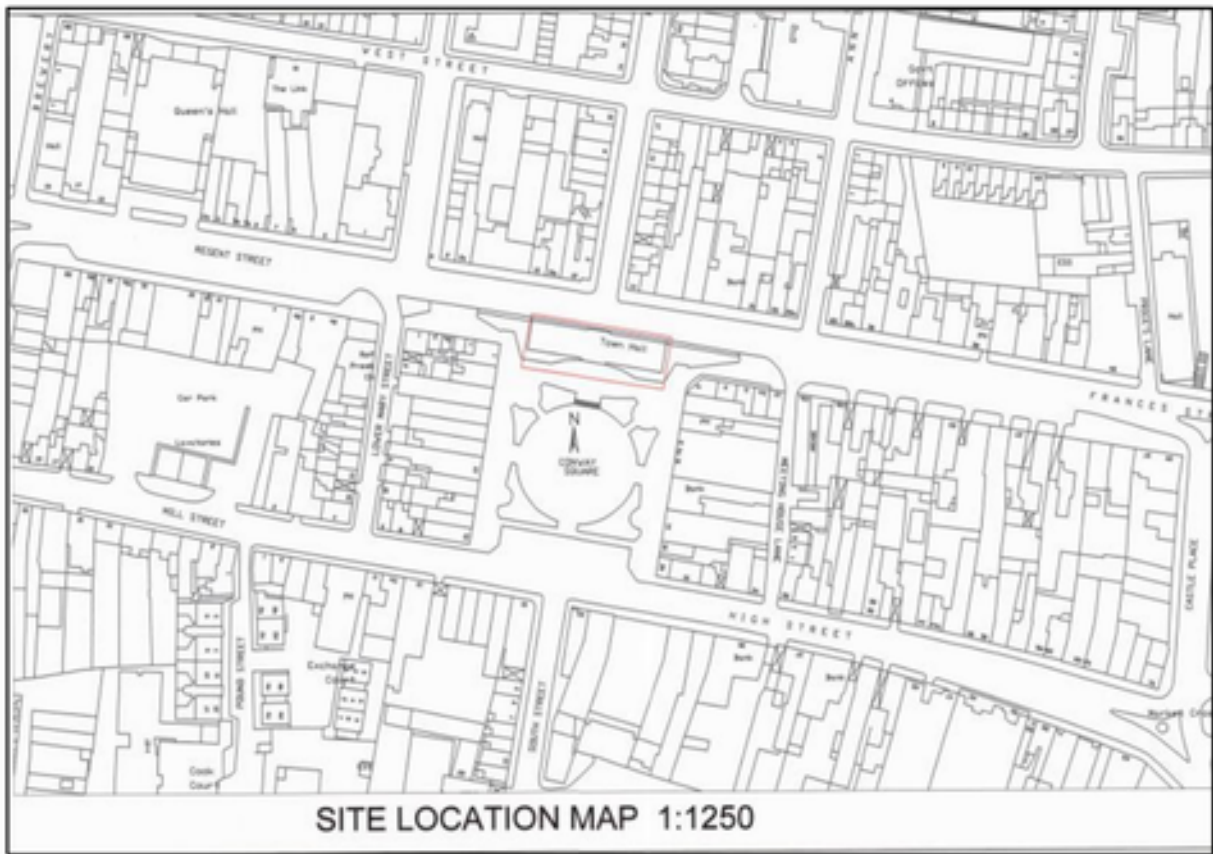
Reason: To ensure the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired.

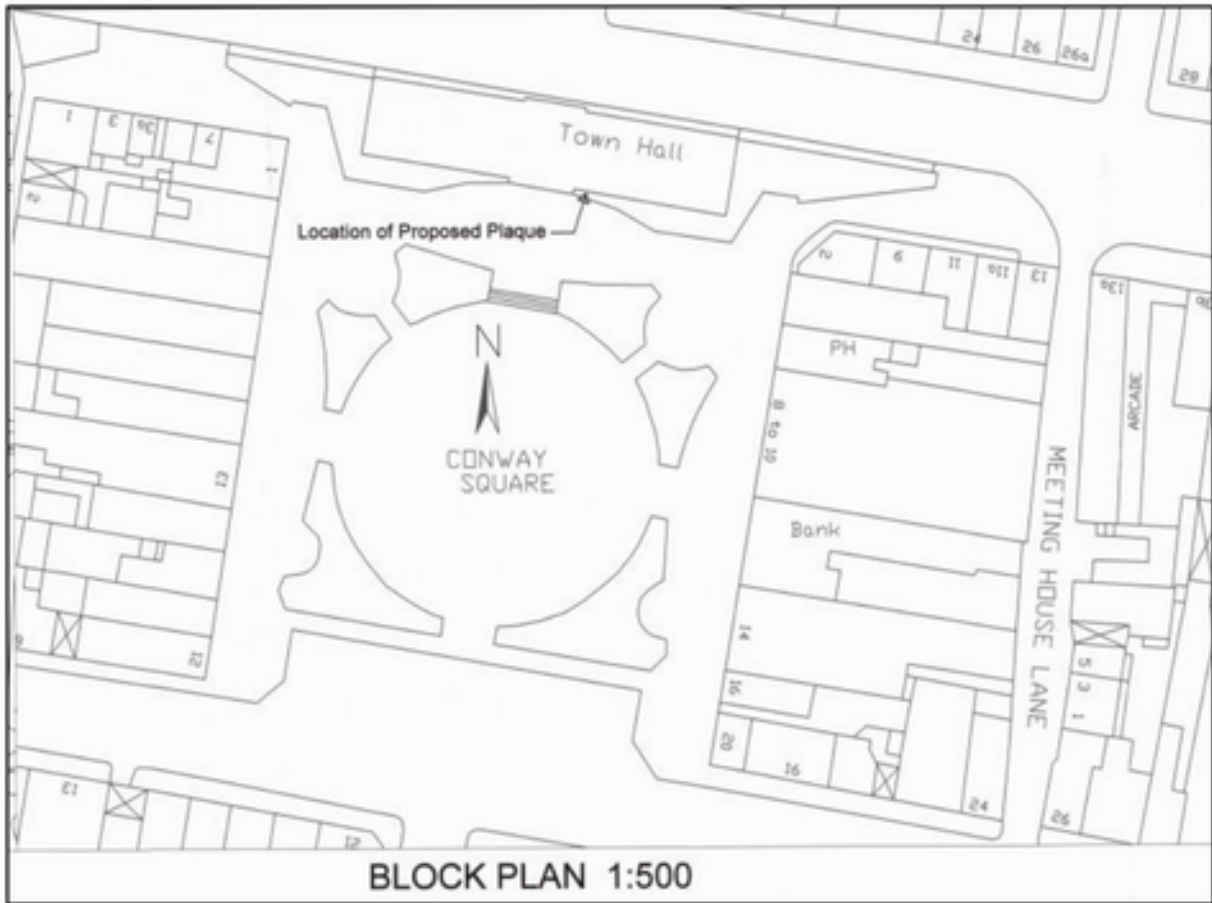
**Informative**

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.

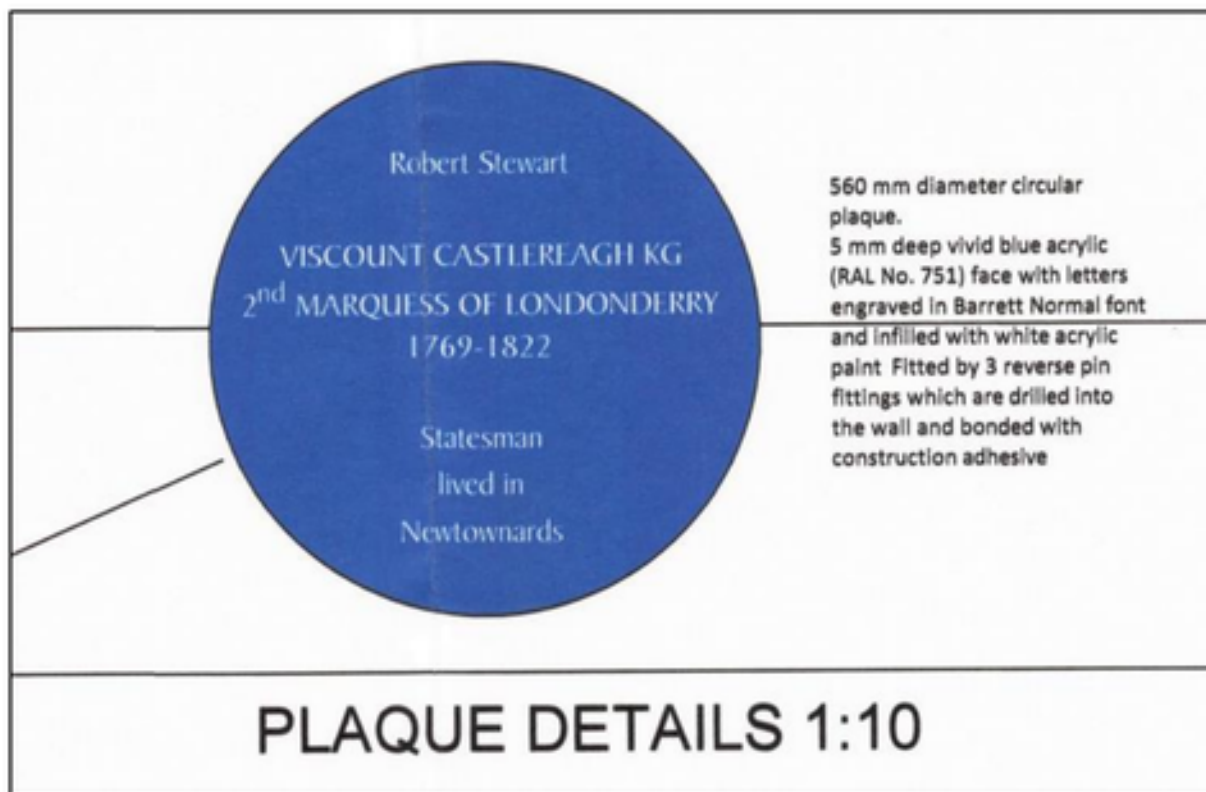
**Case Officer  
Signature:**

**Date:**









## ITEM 5

## Ards and North Down Borough Council

Council/Committee	Planning Committee
Date of Meeting	07 February 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	24 January 2023
File Reference	Planning Committee
Legislation	Planning Act (NI) 2011
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/>
Subject	Update on Planning Appeals
Attachments	Item 5a – PAC Report on 2021/A0155 Item 5b – PAC Decision on 2021/A0155 Item 5c – PAC Decision on 2021/A0053 Item 5d – PAC Decision on 2021/A0084

## Appeal Decisions

- The following appeal as dismissed on 23 November 2022.

PAC Ref	2021/A0155
Application ref	LA06/2019/1176/O
Appellant	Ray Jackson
Subject of Appeal	Two dwellings and garages
Location	Lands between 59 Thornyhill Road and 44 Ballymacashen Road, Killinchy

The Council refused this application on 08 November 2021 for the following reasons:

- The proposal is contrary to the SPPS and Policy CTY1 of PPS 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

- ii. The proposal is contrary to the SPPS and Policy CTY8 of PPS 21, Sustainable Development in the Countryside, in that the proposal does not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and would, if permitted, add to the ribbon of development along the Ballymacashen Road.
- iii. The proposal is contrary to the SPPS and Policy CTY14 of PPS 21, Sustainable Development in the Countryside, in that the dwellings would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and would add to a ribbon of development which would therefore result in a detrimental change to further erode the rural character of the countryside.

A previous appeal in relation to refusal of the same proposal on the same site (LA06/2017/1416/) was dismissed in June 2019 as it was considered that the gap could accommodate more than two dwellings and therefore did not constitute a small gap site for the purposes of Policy CTY 8.

The appellant then constructed a small shed in an attempt to lessen the gap and sought a Certificate of Lawfulness regarding that building falling under permitted development. However, he then carried out changes to that building which means that what is existing is not lawful and could not therefore be weighed in the consideration of the policy requirements.

Irrespective of whether the above building was to be deemed lawful, the Commission sustained the Council's other reasons for refusal.

2. The following appeal was dismissed on 29 November 2022.

PAC Ref	2021/A0053
Application ref	LA06/2020/0709/F
Appellant	Mr Michael Cleland
Subject of Appeal	Increase in domestic curtilage and retention of store
Location	Land immediately to the north of 39 Florida Road, Killinchy

The Council refused the above application on 05 May 2021 for the following reasons:

- i. The proposal is contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- ii. The proposal is contrary to the provisions of the SPPS and Policy CTY 13 of PPS 21 in that the proposal would, if permitted, fail to be visually integrated into the surrounding landscape and will result in a prominent feature in the landscape because the design of the building is inappropriate for the site and its locality.

- iii. The proposal is contrary to Policy CTY 14 of PPS 21 in that the building would, if permitted, result in the creation of ribbon development and would therefore result in a detrimental change to the rural character of the countryside.
- iv. The proposed building is contrary to Policy EXT 1 of PPS 7 as the proposal lies outside the domestic curtilage of the existing dwelling known as 39 Florida Road, it is not considered subordinate or sympathetic to the appearance of the main dwelling, and if permitted would result in development that is detrimental to the character of the local area.

The appellant tried to argue that the area on which the shed was situated was part of the original curtilage as approved for the dwelling; however, the Commissioner considered the orthophotography supplied by the Council which showed the land as being outside the established curtilage and in agricultural use in conjunction with adjacent land, alongside the fact that the appellant chose to make a planning application for an increase in domestic curtilage.

As the Commissioner considered that the land on which the shed was situated as agricultural, permission was required for the change of use from agricultural use to residential use, and as such the Council's fourth reason for refusal in respect of PPS 7 was not relevant, but considered that if it were, the shed would not comply.

In respect of the design of the shed, the Commissioner considered the shed to be of a design that is common the countryside, and that with additional planning the building could be adequately integrated into the surrounding landscape, and as such the Council's second reason for refusal was not sustained.

The Council's third reason for refusal in respect of detrimental impact on rural character was upheld, and as such the appeal was dismissed.



3. The following appeal was dismissed on 05 January 2023.

PAC Ref	2021/A0084
Application ref	LA06/2020/0874/O
Appellant	Ms Beverley Healy
Subject of Appeal	Site for dwelling
Location	Lands immediately to the side and rear of No.36 Lisbane Road, Kircubbin

The Council refused the above application on 30 July 2021 for the following reasons:

- i. The proposal is contrary to Policy CTY2a of PPS 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point and is not located at cross-roads and the dwelling would, if permitted, significantly alter the existing character of the area and visually intrude into the open countryside.
- ii. The proposal is contrary to Policy CTY1 of PPS 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- iii. The proposal is contrary to Policy CTY14 of PPS 21, Sustainable Development in the Countryside, in that the dwelling would, if permitted, result in a detrimental change to the rural character of the countryside and add to a ribbon of development.
- iv. The proposal is contrary to Policy AMP 2 of PPS 3, Access, Movement and Parking, in that it has not been demonstrated that the access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

While it was acknowledged that there was a grouping of mainly roadside development, the Commissioner considered that it was not a cluster and that the proposal failed to meet any of the criteria listed in CTY2a of PPS 21.

The appellant expressed the view that the present definition of a cluster within regional planning policy was too strict, prohibiting natural local growth, however, the Commissioner considered that this appeal was not the forum for requesting changes to regional planning policy as it was a matter for the Department for Infrastructure.

The Commissioner considered that the approach to the appeal site did not read as a cluster but appeared more as a ribbon of development along the Lisbane Road. With the proposal being located at the end of this ribbon of development it would in effect extend it. There is no focal point such as a social/community building/facility at this location and the site is not located at cross-roads.

The Commissioner also considered that the proposed development would be detrimental to the character of the countryside. In relation to the access arrangements for the site, the appellant could not demonstrate that the proposal would not prejudice the safety and convenience of road users or significantly inconvenience the flow of traffic.

As the proposal did not meet any of the listed criteria within CTY2a it was not one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1 and therefore the Commissioner considered that the Council's four reasons for refusal were sustained.

4. The following appeal was withdrawn on 15 December 2022.

PAC Ref	2022/A0080
Application ref	LA06/2019/0518/O
Appellant	David Bryce
Subject of Appeal	Refusal Re: Off-site replacement dwelling and garage (existing building to be retained for ancillary use to the main house)
Location	25m North of 22 Lisbane Road, Comber

### New Appeals Lodged

5. The following appeals were lodged in December 2022, and January 2023.

PAC Ref	2022/A0161
Application ref	LA06/2021/0975/O
Appellant	Arlene Aston
Subject of Appeal	Single dwelling (equestrian business)
Location	Land adjacent to and to SW of 3 Castle Meadows, Carrowdore

PAC Ref	2022/A0170
Application ref	LA06/2021/1465/A
Appellant	British Telecom Plc
Subject of Appeal	2 No. digital 75" LCD screens, one on each side of the Street Hub unit
Location	Footpath outside the Courthouse 16 Quay Street, Bangor

PAC Ref	2022/E0045
Application ref	LA06/2022/0128/CA EN/2022/0129
Appellant	Samuel Townsley
Subject of Appeal	Alleged: 1. Unauthorised extension to dwelling; 2. Unauthorised extension to domestic curtilage and creation of hardstanding; 3. Unauthorised domestic store within extended domestic curtilage
Location	Land at 86 Ballydrain Road, Comber

PAC Ref	2022/A0184
Application ref	LA06/2021/0375/O
Appellant	John McKee
Subject of Appeal	2 detached dwellings with garages and ancillary works
Location	Lands located between nos. 20 and 20A Lower Balloo Road, Groomsport and no. 160 Springwell Road, Bangor

Details of appeal decisions, new appeals and scheduled hearings can be viewed at [www.pacni.gov.uk](http://www.pacni.gov.uk).

### RECOMMENDATION

It is recommended that Council notes this report.

**PLANNING APPEALS COMMISSION**

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

**Appeal by Ray Jackson  
against the refusal of outline planning permission for two dwellings and garages  
at lands between 59 Thornyhill Road and 44 Ballymacashen Road, Killinchy**

**Report  
by**

**Commissioner Cathy McKeary**

**Planning Authority Reference:** LA06/2019/1176/O

**Procedure:** Written Representations

**Commissioner's Site Visit:** 2<sup>nd</sup> August 2022

**Report Date:** 4th November 2022



## 1.0 BACKGROUND

- 1.1. Ards and North Down Borough Council received the planning application on 22<sup>nd</sup> November 2019. By notice dated 8<sup>th</sup> November 2021, the Council refused outline planning permission giving the following reasons:
1. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
  2. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and would, if permitted, add to the ribbon of development along the Ballymacashen Road.**
  3. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwellings would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would add to a ribbon of development which would therefore result in a detrimental change to further erode the rural character of the countryside.**
- 1.2. The Commission received the appeal on 1<sup>st</sup> December 2021 and advertised it in the local press on 23<sup>rd</sup> December 2021. There were no representations received from third parties either at application or appeal stage.

## 2.0 SITE AND SURROUNDINGS

- 2.1 The site is located on the Ballymacashen Road 2.9km south-west of Killinchy. It is approximately 40 metres from the junction with Thornyhill Road and Ballymacashen Road and consists of two agricultural fields along the roadside. The roadside boundary is defined by a high verge and mature hedgerow some 2 metres in height. The western boundary is a mixed native species hedgerow and shrub boundary some 2 metres high while the eastern boundary is relatively undefined with a few immature trees along it. The north eastern boundary to the rear of the site is also undefined. An approximately 2 metre high hedgerow, interspersed with mature trees, divides the two fields. The land within the appeal site rises from the level of the road.
- 2.2 The area is rural with some sporadic residential development. A single storey detached dwelling and detached garage exists at 44 Ballymacashen Road. This dwelling is located to the appeal site's western boundary. A single storey dwelling is located opposite the appeal site at 47 Ballymacashen Road. A large detached single storey dwelling and detached garage are located at 59 Thornyhill Road. This dwelling and garage are located to the site's eastern boundary. A small building is

positioned to the rear of this dwelling and is sited to the far west of this dwelling's curtilage. This small building is positioned along the rear part of the eastern boundary of the appeal site.

- 2.3 The small building at 59 Thornyhill Road is set back by approximately 30 metres from the edge of the road. The building has a mono pitched roof and has a footprint of approximately 4 metres by 2.5 metres. The building is rendered with a corrugated roof and there are two small windows and a door on the elevation facing the dwelling at 59 Thornyhill Road.

### **3.0 PLANNING AUTHORITY'S CASE**

- 3.1 The site consists of the roadside section of two agricultural fields. The fields have a frontage onto a minor country road located some 2.9km south-west of Killinchy. A mature hedge defines the road frontage, the rear of the site (the eastern boundary) remains undefined. There is an 'internal' hedgerow and some trees separating the two fields. There are three bungalows in the immediate area, two adjacent to the site, and the other is located opposite the site on the Ballymacashen Road.
- 3.2 The dwelling at 44 Ballymacashen Road has a detached garage to the east of its curtilage. There is a small shed to the rear of the dwelling at 59 Thornyhill Road, located to the rear of the curtilage and along the south-eastern boundary of the application site. The bungalow to the southeast of the site, at 59 Thornyhill Road, belongs to the appellant and occupies a corner location with frontage onto both the Ballymacashen Road and Thornyhill Road. The boundary between the appellant's property and the appeal site is defined by post and wire fencing. The appeal site is on a small hill. The land rises from the rear of the appellant's property and plateaus at the western side of the second field before gently falling again. The two dwellings are not intervisible. The Ballymacashen Road is the more minor of the two roads. While there are a number of roadside dwellings and larger farm holdings set back from the road, the area has maintained a strong degree of rural character.
- 3.3 Since the previous application (LA06/2017/1416/O) and the subsequent appeal (2018/A0166), a shed has been erected to the rear of the dwelling at 59 Thornyhill Road. This appeal must therefore consider whether or not the erection of the shed has resulted in the creation of an additional building along the frontage which would reduce the size of the gap, rendering it sufficiently small in size to now accommodate no more than two dwellings.
- 3.4 Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had for the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise.
- 3.5 The Ards and Down Area Plan 2015 (ADAP) operates as the Local Development Plan. The appeal site is within the countryside outside any development limit designated in the plan. The Ards and Down Area Plan 2015 contains no specific policies relating to dwellings in the countryside at this location, therefore the relevant policy context is provided by Planning Policy Statement 21, Sustainable Development in the Countryside (PPS21), which, as made clear in the Strategic Planning Policy Statement (SPPS), is a retained policy document.

- 3.6 Paragraph 6.73 of the SPPS and Policy CTY1 of PPS21 set out a range of types of development which in principle are acceptable in the countryside and that will contribute to the aims of sustainable development. Outline permission is sought under Policy CTY8 of PPS21 for two dwellings and garages. It is considered that the proposed dwellings on the appeal site would fail to meet the policy requirements for the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.
- 3.7 Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. The policy has an exception which allows for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
- 3.8 The first step in determining whether an infill opportunity exists is to identify whether there is a substantial and continuously built up frontage present. The Commission's accepted position is that a building has a frontage to a road if the plot on which it stands abuts or shares a boundary with the road. The previous appeal on the site (2018/A0166) concluded that there is a substantial and continuously built up frontage, taking into account the dwellings at 44 Ballymacashen Road, its garage and the dwelling at 59 Thornyhill Road.
- 3.9 The three sided shed to the rear of the dwelling at 59 Thornyhill Road has an eaves height of 1.9 metres to the rear and 2.4 metres at the front elevation. It has a length of 4 metres and a width of 2.5 metres and has an area of 10 square metres. It has a corrugated tin roof and concrete block walls finished in smooth sand cement plaster. Given the shed is set-back 47 metres from Thornyhill Road, 34 metres behind the front elevation of the dwelling at 59 Thornyhill Road and its small scale, the shed is barely appreciable from the road. Due to the small scale and ancillary, subordinate nature of the shed, the Council would not consider it as a building along the road frontage which would result in the creation of a smaller gap for the purposes of an infill site under policy CTY8. This building does not benefit from planning permission under a Certificate of Lawfulness of Existing Use or Development (LDC) (LA06/2019/0993/LDE) which certified a three sided 'open' building, not a fully 'enclosed' building with a door and window. The gap is therefore considered to remain at 160 metres between the garage of 44 Ballymacashen Road and the dwelling at 59 Thornyhill Road. As concluded by the Commission and the previous appeal referenced, this is not considered to be a small gap as it could accommodate more than two dwellings.
- 3.10 The Commission has previously determined other appeals where ancillary sheds and garages within the curtilage of dwellings have not been considered to have a frontage to the road. One such example is appeal 2018/A0080. This proposal was for a dwelling and garage at lands between 34 and 38 Seafin Road, Killeavy. In that appeal, while the dwelling at 34 Seafin Road was considered to have a frontage to the road, the garage was not, given its subordinate spatial arrangement within the plot.

- 3.11 The Council argues that the Commission should apply this same policy interpretation and assessment to the current appeal under consideration. The shed in question to the rear of 59 Thornyhill Road is considerably smaller in size than the garage at 34 Seafin Road and is very clearly subordinate to the dwelling. Furthermore, there is no visual appreciation from the road of the shed as a separate building within the frontage. Therefore, the Council remains of the opinion that the proposed development does not meet the exception test contained within Policy CTY8 as the appeal site is not considered to be a small gap and creates or adds to a ribbon of development.
- 3.12 Policy CTY 8 allows for a maximum of two dwellings on a small gap site within a substantial and continuously built up frontage. It is considered that the gap between the buildings is sufficient to accommodate more than two dwellings. The shed is not considered to be a separate building with a frontage to the road, rather it is ancillary and subordinate to the dwelling at 59 Thornyhill Road, in line with the Commission's determination on a similar appeal as outlined above. The site is not considered to be a small gap site and if permitted it would have a detrimental impact on the rural character of the countryside. Furthermore, no persuasive evidence to demonstrate that the proposal is essential was submitted with the application. The proposed dwellings have not been determined as essential in this rural location and therefore, the proposal fails to meet Policy CTY1 of PPS21.
- 3.13 In addition it is considered that the proposal would create a suburban style build-up of development along Ballymacashen Road. The proposed dwellings and associated garages, if approved, would result in four detached dwellings in a row as well as a dwelling opposite. The Commission concluded that the previous appeal on the site should also fail on these grounds. The appeal site has a roadside boundary of a small hedgerow and the land itself contributes positively to the rural character in this area and represents an important visual break in the developed appearance of the locality by providing relief. This proposal would significantly erode the rural character of the area and cause a detrimental change to the surrounding rural area. The Council contends that there has been no change in circumstances at the appeal site which would warrant any change in opinion regarding the adverse impact of suburban style development which would be created if this appeal was allowed.
- 3.14 Even if it was to be considered that the proposal no longer offends policy CTY8 following the erection of the above mentioned shed, the proposal would still remain contrary to criterion (b) of Policy CTY14 in that the development would result in a suburban style of build up when viewed with the existing buildings. The Council considers the proposal is contrary to the provisions contained in the SPPS and Policies CTY1, CTY8, and CTY14 of PPS21.
- 3.15 However, should the Commission determine that planning permission be granted, the Council would recommend that the conditions set out below are added to the decision for each proposed dwelling:
- Time limit
  - Maximum ridge height of 5.8 metres above finished floor level
  - Underbuild not exceeding 0.35 metres at any point
  - Reserved matters application showing design, levels and access details

- Requirement for a landscaping plan for retention of, replacement of and proposed landscaping.

#### 4.0 APPELLANT'S CASE

- 4.1 The proposal is for two dwellings and garages located between the dwellings at 59 Thornyhill Road and 44 Ballymacashen Road. The first and second refusal reasons relate to the principle of development and in essence all relate back to CTY8. If the proposal is considered to meet CTY8 then the concerns relating to CTY1 and the SPPS, insofar as the principle of development, will fall away. The second refusal reason also states that the proposal would, if permitted, result in ribbon development.
- 4.2 The third refusal reason relates to the SPPS and CTY14 and alleges that the proposal will result in a suburban style of build up when viewed with existing and approved buildings and will add to a ribbon of development and therefore result in a detrimental change to, and further erode the rural character. Policy CTY8 allows an exception to ribbon development where it results in the development of a small gap site in accordance with the provisions of Policy CTY8. Therefore, if the proposal demonstrates compliance with CTY8 then the third refusal reason should also fall away as this would be an acceptable form of ribbon development in a small gap site.
- 4.3 Planning permission was previously refused for the same development, on the same site, under planning reference LA06/2017/1416/0. This decision was appealed under appeal 2018/A0166 and was dismissed. In that appeal decision the Commissioner stated the following, "*...The appeal site comprises a rectangular plot with a frontage of some 125m onto Ballymacashen Road. It is bounded by (sic) to the west by the curtilage of 44 Ballymacashen Road and to the east by the curtilage of 59 Thornyhill Road. Both these dwellings are set in generous plots as is No. 47, which fronts the southern side of Ballymacashen Road opposite the appeal site.*
- 4.4 *The dwelling at 44 Ballymacashen Road, its detached garage and the dwelling at 59 Thornyhill Road comprise a line of 3 or more buildings along a road frontage without accompanying development to the rear and therefore constitute a substantial and built up frontage for the purpose of Policy CTY8. There is a 160m gap between buildings (appellant's emphasis) within these relevant curtilages. Notwithstanding the size, scale, siting and plot size within the relevant frontage, I conclude, having observed the area, that the relevant gap, of which the appeal site forms part, could accommodate more than two dwellings in a manner that would respect the existing development pattern along the frontage. Consequently, the appeal site does not constitute a small gap site, set out in Policy CTY 8 as acceptable in the countryside."*
- 4.5 Since that decision, the policy context has not changed, but there has been a change in circumstances on the ground that warrants a different decision. Ultimately the crux of this appeal is whether the site now represents a small gap. The aforementioned change involves the construction of a new block built garden shed in the curtilage of 59 Thornyhill Road, carried out under permitted development rights and which benefits from a LDC (LA06/2019/0993/LDE). As a result of this new building the gap between buildings is now 131 metres not 160 metres.
- 4.6 In the development management case officer's report, the case officer states, "*Given its set-back, small size and scale the shed is barely appreciable from the road.*

*Therefore, it is concluded that given the scale and subordinate nature of the shed, it cannot be used as a 'building' to lessen the gap. The gap is considered to remain at 160m, which is not considered to be a 'small gap' as it could accommodate more than 2 dwellings."*

- 4.7 However, this conclusion is irrational on several fronts. Paragraph 6.3 of appeal decision 2011/A0277 states that *"the policy does not state that the buildings should be prominent or that ancillary buildings which form part of a residential unit of curtilage are to be discounted"*. This confirms that any building is therefore a qualifying 'building' under this policy, even if little or none of it can be seen from the roadside. Appeal 2011/A0277 confirms that any building is therefore a qualifying building under this policy, regardless of its size and whether or not it is prominent from the roadside. There is no scale or visual test provided by Policy CTY8. In accordance with paragraph 5.34 in the Justification and Amplification of Policy CTY8, it is the gap between buildings that is relevant. This is a long settled position of the Commission. Therefore, if the new building meets the definition of a building, then the gap must be measured as laid out above.
- 4.8 The definition of a building provided by Section 250 of the Planning Act (NI) 2011 is relevant. This states that a building *"includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building"*. The subject building clearly meets this definition. In addition it is helpful to further consider whether the building is a building for the purposes of Policy CTY8, and in the absence of a definition in policy CTY8 the decision maker must look at the building on a fact and degree basis.
- 4.9 A mechanical digger excavated foundations for the building. The walls of the building have been built on a solid foundation of dry mix concrete. It is built with concrete blocks which are load bearing for the roof, and has a roof formed of rafters and corrugated tin. There is a front door and a front window. The building has power in the form of electrical sockets and a light and has a solid sand and cement screed floor. There is a hardstanding laid to the front which comprises of paving slabs. The building is permanently fixed to the ground and is clearly of permanent construction which has been painted. There is a clear entrance to the building with the provision of a window for natural light for use during daylight hours and an electrical light for use during hours of darkness. The building is an ancillary building associated with the dwelling at 59 Thornyhill Road. This building should be judged on its merits, and it is a matter of fact and degree that this building is clearly a permanent building for the purposes of interpreting Policy CTY8. Furthermore, a LDC (LA06/2019/0993/LDE) confirms that the building is lawful.
- 4.10 Appeal decision 2018/A0080 does not stand on all fours with this appeal for the following reasons. The Commission determined in case 2018/A0080 that the spatial arrangement of the shed to the side and rear of the dwelling resulted in the shed not having frontage to the road. The Commissioner did not even get past the first baseline test of CTY8 and determined that there was no substantial and continuously built up frontage at all, and as a result did not discuss the merits of the building being a building for the purposes of measuring the gap site. The current appeal site is distinguishable on several fronts.

- 4.11 The Commission and Council are already in agreement that this current gap site is situated in a substantial and continuously built up frontage as referred to in appeal decision 2018/A0166. The dwelling at 59 Thornyhill Road addresses two public roads those being the Thornyhill Road and Ballymacashen Road. It is apparent that the current shed in question has a clear and obvious relationship to Ballymacashen Road such that it is neither to the side or rear of the dwelling at 59 Thornyhill Road when viewed from Ballymacashen Road but is instead located clearly in the middle of a line of buildings with frontage to this road. Therefore, the current shed does not have a “*subordinate spatial relationship within the plot*” and is not comparable to the appeal case cited. The building has already been shown to be a building of permanent construction that should form part of the analysis of the gap site.
- 4.12 The Council has misunderstood the Commissioner’s reason for discounting that particular shed from the frontage assessment. The Commissioner considered that the garage did not have frontage given its “*subordinate spatial arrangement within the plot*” and not the fact that it was subordinate to the dwelling as alleged by the Council. This current appeal is wholly distinguishable from appeal decision 2018/A0080.
- 4.13 The change in circumstances has resulted in a gap site measuring 131 metres, measured between the garage at 44 Ballymacashen Road and the new outbuilding at 59 Thornyhill Road. In determining what is a small gap for the purposes of Policy CTY8, the gap must not be capable of accommodating more than two dwellings which would be respectful of the existing development pattern along the frontage in terms of size, scale, siting and plot size.
- 4.14 The figures below show the measurements used to explain the appellant’s case. The dwelling at 44 Ballymacashen Road measures 96 metres across its frontage while the dwelling at 59 Thornyhill Road measures 49 metres across its Ballymacashen Road frontage when measured to the edge of verge maintained by appellant. The gap between the buildings is 131 metres and the average existing plot width is 73 metres. The appeal site has a 125 metres frontage, if laid out for two plots each would measure 62.5 metres wide, a measurement lying neatly within the respective 96 metres and 49 metres frontage widths of Nos. 44 and 59.
- 4.15 At Page 71 of Building on Tradition it states, “*When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.*” If one uses the average plot width of 73 metres as a guide, it would not be possible to accommodate three plots within the 131 metres gap as three plots would require a 219 metre frontage i.e. three plots by 73 metres which equals 219 metres. If three plots were squeezed into the 131 metre gap, the plots would have a frontage measurement of 43 metres each, which is significantly less than the average plot width, and more significantly these plots would not be in keeping with the established development pattern in terms of siting or plot size.
- 4.16 When comparing the average site areas of the adjoining plots and proposed plots, it demonstrates how the proposal is respectful of plot sizes in the area. No. 44 Ballymacashen Road plot site area measures 2278 square metres and No. 59 Thornyhill road plot site area measures 4350 square metres therefore the average site area of existing sites is 3314 square metres. The area of each proposed site is 2718 square metres (total 5436 square meters) and if one were to squeeze three

plots into the gap site, the plot sizes would be significantly out of character at only 1812 square metres each.

- 4.17 The above consideration demonstrates that the proposed site is a 'small gap site' sufficient to accommodate up to a maximum of two houses. The provision of two plots within the subject site can meet all the tests within CTY8 i.e. they can be designed to be suitable in terms of size and scale, and they can also clearly meet the siting and plot size stipulation. In addition, they would meet the planning and environmental considerations given they would be sited correctly relative to the surrounding properties and not appear crammed in.
- 4.18 Policy CTY8 allows an exception to ribbon development where it results in the development of a small gap site in accordance with the provisions of Policy CTY8, therefore as the proposal demonstrates compliance with Policy CTY8 the proposal cannot be considered to be an unacceptable form of ribbon development, and this rebuts the last part of refusal reason 2.
- 4.19 The third refusal reason relates to Policy CTY14 and alleges that the proposal will result in a suburban style of build up when viewed with existing and approved buildings and create a ribbon of development and therefore result in a detrimental change to and further erode the rural character. To meet the infill policy it is necessary in the first instance to prove that there is a substantial and continuously built up frontage. The Council and the Commission have already acknowledged this exists. In essence, the rural character of this localised area is already eroded to such an extent that the policy allows for the gap in the 'build up' and 'ribbon' to be infilled, that is consolidated. By demonstrating that the proposal meets the exceptional requirements of CTY8, it follows that it cannot be unacceptable in terms of build up or ribboning as set out in paragraph 10 of appeal decision 2015/A0091 and paragraph 10 of appeal decision 2014/A0207.
- 4.20 With reference to the proposed condition limiting underbuild, part of the appeal site is sloping in nature and to ensure that the design of the dwelling is as sympathetic to the existing ground levels as possible, it is considered more advantageous to not stipulate a fixed underbuild depth but let it be assessed on its merits on receipt of the detailed plans. This will prevent unnecessary cut into the slope.

## 5.0 CONSIDERATION

- 5.1 The main issues in this appeal relate to whether the proposal would be acceptable in principle in the countryside; and its impact on visual amenity and rural character of the area.
- 5.2 Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan (LDP) so far as material to the application and to any other material considerations. Section 6(4) of the Act requires that where in making any determination, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.3 The Ards and Down Area Plan 2015 (ADAP) operates as the relevant LDP where the appeal site is located. In ADAP, the site is located in the countryside and outside



any specific policy area. The plan provides no determining policy to consider single dwellings in the countryside and is not material.

- 5.4 The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. No conflict arises between the policy provisions of the SPPS and the retained policy contained in PPS21 in so far as they relate to this appeal. Supplementary planning guidance for buildings in the countryside is set out in the document "Building on Tradition" – A Sustainable Design Guide for Northern Ireland Countryside (BOT).
- 5.5 Policy CTY1 of PPS21 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 these is the development of a small gap site within an otherwise substantial and continuously built-up frontage, in accordance with Policy CTY8 Ribbon Development.
- 5.6 The appeal site was the subject of a previous appeal (2018/A0166) which was dismissed on 17<sup>th</sup> June 2019. In that appeal it was accepted that the site is within a substantial and continuously built-up frontage. However, it was considered that the gap could accommodate more than two dwellings in a manner that would respect the existing development pattern along the frontage. Consequently, in appeal decision 2018/A0166 it was considered the site was not a small gap site for the purposes of Policy CTY8 and the refusal reason was sustained.
- 5.7 The Council's concern is that in respect of this proposal the proposed two dwellings adds to the ribbon of development along the road. The Council does not accept that the site is a small gap site for the purposes of the policy. From the evidence in this appeal, I note that both the Council and the appellant accept that the appeal site is within a substantial and continuously built-up frontage. This is consistent with appeal decision 2018/A0166. In my assessment I note that the dwelling at 59 Thornyhill Road shares a frontage with Ballymacashen Road. Therefore, I accept irrespective of the small building to the rear of 59 Thornyhill Road, that there is a line of buildings along the Ballymacashen Road. This line of buildings includes the dwelling and detached garage at 44 Ballymacashen Road and the dwelling at 59 Thornyhill Road. I am satisfied that the appeal site is within an otherwise substantial and continuously built-up frontage. The first element of Policy CTY8 is met.
- 5.8 The second element of Policy CTY8 requires that a small gap site is sufficient only to accommodate up to a maximum of two houses. In accordance with paragraph 5.34 of the justification and amplification, it is the gap between the buildings rather than the appeal site that is considered. As noted above in appeal 2018/A0166, the Commissioner considered that the site was not a small gap. However, since that appeal decision the appellant has constructed a small building to the west side of the dwelling at 59 Thornyhill Road and within its curtilage.

- 5.9 There is no dispute that there is a small building on the site. The policy does not prevent small or ancillary buildings from being considered as part of the built-up frontage. Nor does the policy indicate any required size, scale or visual test for inclusion of these buildings. This is consistent with appeal decision 2011/A0277.
- 5.10 I note the appellant has a LDC for existing development (LA06/2019/0993/LDE) for a "garden shed/store". However, I have considered the details of this LDC and the development in situ does not reflect the details of what has been certified. The drawings associated with the LDC show a building with only three sides, whereas on the site the small building has four sides, the fourth containing the door and windows. Clearly the LDC does not match the building that is constructed on site. Even if the constructed building were within the parameters allowed by The General (Permitted Development) Order (NI) 2015, there is no jurisdiction in this case to determine that the building is lawful for the purposes of considering this appeal. In the absence of a LDC to demonstrate that the building is lawful, it cannot be weighed into the consideration of the above policy requirement.
- 5.11 Based on these facts I consider that the size of the gap remains the same as previously considered within appeal 2018/A0166. Therefore, irrespective of the appellant's evidence regarding the concept plan, measurements, and analysis which relate to the reduced gap, I concur with the previous Commissioner that the gap is not a small gap for the purposes of Policy CTY8. Therefore, the proposal does not satisfy the exception under Policy CTY8 and the Council's second reason for refusal is sustained.
- 5.12 The Council's third reason for refusal relates to Policy CTY14 in respect of the creation of a ribbon. Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. In this instance the construction of two dwellings and garages on the site would offend criterion (d) by extending an existing ribbon of development between two buildings which due to topography and distance are currently set apart both physically and visually in the landscape. The buildings that are adjacent to the site, have no intervisibility when viewed from either road and have no relationship with each other due to the size of the gap between them. The appeal site is a significant physical and visual green break between the existing sporadic development and is important in retaining the rural character of the area. The proposal would result in four dwellings and garages in a row fronting onto Ballymacashen Road and would read as a suburban style build up detrimental to the character of the area which would offend criterion (b) of Policy CTY14 and subsequently Policy CTY8.
- 5.13 The proposal does not comply with Policy CTY8 and Policy CTY14 of PPS21. It is not one of the types of development which, in principle, are considered to be acceptable in the countryside. Policy CTY1 goes on to say that, "*other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement*". It has not been demonstrated that there are overriding reasons why the development is essential and could not be located in a settlement. The first, second and third reasons for refusal are therefore sustained.

**6.0 RECOMMENDATION**

6.1 I recommend to the Commission that the appeal be dismissed.

6.2 This recommendation relates to the following drawings:-

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>	<b>Date</b>
01	Site location Plan	1:1250	Stamped received by Ards & North Down Borough Council on 22 <sup>nd</sup> November 2019
02	Design Concept Statement	N/A	Stamped received by Ards & North Down Borough Council on 22 <sup>nd</sup> November 2019

**List of Documents**

Planning Authority:-	"A" – Statement of case on behalf of Ards and North Down Borough Council "A1" – Rebuttal statement on behalf of Ards and North Down Borough Council
Appellant:-	"B" – Statement of case on behalf of Ray Jackson "B1" – Rebuttal statement on behalf of Ray Jackson





# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0155
<b>Appeal by:</b>	Ray Jackson
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Two dwellings and garages
<b>Location:</b>	Lands between 59 Thornyhill Road and 44 Ballymacashen Road, Killinchy
<b>Planning Authority:</b>	Ards and North Down Borough Council
<b>Application Reference:</b>	LA06/2019/1176/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 2 August 2022
<b>Decision by:</b>	The Commission, dated 23 November 2022

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

**Decision** – the appeal is dismissed.

This decision is based on the following drawings:

Drawing No.	Title	Scale	Date
01	Site location Plan	1:1250	Stamped received by Ards & North Down Borough Council on 22 <sup>nd</sup> November 2019
02	Design Concept Statement	N/A	Stamped received by Ards & North Down Borough Council on 22 <sup>nd</sup> November 2019

**ANDREA KELLS**  
Chief Commissioner



# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0053
<b>Appeal by:</b>	Mr Michael Cleland.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Increase in domestic curtilage and retention of store.
<b>Location:</b>	Land immediately to the north of 39 Florida Road Killinchy.
<b>Planning Authority:</b>	Ards and North Down Borough Council.
<b>Application Reference:</b>	LA06/2020/0709/F.
<b>Procedure:</b>	Written representations with Commissioner's site visit on 22 <sup>nd</sup> November 2022.
<b>Decision by:</b>	Commissioner Damien Hannon, dated 29 <sup>th</sup> November 2022.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside, visual amenity and rural character.
3. The appeal site is designated as located in the countryside and outside any specific policy designation in the Ards and Down Area Plan 2015 (ADAP), the relevant statutory Local Development Plan (LDP). The LDP however contains no specific policies of relevance to this appeal. Furthermore, in respect of the appeal development, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development 2015 (SPPS) and those of retained policy. Consequently, the relevant policy context is provided by Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21) and the Addendum to Planning Policy Statement 7: Quality Residential Environments, entitled 'Residential Extensions and Alterations' (the Addendum).
4. The appeal site is a rectangular plot of land with a frontage of approximately 60m onto Florida Road. It currently accommodates No 39, a single-storey, dash finished dwelling and a steel framed, metal clad shed measuring approx. 23m long, 9.4 wide and 5.4 in height, sited adjacent to and north of the dwelling. Permission is sought for the retention of this shed, the appeal building.
5. Reserved matters permission was granted for the dwelling at No 39 in 1986 reference (X/827/85) and the appellant argued that the original site included the area within which the appeal shed is now located. Were this the case, it could be argued that the lawful use of the entire appeal site is residential. However, while the

- appellant provided a copy of the original decision notice, the relevant drawings were not provided. The Council stated that these drawings were no longer available. Aerial photographs supplied by the Council, although undated, showed No. 39 to have a defined curtilage and the land on which the appeal building is sited to be outside that curtilage and in agricultural use in conjunction with adjacent land. Also, a condition of the original permission for the dwelling required the planting of the site's northern boundary. During my site visit I saw no evidence of planting along the northern boundary of the appeal building. Furthermore, the appellant chose to make a planning application for an increase in domestic curtilage.
6. Taken in the round, the submitted evidence does not establish the lawful use of the part of the site on which the shed is sited to be residential. On the contrary I am persuaded, on the balance of probabilities, that the original appeal site excluded this piece of land. In this evidential context I judge the land on which the shed is sited to be agricultural.
  7. The appellant argued that the shed was immune from enforcement action and submitted evidence in the form of a google map to support this assertion. While this photograph bears the date of August 2016, this annotation appears to a later addition as opposed to original. Notwithstanding this however, the appropriate vehicle for establishing whether the shed is immune from enforcement action is through a Certificate of Lawfulness of Existing Use or Development (CLEUD) pursuant to article 169 of the Planning Act (Northern Ireland) 2011. In the absence of such a CLEUD and given that the appellant's assertion regarding immunity was disputed, it would be inappropriate for me to decide, through this appeal, whether or not the building is lawful or to assume it to be lawful.
  8. The appellant's agent referred to various letters from the Council and stated that his client was poorly advised. Copies of these letters were not volunteered, however it appears that the confusion arose over whether the shed benefitted from deemed consent and if not, whether the original application should have been for a domestic store or a farm building. I have no doubt that some level of confusion exists because the appellant, in his statement of case, refers to the shed being essential for the storage and maintenance of the appellant's farm machinery and equipment required to maintain the farmland and boundary treatment. Nonetheless, the appellant is professionally represented and the appeal before me relates to development comprising two elements, namely, an increase in domestic curtilage and the retention of a store.
  9. The increase in domestic curtilage equates to the change of use of agricultural land in the countryside to residential use. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered acceptable in the countryside. The appeal site lies within a farm of some 8ha of arable land and one of the types of development specified in Policy CTY 1 as acceptable is agricultural development in accordance with Policy CTY 12. The appellant, however, presented no case to justify that residential development in the countryside, as proposed, fell within any of the categories deemed acceptable in principle in Policy CTY 1.
  10. The appellant argued the proposal to qualify as acceptable under Policy CTY 1 as an extension to a dwelling house where this is in accordance with the Addendum to PPS 7. The Addendum provides an additional planning policy for the extension and/or alteration of a dwellinghouse, including single dwellings in the countryside.



The Addendum does not provide policy on the change of use of agricultural land in the countryside to residential use. Such development is covered by other policies. I have already concluded the existing building to be located on agricultural land and not within the residential curtilage of No. 39 and therefore the Addendum is not material to consideration of the proposal before me. However, the Council's fourth reason for refusal refers to Policy EXT 1 of the Addendum and in the interests of completeness and to allow the appellant full consideration of the issues raised, I shall provide an essentially hypothetical evaluation of the proposal against this policy.

11. Policy EXT 1 of the Addendum states that planning permission will be granted for a proposal to extend or alter a residential property where the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area, It also states that the guidance set out in Annex A will be taken into account when assessing proposals. Annex A guidance states that buildings within the residential curtilage, such as sheds, should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character, and the level of visibility of the building from surrounding views. It adds that outbuildings located in front of the established building line can over-dominate the front of the property and detract from the street scene and will therefore generally be resisted.
12. No. 39 is a modest, single storey, dash finished dwelling. The substantial appeal building measures 23m long, 9.4m wide and 5.4m in height and is finished in metal cladding. Roadside and other vegetation provides considerable screening, which could be augmented by additional planting along the shed's northern boundary. Nonetheless, clear views of the dwelling and shed are available from points along Florida Road, including a stretch along the site frontage. When viewed from these points along Florida Road, the shed, which projects beyond the front building line of the dwelling, presents, not as subordinate in design or sympathetic in terms of materials, but as an over dominant and incongruous building with a commercial as opposed to a domestic character. I conclude that the shed, if it was within the residential curtilage of No. 39, would not comply with Policy EXT 1 of the Addendum. However, as I have earlier concluded that Policy EXT 1 is not material to consideration of the appeal proposal, I further conclude the Council's fourth reason for refusal, based on Policy EXT 1, to be misplaced and therefore not sustained.
13. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. Obviously, an extension to a residential curtilage would adjoin the existing curtilage as opposed to being located in a separate settlement. However, the appeal site has a countryside designation in the LDP and the appellant advanced no convincing case that the change of use of this plot of agricultural land to residential, was essential. In these circumstances, I conclude the proposal not to be acceptable in principle in the countryside and the Council's first reason for refusal based on Policy CTY 1 is sustained.
14. Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. It adds that a new building will be

unacceptable where it is a prominent feature in the landscape, or the design of the building is inappropriate for the site and its locality. The Council stated that the building, because of its design, would constitute a prominent feature that would be inappropriate for the site and its locality and would fail to be visually integrated into the surrounding landscape.

15. I consider the existing shed, while not residential in appearance, to be of a design that is common in the countryside. It is therefore appropriate to both its countryside locality and the site that is an agricultural field adjacent to a single rural dwelling. From the evidence presented and my own observations, I consider that, with additional planting along the northern boundary, the building would appear adequately integrated into the surrounding landscape. The proposal would comply with Policy CTY 13 and the Council's second reason for refusal based thereon is not sustained.
16. Policy CTY 14 of PPS 21 deals with rural character and states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It adds that a proposal for a new building must meet several stated criteria. The Council objected on the grounds that the proposal would damage rural character by creating a ribbon of development contrary to criterion (d) of Policy CTY 14.
17. I observed several buildings in a cluster fronting Florida Road some 80m north of No 39. These comprised a new dwelling, an original dwelling (No. 31) and a partially demolished outbuilding. Both the new and original dwellings had a frontage onto Florida Road and were visually linked with No 39 when viewed on approach along the road in either direction. No. 39, 31 and the new dwelling form a ribbon of development along Florida Road, to which the proposed shed, also with a road frontage, adds. I consequently conclude that the existing shed would have a detrimental impact on rural character and that the Council's third reason for refusal based on Policy CTY 14 is sustained.
18. The Council's objection in principle and reasons for refusal that I have found sustained are determining in this case.

This decision is based on the following drawings received by the Council on 19<sup>th</sup> August 2020:-

1:1250 scale Location Plan numbered 01.

1:500 scale Site Layout numbered 02.

1:100 Plans & Elevations entitled 'Domestic Shed Sketch Plans' numbered 03.

**COMMISSIONER DAMIEN HANNON**

**List of Documents**

Planning Authority:-

COU1 Statement of Case  
COU 2 Rebuttal

Appellant:-

APP1 Statement of Case  
APP 2 Rebuttal



# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0084
<b>Appeal by:</b>	Ms Beverley Healy
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Site for dwelling
<b>Location:</b>	Lands immediately to the side and rear of No.36 Lisbane Road, Kircubbin
<b>Planning Authority:</b>	Ards and North Down Borough Council
<b>Application Reference:</b>	LA06/2020/0874/O
<b>Procedure:</b>	Written Representations with Commissioner's Site Visit on 22 <sup>nd</sup> December 2022
<b>Decision by:</b>	Commissioner Diane O'Neill, dated 5 <sup>th</sup> January 2023

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposed development:
  - is acceptable in principle in the countryside
  - would be sited within an existing cluster of buildings
  - would create ribbon development
  - would prejudice road safety
3. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Ards and Down Area Plan 2015 (ADAP) is the local development plan for the area where the appeal site is located. The site is located outside any settlement development limit within ADAP and is within the countryside. The ADAP has no material policies for dealing with dwellings in the countryside.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and amongst these are Planning Policy Statement 3: Access, Movement and Parking (PPS3) and Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) which provide the relevant policy context for the appeal proposal.

5. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for a single dwelling are outlined.
6. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the following criteria are met: the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings; the cluster appears as a visual entity in the local landscape; the cluster is associated with a focal point such as a social/community building/facility, or is located at a crossroads; the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster; development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and development would not adversely impact on residential amenity. While the planning authority accepted that there is a grouping of mainly roadside development, it considered that it was not a cluster and that the proposal failed to meet any of the criteria.
7. The appellant arguments included that the present definition of a cluster within regional planning policy was too strict, prohibiting natural local growth. The need for the third criterion, that the cluster be associated with a focal point or crossroad, was questioned. It was considered that a linear group of houses could be brought together by sensitive infilling, extending what was considered to be the cluster to include the addition of 16 new dwellings as indicated within a notional layout plan, increasing social relationships and possibly establishing a village green, community hall and a children's play area. However, this appeal is not the forum for requesting changes to regional planning policy; this is a matter for the Department for Infrastructure. No Certificate of Lawfulness for Existing Development was presented in relation to the claimed previous development on the site.
8. Given the size of the appeal site and the presence of mature boundary vegetation which could be retained, I am satisfied a modest residential proposal could be located on the appeal site without adversely impacting on the residential amenity of existing properties. However, from both approaches along the Lisbane Road, the development here (Nos. 36, 36B, 36A, 38 and 40) does not appear as a cluster which appears as a visual entity in the local landscape. Rather, it appears as a ribbon of development along the Lisbane Road. The proposal would be located at the end of this ribbon of development therefore extending it. There is no focal point such as a social/community building/facility at this location and it is not located at a cross-roads.
9. As the proposal would not be sited at an existing cluster of development, there is no support for the proposal in terms of Policy CTY2a. The first reason for refusal is therefore sustained.
10. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. Being located to the south-west of No.36 Lisbane

- Road, the appeal proposal would add to the ribbon of development (Nos. 36, 36B, 36A, 38 and 40) along the road which would be detrimental to the character of the countryside thus failing to meet criterion (d) of this policy. Accordingly, the third reason for refusal in relation to Policy CTY 14 is sustained.
11. The fourth reason for refusal was based on Policy AMP 2 of PPS 3 as it was considered that it had not been demonstrated that the proposal would not prejudice the safety and convenience of road users or significantly inconvenience the flow of traffic. As submitted to the planning authority the proposal would involve creating a new access onto the Lisbane Road utilising a gated entrance to the appeal site and no visibility splays were indicated. Given the location of the appeal site on a bend in the Lisbane Road, as proposed it would be extremely difficult for those exiting the proposal to see road users travelling in a southerly direction along the Lisbane Road. To view road users travelling in a northerly direction would require the removal of hedgerow which is outside the appeal site and not indicated to be under the control of the appellant. The required visibility splays required at this location are 2m x 45m.
  12. In their evidence, the appellant acknowledged that the access arrangements as submitted to the planning authority could be problematic and suggested possible amendments. However, one of the options was to utilise a grassed over access adjacent to the dwelling at No.36 which it was proposed would serve both No.36 and the appeal proposal. This access however would be located outside the appeal site and no visibility splays were indicated. The other option would utilise the field gate entrance however whilst visibility splays were indicated, they would require land beyond the appeal site and not indicated to be under the control of the appellant. It has therefore not been demonstrated that the proposal would not prejudice the safety and convenience of road users or significantly inconvenience the flow of traffic. Accordingly, the fourth reason for refusal and the objectors concerns in relation to this matter are sustained.
  13. As the proposal does not meet Policy CTY 2a, it is not one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1. Whilst the claim was made that all new housing is desirable to reduce the waiting list as referred to in the Queen's Speeches and whilst the Northern Ireland Housing Executive may support the principle of the proposal, no overriding reasons were presented as to why the development is essential at this location and could not be located in a settlement. It is therefore contrary to Policy CTY 1 of PPS 21. Accordingly, the second reason for refusal and the objectors concerns in relation to this matter are sustained.
  14. As the four reasons for refusal have been sustained, the appeal must fail.

This decision is based on the following drawings:-

Drawing 01 1:1250 site location plan date stamped received by the planning authority on 11<sup>th</sup> November 2020

Drawing 02 1:250 block plan date stamped received by the planning authority on 11<sup>th</sup> November 2020

Drawing 03 1:50 floor plans date stamped received by the planning authority on 28<sup>th</sup> September 2020

Drawing 04 1:100 elevations date stamped received by the planning authority on 28<sup>th</sup> September 2020

**COMMISSIONER DIANE O'NEILL**

**List of Documents**

Planning Authority (Ards and North Down Borough Council):-	Statement of Case (PA1) Rebuttal (PA 2)
Appellant (Mr Vincent Ford-agent):-	Statement of Case (A1) Rebuttal (A 2)
Third Party Objectors:- Ms F Breen ((No.36C Lisbane Road) Mr J Killeen (No.36A Lisbane Road) Mr M Swalwell (No.32A Lisbane Road) Mr and Mrs L Dorrian (No.36B Lisbane Road)	Statement of Case (OB 1) Statement of Case (OB 2) Statement of Case (OB 3) Statement of Case (OB 4)



Unclassified

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## ITEM 7

## Ards and North Down Borough Council

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	07 February 2023
Responsible Director	Director of Regeneration, Development and Planning
Responsible Head of Service	Head of Finance
Date of Report	27 January 2023
File Reference	FIN45
Legislation	Section 5 Local Government Finance Act (NI) 2011
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/>
Subject	Planning Service Budgetary Control Report – December 2022
Attachments	

The Planning Service's Budgetary Control Report covers the 9-month period 1 April 2022 to 31 December 2022. The Service's net cost is showing a £35k (3.2%) underspend – box A on page 2.

## Explanation of Variance

The Planning Service's budget performance is further analysed on pages 4-6 into 3 key areas:

Report	Type	Variance	Page
Report 2	Payroll Expenditure	£103k adverse	2
Report 3	Goods & Services Expenditure	£117k favourable	2
Report 4	Income	£21k favourable	2

## Unclassified

## Explanation of Variance

The Planning Service's overall variance can be summarised by the following table: -

Type	Variance £'000	Comment
Payroll	103	The National & Local Pay Agreements were greater than budgeted increase. This impacts all Council Services.
Goods & Services	(117)	Savings on consultancy as some projects not progressing as planned (£70k). Other underspends include - mileage (£14k); tree services (£13k); advertising (£11k).
Income	(21)	Planning fees £26k. Property Planning Certificates (£47k).

REPORT 1 BUDGETARY CONTROL REPORT					
Period 9 - December 2022					
	Year to Date Actual	Year to Date Budget	Variance	Annual Budget	Variance
	£	£	£	£	%
<b>Planning</b>					
330 Planning	1,041,258	1,076,000	(34,742)	1,499,900	(3.2)
<b>Total</b>	<b>1,041,258</b>	<b>1,076,000</b>	<b>A (34,742)</b>	<b>1,499,900</b>	<b>(3.2)</b>
REPORT 2 PAYROLL REPORT					
	£	£	£	£	%
<b>Planning - Payroll</b>					
330 Planning	1,689,009	1,585,800	103,209	2,114,500	6.5
<b>Total</b>	<b>1,689,009</b>	<b>1,585,800</b>	<b>103,209</b>	<b>2,114,500</b>	<b>6.5</b>
REPORT 3 GOODS & SERVICES REPORT					
	£	£	£	£	%
<b>Planning - Goods &amp; Services</b>					
330 Planning	143,524	260,700	(117,176)	412,900	(44.9)
<b>Total</b>	<b>143,524</b>	<b>260,700</b>	<b>(117,176)</b>	<b>412,900</b>	<b>(44.9)</b>
REPORT 4 INCOME REPORT					
	£	£	£	£	%
<b>Planning - Income</b>					
330 Planning	(791,274)	(770,500)	(20,774)	(1,027,500)	(2.7)
<b>Totals</b>	<b>(791,274)</b>	<b>(770,500)</b>	<b>(20,774)</b>	<b>(1,027,500)</b>	<b>(2.7)</b>

## RECOMMENDATION

It is recommended that Council notes this report.