

ARDS AND NORTH DOWN BOROUGH COUNCIL

15 June 2023

Dear Sir/Madam

You are hereby invited to attend a hybrid meeting (in person and via Zoom) of the Planning Committee of the Ards and North Down Borough Council which will be held in the Council Chamber, 2 Church Street, Newtownards on **Thursday, 22 June 2023**, commencing at **7.00pm**.

Yours faithfully

Stephen Reid
Chief Executive
Ards and North Down Borough Council

A G E N D A

1. Apologies
2. Declarations of Interest
3. Matters arising from minutes of Planning Committee of 04 April 2023 (Copy attached)
4. Planning Applications (Reports attached)

4.1	LA06/2021/0433/F	Demolition of existing dwelling and replacement 2 storey dwelling with additional lower basement level 15a Morningside, Bangor
4.2	LA06/2022/0863/F	Dwelling and domestic garage Site 78m east of 31 Ballygowan Road, Comber
4.3	LA06/2020/0483/O	2 dwellings and detached garages Land immediately adjacent to and NE of 9 Corrog Lane, Portaferry
4.4	LA06/2021/0630/F	Conversion of barn to dwelling to include raising the roof and single storey extension. Outbuildings at 129 Newtownards Road, Ballyrickard, Comber

4.5	LA06/2021/1238/F	One agricultural building (retrospective) and erection of two agricultural buildings with dry storage below one of proposed buildings Lands 45m North-West of No 17 Abbacy Road, Portaferry
4.6	LA06/2022/0867/F	Public realm improvement scheme comprising upgrading of existing paving and kerbing; installation of new street furniture, seating, streetlights, litter bins, planters and cycle stands; reconfiguration of existing car parking; relocation of existing bus shelter; and all associated works. The Square, High Street, The Ropewalk, Church Street, Meetinghouse Street, Castle Street and Ferry Street including junctions with The Strand, Portaferry

5. Update on Planning Appeals (Report attached)
6. Draft Memorandum of Understanding (MOU) between Departments regarding Offshore and Marine Renewable Energy Development (Report attached)
7. Planning Q4 Performance Report (Report attached)
8. Update on Tree Preservation Orders and Applications for Consent for Works (Report attached)
9. Update on Metropolitan Spatial Area Working Group (Report attached)
10. DFI consultation on Draft Renewables Policy (Report attached)
11. Update on NIW Coastal Fence (Report attached)

*****IN CONFIDENCE*****

12. Update on Enforcement Matters (Report attached)

MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)

Alderman Graham	Councillor McCracken
Alderman McDowell (Vice Chair)	Councillor McKee
Alderman McIlveen (Chair)	Councillor McLaren
Alderman P Smith	Councillor McRandal
Councillor Cathcart	Councillor Martin
Councillor Creighton	Councillor Morgan
Councillor Kerr	Councillor Woods
Councillor McCollum	Councillor Wray

ARDS AND NORTH DOWN BOROUGH COUNCIL

A meeting of the Planning Committee was held (hybrid) on Tuesday 4th April 2023 at 7.00 pm via Zoom and at Council Offices on Church Street, Newtownards.

PRESENT:

In the Chair: Alderman Gibson

Aldermen: McIlveen

Councillors: Brooks McRandal
Cathcart Moore
McAlpine P Smith
McClellan Thompson
McKee Walker

Officers: Director of Prosperity (A McCullough), Head of Planning (G Kerr) and Democratic Services Officer (H Loebnau)

1. APOLOGIES

There were no apologies.

NOTED.

2. DECLARATIONS OF INTEREST

No Interests were declared.

NOTED.

3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE MEETING HELD ON 7TH MARCH 2023

(Appendix I)

PREVIOUSLY CIRCULATED:- Minutes of the meeting held on 7th March 2023.

RECOMMENDED that the minutes be noted.

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

4. PLANNING APPLICATIONS

4.1 LA06/2015/0677/F – replacement of existing structure with 1 no. single storey unit to accommodate stables, coach house, tack room, workshop and toilet – 251a Bangor Road, Whitespots, Newtownards

(Appendices I - III)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Newtownards

Committee Interest: A local development application attracting six or more separate individual objections which are contrary to the officer's recommendations.

Proposal: Replacement of existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet.

Site Location: 251a Bangor Road, Whitespots, Newtownards

Recommendation: Approval

The Head of Planning outlined the above application, advising that it was for a replacement of an existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet.

The application was before Members as it was an application with 6 or more objections. The application also had a Section 76 legal agreement associated with the proposal with delegated authority being sought to finalise.

All material objections had been considered within the case officer report and addendums.

Consultees had expressed no objections with some recommending conditions.

The site was located in the countryside as the Ards and Down Area Plan 2015 for the area. The site was also located within a Local Landscape Policy Area (LLPA): 'Whitespots, lead mines, Golden Glen and associated lands.'

Slides were shown to provide some context to the site and its surrounds.

The proposal was being considered under policies CTY 1 PPS 8: Open Space, Sports and Outdoor Recreation (PPS 8).

To provide some context for Members it was indicated that the proposal was originally for three new buildings on site and was associated with a business use. An amended application form and plans were received for the replacement of the existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet. The agent stated on behalf of the applicant that the stables were for the use of the applicant only and would not be open to clients, customers or members of the public. Whilst the applicant would use part of the stables for commercial work connected to his business, the actual business use was carried out off-site. The following was stated within an email from the agent:

'Furthermore; I can confirm all lands and buildings are used solely by the Finnegans for equestrian and equine purposes associated with the breeding of horses (and all activities associated with this, including occasional visits by a vet and/or delivery of supplies), the training of horses (by Mr Finnegan) for carriage promotional work (this work being carried out off-site, on surrounding roads, in towns and villages) and the maintenance of carriages/coaches by the Finnegans.'

The proposed shed measured 11m x 11m and would have a pitched roof with a ridge height of 4m which was only 0.3m higher than the existing outbuilding currently on site. The shed would be a lightweight steel framed building finished in green corrugated cladding. Other finishes included clear translucent roof panels, timber sliding main central door and upvc windows.

There would be no loss of high value agricultural land as a result of the application. The current condition of the site, with dilapidated structures and old horse boxes, took away from the visual amenity and character of the landscape.

There would be no adverse effect on residential amenity. Environmental Health offered no objections in relation to noise issues.

With regard to Road Safety and Access DFI Roads was consulted on the proposal and stated they would have no objections *providing this application is non-commercial with little or no intensification in use of the existing access*. As the main use of the building was for private stable use with a workshop/tool store and given the stables would not be open to members of the public it was considered there would no intensification in use of the existing access.

Planning Agreement

A planning agreement was considered to be the most robust mechanism required to ensure the proposal remained as domestic use rather than commercial. The agreement would be registered on the statutory charge register.

The recommendation was to approve planning permission with delegated powers sought for legal agreement with decision to issue once legal agreement was finalised.

Alderman McIlveen referred to the lack of enforcement of the existing shed and wondered if the planners knew how old it was.

In response the planner informed the committee that there was a long history of enforcement on the site with unauthorised activities and a change of use in the land. Planners could not force a landowner to submit applications but what was now proposed was a betterment of the site.

There had been other applications that had come before the committee which the planners could not take into consideration. The application was for an infill shed and previously there had been a horse carriage building but this was for domestic purposes. Section 76 would be applied to offer the planning service extra protection and offer a faster route to court.

Councillor Cathcart asked about plans for housing five horses which to him appeared to be a lot for domestic and recreational use. He had some concerns regarding the principle of development argument and betterment since he believed that the existing structures should not have existed in the first place.

Councillor McRandal also referred to the future use of the site and the approval granted for domestic use. The Planning Manager had investigated horse passports which showed that the applicant owned the horses.

The Chair of the Planning Committee asked Members to make a recommendation on the application before them. There was no proposer and seconder for the recommendation.

Alderman McIlveen proposed that the application be deferred to a future meeting until further information was brought forward. That was seconded by Councillor Thompson.

Alderman McIlveen felt a bit of discomfort concerning the application mainly in relation to when matters became enforceable and he would appreciate some further information before a decision could be made. There were concerns that business activity could be carried out in the future.

Councillor P Smith was in agreement that there was a degree of ambiguity of whether the application was for domestic or business purposes and asked for further clarification to be made.

RESOLVED, on the proposal of Alderman McIlveen, seconded by Councillor Thompson, that a decision be deferred for additional information and clarification.

4.2 LA06/2021/0506/F sustainable energy system consisting of 26 no. ground mounted solar panels, a containerised battery building (total battery storage capacity of 28 KWh) back up generator, fuel tank and associated site works – Cairn Wood, 21 Craigtlet Road, Newtownards
(Appendices IV & V)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Holywood and Clandeboye

Committee Interest: Council Application

Proposal: Sustainable energy system consisting of 26 No. ground mounted solar panels, a containerised battery building (total battery storage capacity of 28KWh), back-up generator, fuel tank and associated site works.

Site Location: Cairn Wood, 21 Craigtlet Road, Newtownards

Recommendation: Approval

The Head of Planning outlined the above application, advising that it was for a sustainable energy system consisting of an array of 26 no. ground mounted solar panels, a containerised battery building (total battery storage capacity of 28 kWh), backup generator, fuel tank and associated site works at Cairn Wood in Craigtlet. It was being brought before Members since it was an application being made by the Council. All consultees were content and no objections had been received.

Members would recall previous applications brought before the Committee including the extension and enhancement of existing trails permission, new WC facilities and extension and enhancement of the car park all granted in 2020.

Members were shown images of the surrounding area which was rural and was characterised by agricultural fields and a scattering of rural dwellings. The site was within zonings for Existing Community Woodland (ND/CW02) and a Site of Local Nature Conservation Importance (ND 02/04). The site was accessed from a protected route.

Due to the small scale of the development proposed and its location adjacent to the existing car park and main road, planners were satisfied that the proposal would not result in any adverse effect on the nature conservation interests of the SLNCI. The proposal would not result in the loss of any existing trees or vegetation which contributed to the SLNCI.

The proposal was for a sustainable energy system that had been designed for the adjacent car park which would comprise of 26 no. solar panels which would charge a battery system to provide enough energy to power the pumps for the car park drainage system and the toilet block (heat/lighting) in the car park.

The proposed site layout plan indicated the arrangement of the solar panels and container and included the landscaping details which were all existing and included the wooden fencing and mature trees associated with the woodland as well as some new planting of trees.

The solar panels were located centrally and positioned to the north-west of the site with the container positioned to the south-east. A backup generator was provided for winter months should there be insufficient energy created or stored in the solar and battery system.

Consultation had been carried out with the NI Fire and Rescue Service which had not raised any concerns. It had recommended measures in the event of fire and advised that any application for battery storage should take cognisance of battery storage guidance notes 1 and 2.

An emergency response plan had been submitted and referred to an overview of activities on site including a list of waste management contractors who would handle any wastes arising from maintenance, remediation, or removal. The planner was therefore satisfied that the proposal would not result in any unacceptable adverse impact on public safety, human health, or residential amenity.

The size and scale of the proposal was small and would not have an unacceptable adverse impact on visual amenity or landscape character. The container was green in colour and located to the rear of the site closer to the woodland and the ground mounted solar panels would not appear prominent with height limited to 2.9m high from ground level.

A Preliminary Ecological Appraisal (PEA) by Aulino Wann & Associates had been provided in support of the application. The PEA stated that the application site had

been cleared and that there were no signs of badgers, bats, birds or invasive species within the site. The PEA also confirmed that there were no trees on or immediately adjacent to the site that could support bat roosts.

Consultation was carried out with NED which advised that it was content with the proposal subject to a recommendation regarding the planting of new woodland of native species.

In summary, given the proposal complied with planning policy, there had been no objections from consultees and given the sustainable aims of the proposal the recommendation was to grant planning permission.

Members were invited to ask questions.

Alderman McIlveen had a general question around the risk of damage to the equipment given the secluded nature of that area. Members were informed that there was a temporary generator in the area currently that was separate from planning matters. This was expensive equipment and the dark secluded area could pose a potential risk. The Planning Manager indicated that she would raise that with the Head of Assets and Property Services and refer back to the Committee on that matter.

Proposed by Councillor McRandal, seconded by Councillor Cathcart that the recommendation be adopted.

Councillor McRandal welcomed this sustainable energy source and Councillor Cathcart echoed that.

RESOLVED, on the proposal of Councillor McRandal, seconded by Councillor Cathcart, that the planning application be approved.

4.3 LA06/2021/1472/LBC LIGHTENING PROTECTION SYSTEM – TOWN HALL (NOW CITY HALL), THE CASTLE, BANGOR
(Appendices VI & VII)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Bangor Central

Committee Interest: Council Application

Proposal: Lightning protection system

Site Location: Town Hall (now City Hall), The Castle, Bangor

Recommendation: Consent

The Head of Planning outlined the above application, advising that the site consisted of the Town Hall (now City Hall) in Bangor. The building, known as The Castle, was a Grade A listed building on account of its special architectural merit. The building was set amidst mature parkland and was the administrative headquarters of the Ards and North Down Borough.

Images of the site were shown to provide context.

The proposal would involve a number of features to ensure the building was protected in the event of a lightning strike: conductor tapes would be located on roof pitches and on a number of surface mounted 'strike plates'; air rods were to be positioned at chimney stacks and pinnacles; and, a number of down conductors would be attached to the exterior of the building.

The works would be almost imperceptible. The features referenced above would be sympathetically placed along the ridge, along guttering, behind chimneys etc. Following submission of proposed visuals/photomontage, HED was now content with the proposal subject to the conditions listed below. The essential character of the building would not be materially affected. The architectural details and features of the building would not be impaired and there would be no impact on the setting of the building.

The recommendation was to grant consent.

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

4.4 LA06/2023/1426/F TEMPORARY SITING AND OPERATION OF 34M ILLUMINATED PANORAMIC VIEWING WHEEL AND 5 ADDITIONAL ATTRACTIONS BETWEEN MAY AND SEPTEMBER 2023 – OPEN SPACE APPROX. 33M NW OF MCKEE CLOCK, BANGOR
(Appendices VIII & IX)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Bangor Central

Committee Interest: Application relating to land in which the Council has an interest

Proposal: Temporary siting and operation of 34m illuminated panoramic viewing wheel and 5 additional attractions between May and September 2023

Site Location: 33m NW of McKee Clock, Bangor

Recommendation: Approval

The Head of Planning outlined the above application, advising that it was for the temporary siting and operation of a 34m illuminated panoramic viewing wheel and 5 additional attractions between May and September 2023.

The proposal was located approximately 33m northwest of McKee Clock, Bangor. The application was being presented at Planning Committee as it lay on land in which the Council had an interest.

Members would be aware there was a precedent for approval of temporary attractions at that location and consultees had no objections to the proposal.

The planner showed images of the site which was within the Town Centre, a Local Landscape Policy Area, and the Bangor Urban Waterfront. Draft BMAP also identified the site as being in an area of 'Existing Recreation and Open Space.'

The proposed layout plan was shown indicating the position of the fairground attractions.

Given the city centre waterfront location and the proximity to Pickie Fun Park, the proposal was considered compatible with the surrounding land uses and would not detract from the landscape quality or character of the area. The proposal would not adversely impact upon the listed McKee Clock Tower. The proposal offered an attraction that would reinvigorate the area by attracting people into the space.

With appropriate conditions, it was recommended that the proposal be granted temporary planning permission.

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

5. UPDATE ON PLANNING APPEALS (Appendix X)

PREVIOUSLY CIRCULATED: - Report from the Director of Prosperity detailing the following:

Appeal Decisions

1. The following appeal was dismissed on 16 March 2023.

PAC Ref	2021/E0051
Application ref	LA06/2021/0150/LDP
Appellant	Mr John Spratt
Subject of Appeal	Refusal to issue Certificate of Lawfulness of Proposed Use of Development (CLOPUD) - commencement of development of X/2010/0034/F in accordance with approval
Location	Land adjacent and north of 27 Ballybeen Road, Comber

Planning permission X/2010/0034/F was granted on 14 April 2010 for a change of house type to a previously approved farm retirement dwelling (X/2004/1658/O & X/2008/0827/RM). Condition 1 of the approval required development to have been started prior to 14 January 2011 – that being the critical date by which the development should have commenced. The appellant sought certification through the submission of a CLOPUD to demonstrate the approval granted under X/2010/0034/F could be lawfully completed, as it had been commenced in time.

As the appeal related to an approval under the Planning (Northern Ireland) Order 1991 (“the 1991 Order”), the appeal was considered within the context of the prevailing legislation at that time.

The appellant provided evidence to demonstrate that the works undertaken at the site constituted a lawful commencement of development alongside evidence

of Building Control records of site visits with the appellant arguing that site levelling, rock breaking, and construction of the access and hardstanding constituted works of construction in the course of the erection of the development.

The appellant argued that the planning gain of allowing a partially erected structure to be fully completed should be considered with there being no demonstrable harm in completing the dwelling on site; however, the Commissioner opined that the matter of planning gain was not a determining factor in the consideration of the lawfulness of development.

The Commissioner was of the opinion that the evidence submitted did not demonstrate that works carried out prior to 14 January 2011 constituted works of construction in the course of erection of the buildings as required by Article 36 (1) (a) of the 1991 Order, and thus the approval had been lost and a Certificate could not be issued.

2. The following appeal against an Enforcement Notice was quashed on 20 March 2023.

PAC Ref	2019/E0031
Enforcement ref	LA06/2015/0159/CA
Appellant	Mr William Morrow & Mrs Noleen Morrow
Subject of Appeal	The alleged unauthorised raising of land with waste material and unauthorised erection of agricultural building and lean-to thereon.
Location	Land at 102 Ballydrain Road Ballydrain Comber

The appeal was brought on grounds (a) [deemed planning application], (f) and (g) as set out under section 143(3) of the Planning Act (NI) 2011. This appeal followed an appeal against the service of a Regulation 34 Notice where the Council had considered it necessary for the appellant to submit an Environmental Statement regarding the infilling of land with waste material. However, the PAC did not consider that necessary and dismissed this element following an earlier hearing.

The grounds of appeal were heard at a remote hearing on 25 October 2022.

In its decision the PAC noted that the Council withdrew its draft reasons for refusal and objections based on nature conservation, rural character and impact on residential amenity following the submission of the necessary, outstanding information within the appellant's statement of case.

The remaining issues considered in the appeal were whether: -

- the development was acceptable in principle in the countryside;
- the size and scale of the development was inappropriate;
- it integrated into its surroundings; and
- if it would be unsympathetic to its location within an Area of Outstanding Natural Beauty (AONB).

The Commission found that the development met Policies CTY 1, 12 and 13 of PPS 21 as well as Policy NH6 of PPS 2 and as such the above issues did not warrant the reasons for refusal to be sustained. As such the appeal succeeded under ground (a) [deemed application] subject to the following condition –

The hereby approved agricultural shed shall only be used to house a maximum of 25 cattle at any given time. The cattle shall only be housed in the cattle pen area of the building.

Given that planning permission was being granted, the Enforcement Notice was quashed.

New Appeals Lodged

3. The following appeal was lodged on 02 March 2023.

PAC Ref	2022/A0204
Application ref	LA06/2018/0996/F
Appellant	Cedarville Limited
Subject of Appeal	Refusal of planning permission for 8no. dwellings with associated car parking and landscaping
Location	Lands to the West of 7 Main Street and South of 6a Ballyrawer Avenue, Carrowdore

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

RECOMMENDED that Council notes the report.

The Planning Manager explained that the report provided an update on the previous month and it was recommended that the Council noted the report.

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

6. NIW – UPDATE ON COASTAL FENCE

PREVIOUSLY CIRCULATED: - Report from the Director of Prosperity detailing that the following:

Purpose of Report

1. The purpose of the report was to update Members in respect of the fencing erected by Northern Ireland Water (NIW) around the Wastewater Pumping Station (WwPS) at Seacourt, on the North Down Coastal Path, sometime during 2019.

Background

2. Further to erection of the fencing and investigation by Planning Enforcement, a retrospective planning application was received from NIW, under LA06/2019/1007/F. Further to processing a recommendation to approve planning permission was presented to Planning Committee in August and September 2021, and April 2022, then further to receipt of legal advice requested by Members, finally in July 2022, at which the Council voted to refuse the application.
3. NIW submitted an appeal against the refusal of planning permission on 16 November 2022 – PAC reference 2022/A0145. As yet no hearing date had been confirmed by the PAC.

Submission of applications for Certificates of Lawfulness

4. Members were advised of the submission of two separate Certificates of Lawfulness, one for a Certificate of Lawfulness of Existing Use of Development (CLEUD) and Certificate of Lawfulness of Proposed Use or Development (CLOPUD) for consideration by the Planning Service in respect of both the existing fence and gate as erected (subject of the refused planning application) and for an increase in height of fencing to the Seacourt WwPS.

Certificates of Lawful Use or Development

5. If any person wished to ascertain whether–
 - a. any existing use of buildings or other land was lawful; or
 - b. any operations which had been carried out in, on, over or under land were lawful,
 that person may make an application for the purpose to the Council specifying the land and describing the use, operations or other matter.
6. For the purposes of the Planning Act (NI) 2011 uses and operations were lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action had expired or for any other reason). A CLEUD had been submitted on behalf of NIW in that regard in respect of the existing fencing and gate around the Seacourt WwPS.
7. If any person wished to ascertain whether–
 - a. any proposed use of buildings or other land; or
 - b. any operations proposed to be carried out in, on, over or under land, would be lawful,
 that person may make an application for the purpose to the Council specifying the land and describing the use or operations in question.
8. If, on an application under this section, the Council is provided with information satisfying it that the use or operations described in the application would be lawful if instituted or begun at the time of the application, (i.e. complies with 'permitted development' it must issue a certificate to that effect; and in any other case it shall refuse the application. A CLOPUD had been submitted on behalf of

NIW in that regard in respect of a proposed fence and gate around the Seacourt WwPS.

Permitted Development Rights

9. The Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 (“the GPDO”) lists development that could be undertaken without the need to seek express planning consent from the planning authority. However, any such proposal in the first instance must be assessed in accordance with Article 3(8) of the above Order, as to whether or not the proposal amounted to EIA development (in accordance with The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 to consider the likely environmental impacts of any development before acting upon such PD Rights.
10. Subject to a negative EIA screening, it was a condition of the PD Rights under Article 3(1) of the GPDO that one attains confirmation prior to commencement of development that the proposal would not adversely affect the integrity of any designated site under The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(a). Confirmation of such was normally via consultation by the Council with the Shared Environmental Service for confirmation of any findings in that respect, through the CLOPUD application process, referred to above.
11. At the time that the Planning Service was investigating the fence, officers had considered the fence and gate as erected under Part 3 (Minor Operations) Class A relating to ‘The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure’. Given that Class A (1) specified that development is not permitted if ‘The height of any other gate, fence, wall or means of enclosure erected or constructed exceeds 2 metres above ground level’ the Planning Service considered that PD could not apply. Planning Service did also at that time consider the proposal under Part 14 of the GPDO (see details below) but considered it could not apply as the Council was not in receipt of a Habitats Regulations Assessment relevant to the site as it was within a designated site (ASSI).
12. NIW did not seek a factual determination by way of an application for a Certificate of Lawfulness of the Proposed Use or Development (CLOPUD) at this time and moved to submit the planning application which was determined and refused by the Council.
13. Such a factual determination was the proper course of action in that regard as any planning advice given by officers, either verbally or in writing in the course of their duties, was offered in good faith and was based on the information and evidence provided. Advice was normally offered without the benefit of an EIA screening or shadow habitats assessment, site visit or the involvement of other consultees (both statutory and non-statutory), neighbours or other interested parties. Such views were therefore the personal opinion of that officer and were not a formal decision of, nor were they binding on, the local planning authority.

The local planning authority was only bound where a formal application was submitted, and a formal decision was issued in writing.

14. NIW **now** considers that the Council erred in its assessment of the PD rights in respect of Part 3 – Minor Works, and that the works should have been assessed against the rights available under the GDPO Part 14 – ‘Development by Statutory and Other Undertakers’, Class H – ‘Water and sewerage undertakings’ part (h) – ‘Development by water or sewerage undertakers consisting any other development in, on, over or under operational land, other than the provision of a building but including the extension or alteration of a building’. Class H(h) does not contain any limitation on height.
15. The purpose of the submissions of the Certificates of Lawfulness was to provide the Council with the entire rationale as to why the works, the subject of those applications, are/would be Permitted Development and to allow it to take a fully informed view.
16. The planning agent acting on NIW’s behalf had contacted the Planning Appeals Commission requesting delay of the appeal hearing into the refused planning permission to enable the Council to determine those Certificates accordingly. To date the Commission had not confirmed acceptance prior to imposing a date for a hearing.
17. The Planning Service considered it prudent to bring the matter to the attention of the Planning Committee, and also to the general public, including those who had submitted objections to the planning application, as Certificates of Lawfulness were not subject to statutory advertisement in the same manner as a planning application, or available to view on the Planning Portal.
18. Officers were currently considering the submitted information for the applications, and liaising with legal representatives, and would advise Members of outcomes accordingly.

RECOMMENDED that the Council notes this report.

The Planning Manager explained that this was being brought to Members on the basis of openness and transparency. The application had been refused and appealed and up to now there had been no date for a hearing by the Planning Appeals Commission. The Council was in receipt of supporting information and would provide further information when it became available.

Councillor McClean hoped that the matter would be resolved and Councillor Cathcart thanked officers for bringing the information to the attention of Members.

It was recognised that with any policy or legislation there would always be loopholes which needed to be investigated.

RESOLVED; on the proposal of Councillor Thompson, seconded by Alderman McIlveen, that the recommendation be adopted.

CLOSE OF MEETING

In closing, the Chair thanked Members and officers for the support they had shown while he was in that role and remarked that this would be his final meeting.

Alderman McIlveen had not realised that this would be the Chair's final meeting and thanked him for the way he had carried out that role so fairly and well.

Councillor Cathcart stated that the Chair had held the position of Councillor for many years and he was aware that the role had become more complicated with the arrival of new technology and ways of meeting. He wished the Chair well for his future.

Councillor McRandal congratulated the Chair on behalf of the Alliance Party on a job well done and acting as Deputy Chair of the Planning Committee he had thoroughly enjoyed working with him.

Councillor P Smith agreed with those comments wishing the Chair well for his future and thanking him for his significant contribution over the years.

Councillor McKee added his voice to those comments and was aware that the Planning Committee was a particularly difficult one to Chair.

TERMINATION OF MEETING

The meeting terminated at 8.04 pm.

ITEM 4.1

Ards and North Down Borough Council

Application Ref	LA06/2021/0433/F
Proposal	Demolition of existing dwelling and replacement 2 storey dwelling with additional lower basement level
Location	15a Morningside, Bangor DEA: Bangor Central
Committee Interest	A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation
Validated	12/04/2021
Summary	<ul style="list-style-type: none">• Site located within proposed Bangor East ATC. Principle of replacement dwelling acceptable as existing building not considered to make a material contribution to overall appearance of the area.• Policies contained within PPS6 Addendum – Areas of Townscape Character and PPS7 – Quality Residential Environments not applicable as only apply to designated ATCs. However, the impact of the development on the overall appearance of the proposed ATC remains a material consideration.• Original 3 storey design submitted considered to be out of keeping with the character/appearance of area. Amended proposal for 2 storey design with concealed basement and reinstatement of landscaped banks now considered to be sympathetic to established built form and character.• No unacceptable impact on residential amenity of adjacent properties.• Objections submitted regarding impact on privacy and daylight considered in detail in Case Officer Report.• All consultees content with the proposal subject to conditions.• Approval subject to condition withdrawing permitted development rights to ensure that any future proposals for extensions or alterations are considered in full through the planning process.
Recommendation	Approval
Attachment	Item 4.1a – Case Officer Report

Development Management Case Officer Report

Reference:	LA06/2021/0433/F	DEA: Bangor East & Donaghadee	
Proposal:	Demolition of existing dwelling and replacement 2 storey dwelling with additional lower basement level, carport and associated site works		
Location:	15a Morningside, Bangor		
Applicant:	Paul and Liz Dalzell		
Date valid:	12 April 2021	EIA Screening Required:	No
Date last advertised:	8 June 2023	Date last neighbour notified:	1 June 2023
Letters of Support: 11	Letters of Objection: 65 (from 44 separate addresses)	Petitions: 0	
Consultations – synopsis of responses:			
DFI Roads	No objection subject to condition		
NI Water	No objection		
Rivers Agency	No objection subject to condition		
Shared Environmental Service (SES)	No objection subject to condition		
DAERA – Natural Environment Division (NED)	No objection		
DAERA – Marine and Fisheries Division	Further consideration should be given to the risks associated with climate change including sea level rise and coastal erosion		
DfC – Historic Environment Division (HED)	No objection		
Environmental Health	No objection subject to condition		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Impact on proposed Area of Townscape Character (ATC) • Visual impact, design and impact on the character of the established residential area • Impact on Residential Amenity • Impact on Biodiversity • Parking and Access 			

- Potential flooding/drainage issues

Recommendation: Grant Planning Permission

Report Agreed by Authorised Officer

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

1. Site and Surrounding Area

The site consists of a two-storey detached dwelling finished in white painted render and red brick with a conservatory to the side and balconies with metal balustrades. The dwelling is set on the higher ground in the southeast corner of the site. There is a decked patio area around the side and rear of the dwelling with views towards Ballyholme Esplanade. The glazing and rainwater goods are PVC. The dwelling is set in a mature garden with a river running along the western boundary and the garden is terraced and planted with mature shrubs. There are steps leading up to the house from the beach. There is existing vehicular access to the dwelling from Morningside. The dwelling has a narrow frontage onto Morningside and has dual frontage onto Ballyholme Esplanade. The overall site is approximately 0.14 hectares and the topography is such that the ground falls away quite steeply to the north and west towards the coast, providing a mature terraced garden area.

The area is predominately residential with a variety of house types with mature gardens and on-site parking. Ballyholme beach and promenade are located to the front of the dwelling. The site lies within the settlement limit of Bangor and within the Proposed Bangor East Area of Townscape Character. The site is adjacent to the Outer Ards Ramsar, ASSI and SPA.



Figure 1 – 15a Morningside viewed from front garden



Figure 2 – View from Esplanade



Figure 3 – View from side of 15a towards beach

2. Site Location Plan

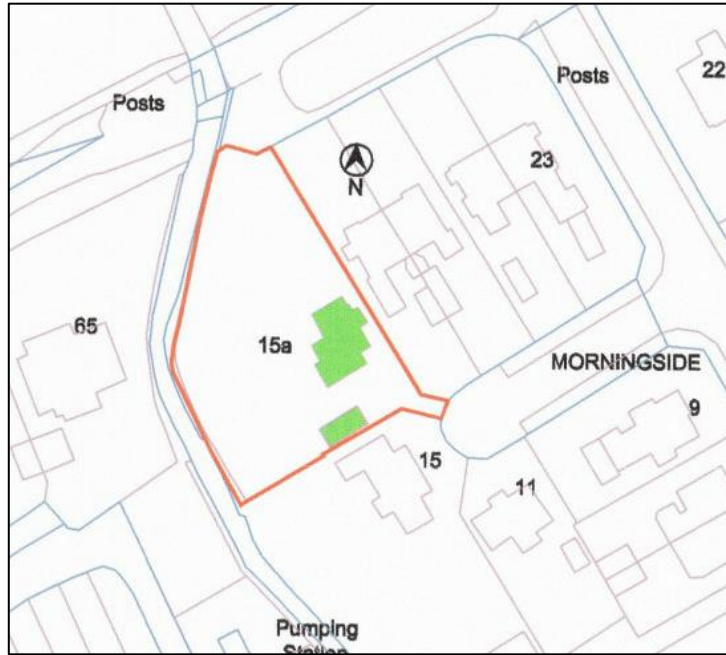


Figure 4 – Site Location Plan



Figure 5 – Aerial View of site

3. Relevant Planning History

W/1999/0022 - Land to the rear of 15a Morningside, Bangor - Site for detached dwelling – **Refusal**

W/2002/0432/F - 15A, Morningside, Bangor - Extension to dwelling – **Approval**

W/2003/0190/O – 13-15 Morningside, Bangor – Demolition of existing dwelling and erection of 2 dwellings – **Withdrawn**

LA06/2015/0981/F - Brooklands 143 Groomsport Road Bangor - Erection of 5 new detached dwellings with associated hard and soft landscaping and demolition of sub-standard solarium and garage of existing dwelling (Revised access arrangements, landscaping details and changes to house type C) – **Approval**

LA06/2018/0957/F - 59 Ballyholme Esplanade - Demolition of an existing 3 bedroom detached dwelling and garage. Erection of a 4 bedroom detached dwelling and garage. Widening of the existing gate opening – **Approval**

X/2013/0402/F - Land at 165 Groomsport Road - Proposed development of 11 Dwellings (comprising of 4 semi detached dwellings and 7 detached dwellings) detached garages and all other associated site works – **Approval**

X/2013/0409/F Land at 165 Groomsport Road - Proposed development of 5 apartment blocks with 30 no. apartments in total with integrated basement car park, development entrance and stores along with all other associated site works - **Approval**

4. Planning Assessment

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

- North Down and Ards Area Plan 1984 - 1995
- Draft Belfast Metropolitan Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2 (PPS2) - Natural Heritage
- Planning Policy Statement 3 (PPS3) - Access, Movement and Parking
- Planning Policy Statement 6 (PPS6) – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 6 Addendum (PPS6A)– Areas of Townscape Character
- Planning Policy Statement 7 (PPS7) – Quality Residential Environments
- Planning Policy Statement 7 Addendum (PPS7A) – Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 12 (PPS12) - Housing in Settlements
- Planning Policy Statement 15 (PPS15) - Planning and Flood Risk

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

Principle of Development

Regional planning policies of relevance are set out in the SPPS and other retained policies. 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 respect of the proposed development, there is no conflict or change in policy direction between the provisions of the SPPS and the retained policies contained in PPS3, PPS6, PPS6A, PPS7, PPS7A, PPS12 and PPS15 therefore these remain the applicable policy documents to consider the development under.

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

The NDAAP at section 13.7 states that new development should be carefully designed to respect the scale and character of existing buildings, using sympathetic building materials and should respect existing street patterns, landmarks, topographical and other features which contribute to the character of each town.

In dBMAP the site is not zoned for any purpose. The site does however lie at the northern edge of the proposed Bangor East ATC (BR14). The text for the draft ATC identifies multiple key features of the ATC. The impact of development on the proposed ATC and the compliance or otherwise with the provisions of the LDP and the weight to be given to dBMAP will be assessed in detail in the consideration below. The matter of the applicability of the Addendum to Planning Policy Statement 6 – Areas of Townscape Character (PPS6A) and the related provisions of the SPPS will also be considered below.

As the site is currently in residential use, the principle of a replacement dwelling is acceptable in the context of the LDP subject to assessment of the potential impact on the proposed ATC and compliance with the relevant regional planning policies.

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

The application seeks the demolition of the existing dwelling and the erection of a replacement dwelling sited within the established residential curtilage of 15a Morningside as shown on the existing and proposed site layout plans in Figure 6 below.

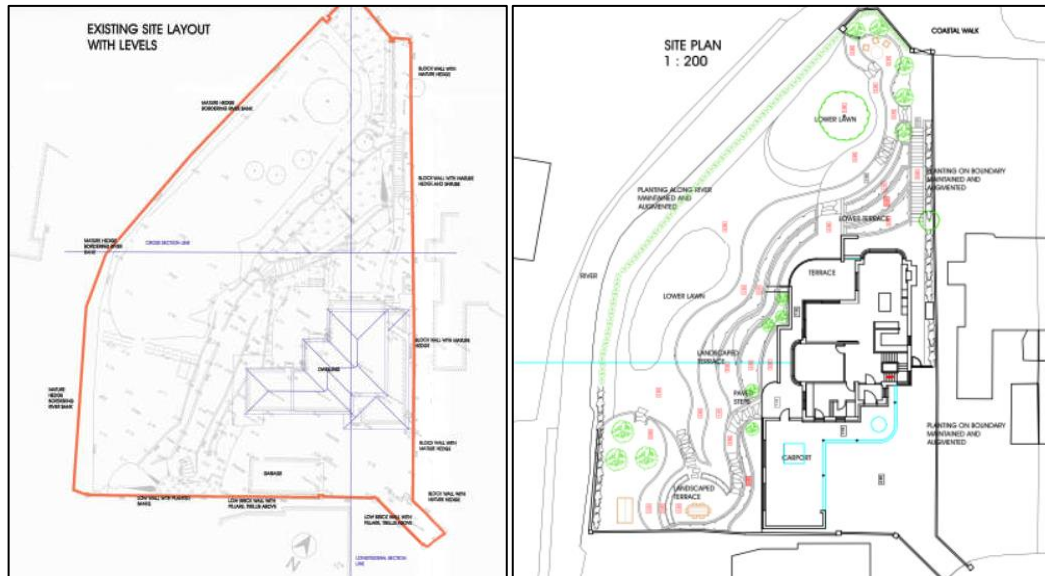


Figure 6 – Existing and Proposed Site Layout

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

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

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

The Planning Appeals Commission considered objections to the proposed ATC designation within its report on the BMAP public inquiry and recommended no change to the proposed ATC. Therefore, it is likely, that if and when BMAP is lawfully adopted, a Bangor East Area of Townscape Character designation will be included.

Consequently, the proposed ATC designation in draft BMAP is a material consideration relevant to this application. The Commission also considered objections to the general policy (UE3) for the control of development in ATCs which is contained in draft BMAP. It is recommended that Policy UE3 be deleted and that a detailed character analysis be undertaken and a design guide produced for each individual ATC. As yet these design guides have not been published. It would be wrong to make any assumptions as to whether these recommendations will be reflected in any lawfully adopted BMAP or as to whether the text relating to the key features of Bangor East ATC will be repeated. As of now, it is unclear how the area will be characterised in any lawfully adopted BMAP. However, the impact of the proposal on the overall appearance of the proposed ATC remains a material consideration and can be objectively assessed. This approach has been adopted by the Planning Appeals Commission in a number of appeal decisions, for example 2018/A0093 – dwelling and garage at 1 Farnham Park, Bangor and 2020/A0099 – 17 Apartments, Seacliff Rd, Bangor.

Case law (South Lakeland District Council –v- Secretary of State for the Environment (1992)) established that it is the effect on the character/appearance of the Conservation Area/Area of Townscape Character (ATC) as a whole to which attention must be directed and that preserving the character or appearance of a Conservation Area or ATC can be achieved by a development which leaves this unharmed (the ‘no harm’ test).

The proposed Bangor East ATC covers a large area of the town adjacent to Ballyholme Bay. Within this area there is a wide variety of built forms. In the immediate area, the built form is characterised predominantly by large detached and semi-detached family homes as shown in the images in figures 8 and 9 below. The site is located at the northern edge of the proposed designation as indicated on the map below. Draft BMAP does not divide the proposed ATC into separate character areas, therefore it is the impact on the ATC as a whole which must be considered.



Figure 7 - Extract from Draft BMAP – Bangor East ATC (BR14)



Figure 8 – View of site and surrounding context from Morningside (Google Streetview image March 2022)



Figure 9 – View of site and surrounding context from Esplanade (Google Streetview image March 2022)

With regard to the proposed demolition, while the existing building fits comfortably within its context by way of its size and form, it is not considered to make any material contribution to the established built form or appearance of the area. It has no particular design merits and makes little, if any, contribution to the appearance of the proposed ATC (see images in figures 11 and 12 below). The building is also not included within any of the key features of the ATC as identified in Draft BMAP and shown in Figure 10 below.

Designation BR 14	Area of Townscape Character Bangor East
<p>An Area of Townscape Character is designated at Bangor East as identified on Map No. 3a – Bangor, Map No. 3l - Bangor Town Centre and on clarification Map No. 3i Bangor East Area of Townscape Character.</p>	
<p>Key features of the area, which will be taken into account when assessing development proposals, are as follows: -</p>	
<p>Ballyholme / Ward Avenue (including Ballyholme Road, Ballyholme Esplanade, Ward Avenue and Groomsport Road)</p> <ul style="list-style-type: none"> • Fine terraces and Edwardian detached villas along Ballyholme Road, Ballyholme Esplanade and Ward Avenue, set within their own gardens; • Four pairs of semi-detached residences, namely Dufferin and Hamilton Villas (1880), located towards the east end of the strand, near Glenganagh House; and • Open spaces at Kingsland leisure area and Ballyholme Park. 	
<p>Groomsport Road / Shandon Drive</p> <ul style="list-style-type: none"> • Good quality pre First World War and inter-war two storey semi-detached and detached housing along the roads leading from Ballyholme Esplanade to Groomsport Road; • Baylands residential area which includes several Modern Movement houses; and • Edwardian detached dwellings (often faced in pebbledash) in the vicinity of Shandon Drive and College Avenue area, set in mature gardens with front boundary hedges, with good views out across Ballyholme Bay. 	

Figure 10 - Extract from Draft BMAP - Key features of Bangor East ATC



Figure 2 & 3 – Frontage of the subject property to Morningside and southern (front elevation)

Figure 11 – Extract from Design and Access Statement (Existing dwelling viewed from Morningside)



Figure 6 & 7 – Western and Northern Elevations facing Ballyholme Esplanade

Figure 12 – Extract from Design and Access Statement (western and northern elevations of existing dwelling facing Ballyholme Esplanade)

The Council’s Conservation Area Officer was consulted and has advised she has no objections regarding the demolition of No.15a. The officer stated that: *‘the existing dwelling does not exhibit any exceptional architectural features, nor historical background that would set it apart from any other suburban dwelling. What does set this property apart from others is the landscaped garden setting and coastal views to the north and west side, both of which are of a very high quality.’*

The positioning of the existing dwelling on the site is also an anomaly within the immediate context as it is set back considerably from the otherwise relatively uniform building line facing the Esplanade, creating somewhat of a gap in the frontage on approach from both directions as can be seen from the aerial view and image in figures 13 and 14 below. The demolition of the existing building provides the opportunity to re-position a replacement building further forward to continue the established building line along the Esplanade. As such, overall it is my opinion that the demolition of the building will cause no harm to the overall appearance of the proposed ATC.

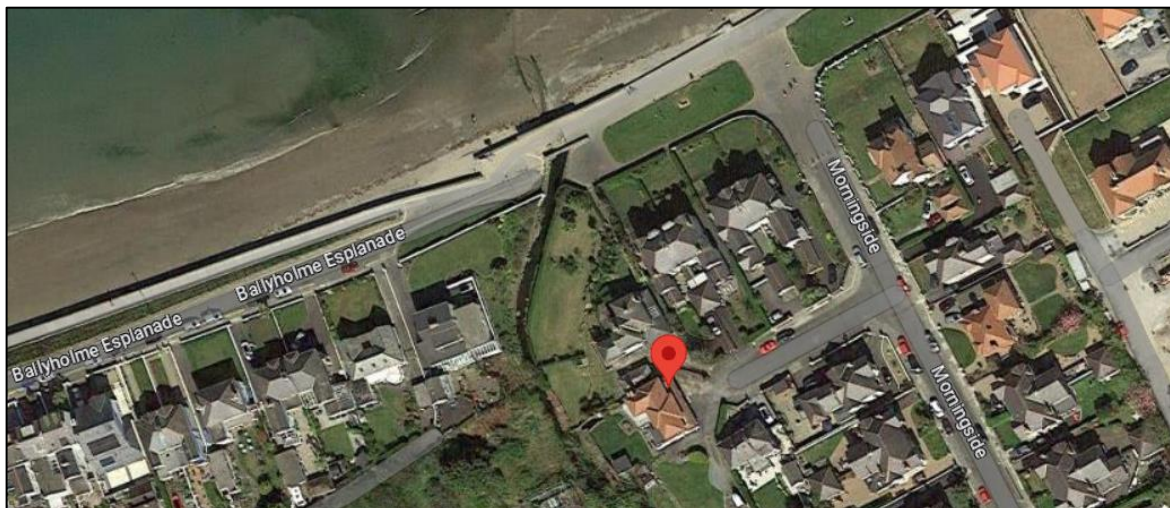


Figure 13 – Aerial view of site and surroundings



Figure 14 – Extract from Design and Access Statement showing gap in frontage

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

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

A Design and Access Statement has been submitted by the agent setting out the design principles and how the proposal will respect the established built form of the area. However, the design of the original scheme submitted with the application, was considered to be unacceptable by the Planning Department. The Council's Conservation Area (CA) Officer also had concerns regarding the proposed design. The CA Officer stated that the design of the original proposal did not respect the built form of the area, specifically the 3-storey design with basement level was out of context with the surrounding dwellings which are predominantly 2 storey with no basement element visible from the Esplanade. The loss of part of the terraced garden and the inclusion of a large raised terrace facing the Esplanade, was also considered to be uncharacteristic and harmful to the established built form and character of the immediate area (see original and current plans in Figures 15 and 16 below).

Amendments were then received on the 12 April 2022 to address these concerns. These amendments included an overall re design of the dwelling, reducing it from three storey with the lower basement to two storey with the basement. The roof design was

also altered, the side dormer window was removed, alterations were made to the proposed materials and a more detailed landscape plan was submitted.

These amendments were not considered to be acceptable as although they had amended the scheme it was still considered to be out of keeping with the area and had potential to create unacceptable overlooking. Further amendments were sought. Additional amended plans were then submitted by the agent on 9 December 2022 taking into consideration the issues raised.

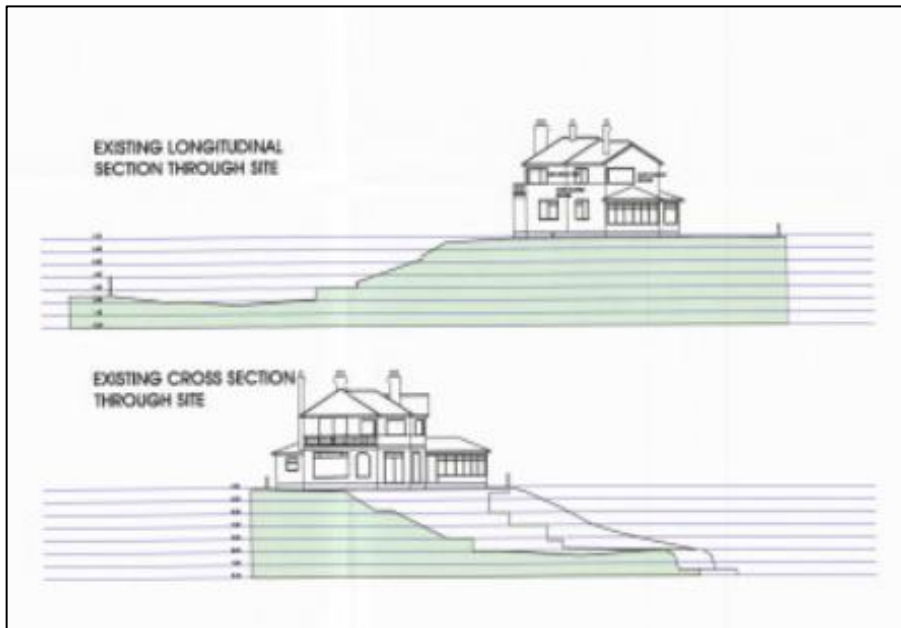


Figure 15 – Existing Sections through site



Figure 16 - Original and amended proposals

As can be seen from the plans above, several amendments have been made. The three storey design with the lower basement design, has since been amended and replaced with a two storey design with lower ground level. However, the most recent plans also include a landscape plan which includes reinstating the terracing/landscaped banks to the front and side of the dwelling. This terracing which will incorporate a large degree of planting will serve to largely conceal the basement from public view giving the impression of a two storey dwelling which will sit comfortably in context with the surrounding dwellings.

The pitched roof has been replaced with a hipped roof as well as the accommodation in the roof having been removed. The balcony at first floor level has been removed, and the ground floor projecting terrace significantly reduced in size and located in the inner front corner with access from the front and side. The lower ground patio has been reduced to allow for the terrace planted bank. The fenestration has also been simplified and arranged on the elevations to more closely reflect that of the surrounding period properties.

Figure 17 below shows the existing and proposed contextual elevations of the site and adjacent dwellings viewed from the Esplanade. It is evident from these, that the amended proposal for the replacement dwelling is extremely sympathetic to the established built form by way of its height, scale, massing and design.



Figure 17 – Existing and proposed contextual elevations



Original submission –
View from Ballyholme
Esplanade looking
toward No.17



Latest submission -
View from
Ballyholme
Esplanade looking
toward No.17

Figure 18 – Computer Generated Images (CGI's) of original and amended proposal

Photomontages from Ballyholme Esplanade were also submitted with the application (see figure 18 above), which incorporate the neighbouring dwellings and are very helpful in demonstrating how the dwelling will sit within its context. The original and amended designs are shown above as a comparison. It is clear from these images that the amended proposal represents a significant improvement and complements the built form of the adjacent buildings.

The proposed finishes include self-colour render and natural stone cladding to the carport, ground and lower ground floors, horizontal fibre cement cladding to the first floor, a brick chimney breast and a natural slate roof. Also vertically sheeted timber, galvanised steel and glass guarding. Extensive planting is proposed throughout the site. The carport is to be located partially on the footprint of the existing garage. It is to consist of a flat roof that is lower than the existing garage and contain vertical steel screens.

The main public views will be the northern and western elevations, the visible materials will be the render at ground level, the cement cladding at first floor level and the vertical steel screens of the carport. The stone cladding of the lower level will have limited public views due to the proposed terracing. It is considered that the neutral colours will integrate into the streetscape and will not detract from the character and appearance of the area. Given the mix of finishes in the area, the proposed materials will not be out

of keeping. Given the location of the site, there will be limited public views of the south and eastern elevations.

There are several examples of good quality detached and semi-detached houses within the vicinity of the application site, therefore the proposal should be considered in the context of these along with other more recent built development in the immediate area. Examples of both the traditional buildings and more modern buildings within the immediate vicinity of the site are shown below. Double height bay windows and brick chimney breasts are features in the immediate area, both of which have been incorporated into the design of the proposed dwelling.



Figure 19 – Views of existing development along Ballyholme Esplanade

The siting of the proposed dwelling has been brought forward to be more in line with the existing building line of the neighbouring dwellings. However as is demonstrated in the site layout plan in figure 20 below, the proposed dwelling will still sit 1.5m behind the existing building line of the adjacent dwelling at No. 17 and 11m behind the building line of 65 Ballyholme Esplanade, therefore the position of the dwelling on the site will be completely respectful of its context. Moving the dwelling to this position allows for the introduction of the lower ground level. The FFL of the ground floor is approximately 7m above the level of the river. And the lower ground level is 4m above the river. The dwelling when measured from the drive is 9.3m in height. In addition, a structural report was also submitted by OCSC, dated 11 May 2021, which concluded that the current site suffers from structural instability. The excavation of the site and use of a secant wall piling will serve to ensure a secure foundation for the development.

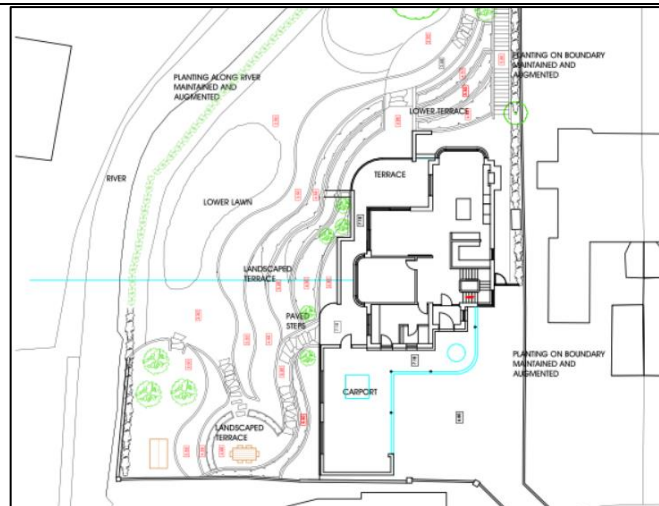


Figure 20 - Proposed Site Layout Plan

The proposed dwelling will be on the street level of the driveway. The site then slopes steeply beyond the drive, carport and parking area. The lower garden levels are accessible via steps down the planted terrace to the side and the steps from the entrance level terrace, replacing the existing concrete steps to the beach. It is proposed to use materials from the site by way of the excavation of the foundations. No materials are to be brought into the site. Details of retaining walls will be required to be submitted and will be conditioned as such.

It is acknowledged that the existing terrace bank is to be removed to accommodate the repositioning of the dwelling. However, while the original terracing will be removed, as it will be reinstated, albeit with a different design and layout, it will still maintain the sloping/terraced garden which characterises the dwellings facing onto this stretch of the Esplanade. Therefore, I am content that no harm will be caused to the appearance of the ATC or the character of the immediate area as a result of the site works.

The onus is on the developer to produce a high standard of design which respects and is sympathetic to the particular qualities of the area. All new housing developments should demonstrate a high quality of design, layout and landscaping. Overall, I am satisfied that the proposal represents good design. The scale, massing, landscaping and materials proposed are combined to create a development that is in keeping with the overall character and appearance of the area. The existing access is to be used. The plot size and ratio of built form to garden is acceptable and in keeping with the area. Given the application is for a replacement dwelling, this will not lead to an increase in the housing density of the area. It is not considered that the proposed development will set a precedent for similar applications given the unique characteristics of the site. Extensive landscaping will be provided within the site to soften the visual impact of the proposal. It is considered that the proposed dwelling will set comfortably with the existing dwellings and will not detract from the overall character and appearance of the immediate and surrounding area.



Figure 21 - Proposed landscape plan showing incorporation of terraced landscaping



Figure 22 - CGI of proposed dwelling and landscaped terracing

Impact on Residential Amenity

The three dwellings within closest proximity to the site which would have the potential to be most affected by the development are No. 17 Morningside, No. 15 Morningside and No. 65 Ballyholme Esplanade.

The proposed dwelling is set off the boundary with No.17 by 2.4m, with the exception of the chimney breast which is 1.8m from the boundary. There is a separation distance of 5.4m from the side elevation of No.17 to the side of the proposed dwelling, with the exception of the side porch of No. 17, opposite the chimney breast, which has a separation distance of 3m. The proposed dwelling although brought forward 7.6m from the position of the existing dwelling, still sits back 1.5m from the front building line of Nos 17-23 Morningside. The siting of the proposed dwelling is therefore respectful of the established building line of No. 17 and will not result in any dominant impact by way of the outlook from the main front elevation of No. 17.

which is a material consideration. Given the latter and due to the existing boundary treatment, which consists mature trees and hedgerow, I am content there will be no additional adverse overlooking to the rear or side of No,17 from the proposed stairwell window.



Figure 25 – Existing amenity of No.17



Figure 26 – Existing view of No.15a

Given the existing boundary treatment and proposed room use of first floor windows which will face No. 17, there are no concerns regarding overlooking to the amenity space at either side of the porch of No.17. It is considered that the proposed development will actually result in a reduced level of overlooking to this area as the first floor balcony to the existing dwelling which directly overlooks the area, will be removed.

There will be a degree of overlooking to the seaward facing amenity space from the proposed first floor bedroom window, however this is already open to public views from the esplanade. The lower section of this garden is also already overlooked in part by No.19. It is acknowledged that there is potential for a degree of overlooking to amenity spaces in urban areas. Therefore, given the nature of the site, I am satisfied that there will not be such a significant increase in the level of overlooking than is already present.

In terms of overlooking to No.15, given the location of the proposed carport, separation distances and the windows facing No.15 are for a bathroom, which would be obscured, and a landing and stairwell, there are no overlooking issues. It is important to note that there are existing views from the garden of No.15a directly into the rear garden, living room and balcony. It is not proposed to amend this boundary treatment, therefore views will remain as existing.

There are no concerns of overlooking to No. 65 Ballyholme Esplanade, given the separation distance of 26m. It is also of note that the side windows and patio area of the existing dwelling currently overlook No.65. It is not considered that the proposal is significantly different than the existing.

With regard to the potential for loss of light and overshadowing to No. 17, there are a number of windows on the side/western elevation of No.17 which could potentially be affected by the proposed development as follows:

- Reception room
- Living room
- Landing
- Sunroom/porch
- 2 Velux windows on single storey return
- Kitchen window (facing north)
- There is also an external seated area on either side of the porch/sunroom

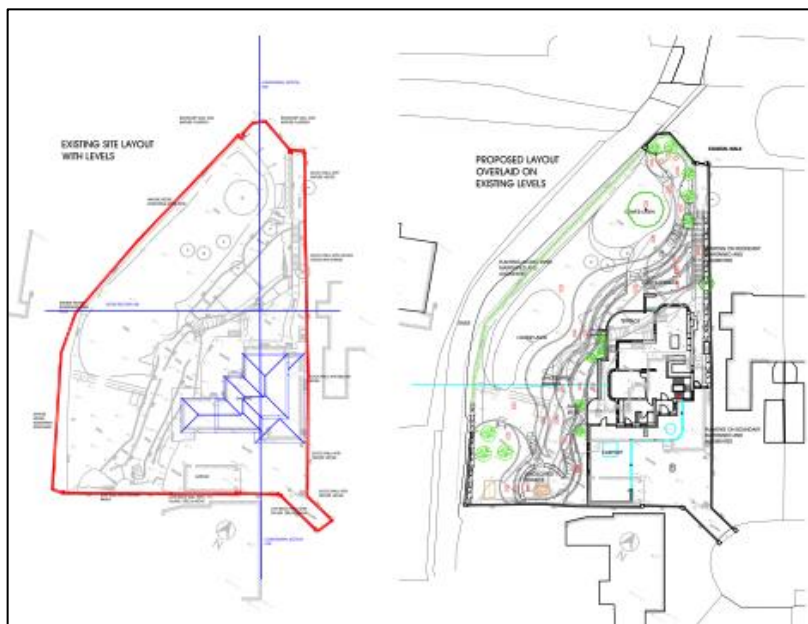


Figure 27 - Existing and proposed site plans

It is acknowledged that there will be a degree of overshadowing to the side of No.17 during the later part of the day when the sun will face the western elevation, however, the affected windows either serve non habitable rooms or are secondary windows to rooms which have another main source of light from other windows. The small kitchen window faces seaward and due to this angle will not be significantly impacted upon. The kitchen also has two Velux rooflights on the single storey return. It is considered that these rooflight windows will still benefit from daylight given their position and angle. These Velux windows are already impacted upon by the existing dwelling which sits immediately adjacent to them. Given the proposed forward position of the dwelling, the impact on these Velux windows is likely to be less than the existing situation. There are no other side windows that would be impacted upon any more significantly than by the existing dwelling. The cloakroom and landing are not considered to be primary habitable rooms. It is also noted that the proposed ridge is the same height as the neighbouring properties, Nos 17-23 and is pitched to the west away from No.17 which will further help to minimise the impact on daylight.

In terms of the porch, the resident of No.17 has advised that the single storey pitched roof, porch is also used as a small sunroom and that it should be considered as a main room. The porch consists of three sides, two partially glazed, and a solid external door. The porch is approximately 1.8m by 2.2m. Due to the small size of the porch at just under 4sqm it is not considered that it would constitute a main habitable room.



Figure 28 – western side of No.17

The existing dwelling is set back from the porch however the proposed dwelling would sit slightly forward of the porch/sunroom by 1.4m with the chimney breast located opposite. There would be a separation distance of 3m from the porch to the chimney breast.

The orientation of the site is such that the western elevation does not benefit from direct sunlight until the early afternoon into the evening. The sunroom/porch has a solid door facing south and full height windows on the western and northern elevations. While the

development breaches the 45 degree light test to a minor degree for the north facing kitchen window. However, it is not considered that this breach in itself would result in an unacceptable loss of light given the other sources of light into the kitchen, including the Velux windows, door and windows.

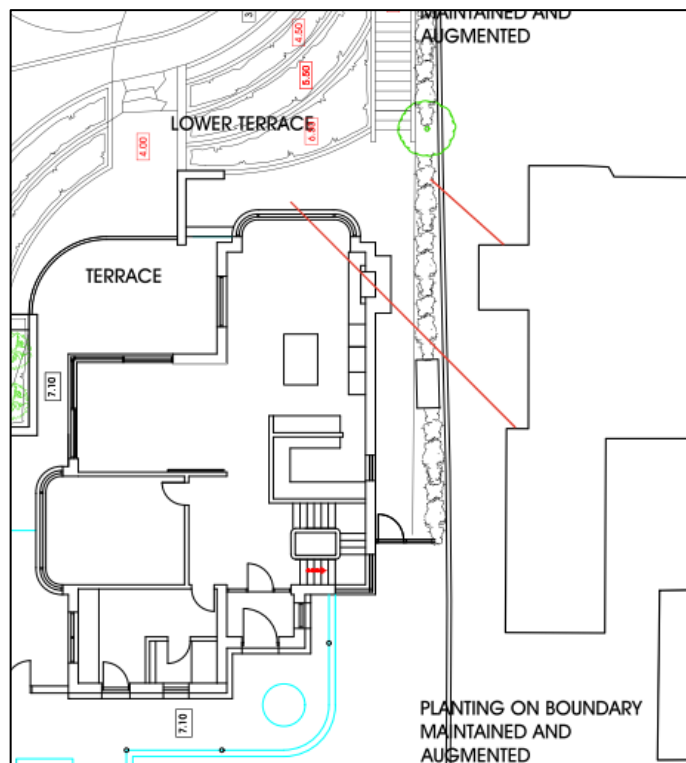


Figure 30 – 45 degree light test

Considering these points, it is not deemed that the proposed dwelling will have such a negative effect on the small-scale porch as to warrant a refusal on the grounds of loss of light. These points also apply to the external side seating area located on either side of the porch which is not the main private amenity space to the dwelling. The main private amenity space is located to the rear of No. 17. This area is also south facing so benefits from direct sunlight for the most part of the day and will remain unaffected by the proposed development.

The relationship between the proposed dwelling and No.17 (gable to gable) is very similar to the relationship between Nos. 19 and 21, which both have opposing side elevation windows in similar positions to No. 17. There are also numerous similar examples in the immediate area of secondary windows on side elevations which are affected by an opposing gable. This is therefore part of the established pattern of development within the area which is also a material consideration. Overall, I am content that the degree of light lost will not be of an unacceptable level.

The potential dominant impact of the development on No. 17 is also a material consideration in addition to the impact on daylight. Dominance is the extent to which a new development adversely impinges on the immediate aspect or outlook from an adjoining property. Guidance contained in policy EXT1 of PPS7 Addendum Residential Extensions and Alterations is a useful reference in this regard. The policy advises that neighbouring occupiers should not be adversely affected by a sense of being 'hemmed in' by an extension. This can often result from the construction of a large blank wall and

dominance can be increased when the neighbouring property is at a lower ground level to the development site, with loss of light usually a consequence of dominance. However, it is appropriate, however, to take account of the prevailing local environment.

Taking account of the above policy guidance, it is not considered that the development will result in any adverse dominant impact on No. 17. The affected elevation of No. 17 is its side elevation rather than the main front or rear elevation. This elevation does not contain any primary windows to the main habitable rooms of the dwelling. Living rooms, kitchen and bedrooms all have main windows facing either towards the coast or to the rear onto Morningside with unobstructed outlooks. While the outlook from the western windows of the side porch to No. 17 will be affected, an outlook towards the coast from the northern facing windows will remain. It is therefore considered that the development will not result in any unacceptable degree of dominance on No. 17 as a whole.

There are no issues of loss of light or dominance to No.15 given the separation distance, 12m from proposed dwelling. The proposed carport is single storey and is to be located in the same position as the existing garage.

In summary, taking account of all the above factors, I am satisfied that overall, the proposed dwelling will be located a sufficient distance from the existing dwellings to ensure that no unacceptable degree of dominance or overshadowing will occur and there will be no unacceptable adverse impacts on residential amenity.

Access and Road Safety and Parking

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. Parking should be provided in accordance with Creating Places standards. The proposed site layout plan indicates that there will be ample room for parking within the boundaries of the application site.

DfI Roads was consulted and offers no objections subject to conditions. It is considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.

Private Amenity Space

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

Designated Sites and Natural Heritage

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. No such scenario was identified. The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

Planning permission will only be granted where a development proposal is not likely to harm a protected species or result in the unacceptable adverse impact or damage to priority species, habitats or features of natural heritage importance.

A Biodiversity Checklist and Bat Survey Report were submitted and NED has considered the contents. Using the information submitted, NED notes that surveys were carried out in relation to badger and no evidence of badgers was found therefore NED is content that the proposed development is unlikely to significantly impact the local badger population.

NED notes that some evidence of otters was found along the edge of the garden, however no otter holts were located during the survey. NED is therefore content that the proposed development is unlikely to significantly impact the local otter population. NED has reviewed the information provided within the bat survey report and is content that the building to be removed is unlikely to support roosting bats.

It is acknowledged, given the coastal location there is a moderate risk of coastal erosion as advised by NIEA. However, weight is given to the distance of the proposed dwelling from the coast (approx. 40m), and the proposal is for a replacement dwelling at a similar location. Taking these into consideration, I am content that the proposal will not be significantly affected by the effects of coastal erosion.

NED and SES were consulted and offered no objections to the proposal subject to conditions.

Flooding and Drainage

Part of the site is within the floodplain of the existing river, which is known as the 'Cotton River' and flows adjacent to the western boundary of the site.

The Flood Hazard Map (NI) indicates that part of the site's western boundary lies within the 1 in 100 year fluvial and 1 in 200 year coastal flood plain. However, DfI Rivers PAMU acknowledge there will be no proposed development located within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

DfI Rivers acknowledged the submission of a Flood Risk Assessment by OCSC Consulting, stamp dated 12 April 2021 and accepts its logic and therefore has no reason to disagree with its conclusions.

DfI Rivers acknowledge that the finished floor levels of the proposed development will be set with a minimum freeboard of 600mm above the 1 in 100 year fluvial and 1 in 200 year coastal flood plain.

Under 6.32 of Policy PPS 15 FLD 2, an adjacent working strip along a watercourse must be retained to facilitate future maintenance. The working strip should have a minimum width of 5m, but up to 10m were considered necessary, and be provided with clear access and egress at all times.

This development does not exceed the thresholds as outlined in Policy FLD 3 and subsequently a Drainage Assessment is not required.

No part of the proposed development including the proposed terracing is within the floodplain of the existing river, and Rivers have no objection to the proposal, I am satisfied that the floodplain will not be impacted upon. The level of the floodplain will not be altered during or after construction and will be conditioned as such.

Other material considerations

There are no archaeological or built heritage features to protect or integrate into the overall design and layout of the development. HED were consulted and offered no objections to the proposal. There are no Tree Preservation Orders on or bounding the site. The proposal will not damage the quality of the local area. The layout has been designed to deter crime. NI Water were consulted and offered no objection to the proposal.

5. Representations

Number of objections received – 63 in total, from 44 different addresses, received as follows:

- 36 objections to the original proposal (29 separate addresses), submitted 12 April 21
- 10 objections received after second submission (6 addresses), submitted 12 April 22
- 19 objections received since latest submission (11 addresses) 9 December 22

Issues raised in submitted representations are summarised below:

Issues raised in relation to original submission

- Principle of demolition
- Design and forward location out of character with ATC
- Visually prominent – modern, height, basement
- Loss of light and overshadowing to No17
- Environmental and coast impact – building on floodplain
- Loss of privacy to No17 and No65 Ballyholme Esplanade
- Occupancy – HMO use
- Impact on flood plain – removal of bank and forward location
- Dominance to No17
- Piling issues – structural implications for surrounding properties
- Construction dust, noise, general disturbance
- Loss of views by No17
- Overcrowding

Issues raised in relation to second submission

- Loss of light/overshadowing to No17
- Piling concerns
- Overall scale out of keeping
- Loss of privacy to No17
- Design out of keeping – does not respect built form of area
- Dominance to No17

- Design and forward location out of character
- Loss of terraced bank – impact on environment, flooding
- Forward location, within floodplain
- Impact on ATC
- Access to site concerns re safety, during demolition/construction
- Excavation impact on wildlife
- Concern landscaping could be altered revealing basement
- Loss of mature vegetation – impact on area and wildlife
- Still reads as three storey house
- Basement incongruous element

Issues raised in relation to final submission

- Impact on environment – demolition and construction
- Potential to impact level of floodplain, increase flooding impact
- Piling – affect stability of neighbouring dwellings, noise impact
- General noise from demolition and construction
- Forward location out of keeping
- Concern could do harm under PD rights
- Overshadowing and loss of light to No17
- Overlooking to No17
- Impact on character of area
- Basement set negative precedent
- Basement element out of keeping with area, concerns views from brow of bridge
- New terraced bank not enhancing ATC
- Removal of vegetation impact on bats
- New terrace bank impact on floodplain
- Dominance to No17
- Overdevelopment of site

The main concerns raised in relation to the impact of the development on the character of the area, impact on residential amenity, environmental impact and flooding have all been considered in detail in section 4 above.

Other matters raised are considered as follows:

- **Concern that the dwelling will be used as a House of Multiple Occupation (HMO)**
Planning permission has been sought for a single dwelling. Planning permission would be required for any proposed change of use to an HMO.
- **The rectangle along the boundary with No.17**
This is the location of the existing oil tank.
- **Impact on house value**
This is not a material planning consideration.
- **Stability issues from the piling**
This is a concern of the neighbours in terms of the site and neighbouring sites and potential damage to dwellings. This falls outside the planning remit, however

it was confirmed that the type of piling proposed is 'secant piled wall'. This will restrain the ground to the east and south of the basement, ensuring the support of the foundations. The basement can then be excavated. The onus is on the applicant to ensure that the development is designed and undertaken in accordance with all the relevant standards. Any damage caused to adjacent properties during construction as a result of groundworks or piling would be a civil matter to be resolved between the parties involved.

- **Construction noise, general disturbance, road safety, dust, access to the site**

Environmental Health were consulted and offered no objections but asked for a condition regarding construction/operating times. Any noise from construction works is considered temporary and will not adversely impact on residential amenity and as the area is within the settlement limit of Bangor, the erection of dwellings is expected.

- **Impact to Floodplain**

The levels of the floodplain will not be altered, no development is within the floodplain.

- **Views**

There is no right to a view.

6. Recommendation

Grant Planning Permission

7. Conditions

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

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

2. All hard and soft landscape works including the terraced banking shall be carried out in accordance with the hereby approved drawing No.6A. All works and new planting as indicated on the stamped approved drawing shall be completed during the first available planting season after the occupation of the dwelling hereby approved and retained in perpetuity thereafter.

Reason: In the interest of visual amenity.

3. Existing mature trees/shrubs and hedging as shaded green on hereby approved drawing No.06A shall be augmented as required and grown and retained in perpetuity at a minimum height of 1.8m.

Reason: To ensure the maintenance of screening.

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

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

6. A final Construction Environmental Management Plan (CEMP), agreed with the appointed contractor, must be submitted to the Council at least eight weeks prior to any construction works commencing. The CEMP must identify all potential risks to the adjacent watercourse and must incorporate all of the pollution prevention measures as detailed in the Outline Construction Environmental Management Plan (CEMP), report No PM21-1108 by Pentland Macdonald stamped 08 November 2021. The approved CEMP shall be adhered to and implemented throughout the construction period 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.

7. Prior to the commencement of development, detailed drawings and specifications of all proposed retaining walls, banks and structures within the development shall be submitted to the Council for approval. The works shall be completed in accordance with the approved details prior to the occupation of the dwelling hereby approved.

Reason: To ensure the provision of appropriate retaining structures within the site.

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

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

9. The finished floor levels and proposed ground levels for the dwelling hereby approved shall be in accordance with the details set out on the hereby approved drawings Nos. 03B and 04B.

Reason: In the interest of privacy and visual amenity.

10. The windows, as shaded yellow, on the hereby approved drawing Nos 03B and 04B. shall be finished with obscure glass. The obscure glazing shall be installed prior to the occupation of the dwelling hereby approved and shall be permanently retained thereafter.

Reason: In the interest of privacy and amenity.

11. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015 any Order revoking and re-enacting that Order, no buildings, walls, gate pillars, fences or other structures shall be erected within the curtilage of the dwelling hereby permitted without the grant of a separate planning permission from the Council.

Reason: In the interests of visual amenity.

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

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

13. Demolition/construction works shall not take place outside the following hours: 07:00 – 19:00hrs Monday to Friday, Saturday 08:00 - 13:00hrs and not at all on Sundays or Public Holidays.

Reason: To ensure the occupiers of nearby residential premises are not adversely affected by noise from the demolition /construction works.

14. A working strip shall be provided adjacent to the watercourse which will have a minimum width of 5 metres, but up to 10 metres where considered necessary as agreed with Rivers Agency and be provided with clear access and egress at all times.

Reason: To facilitate future maintenance by DfI Rivers.

Informative

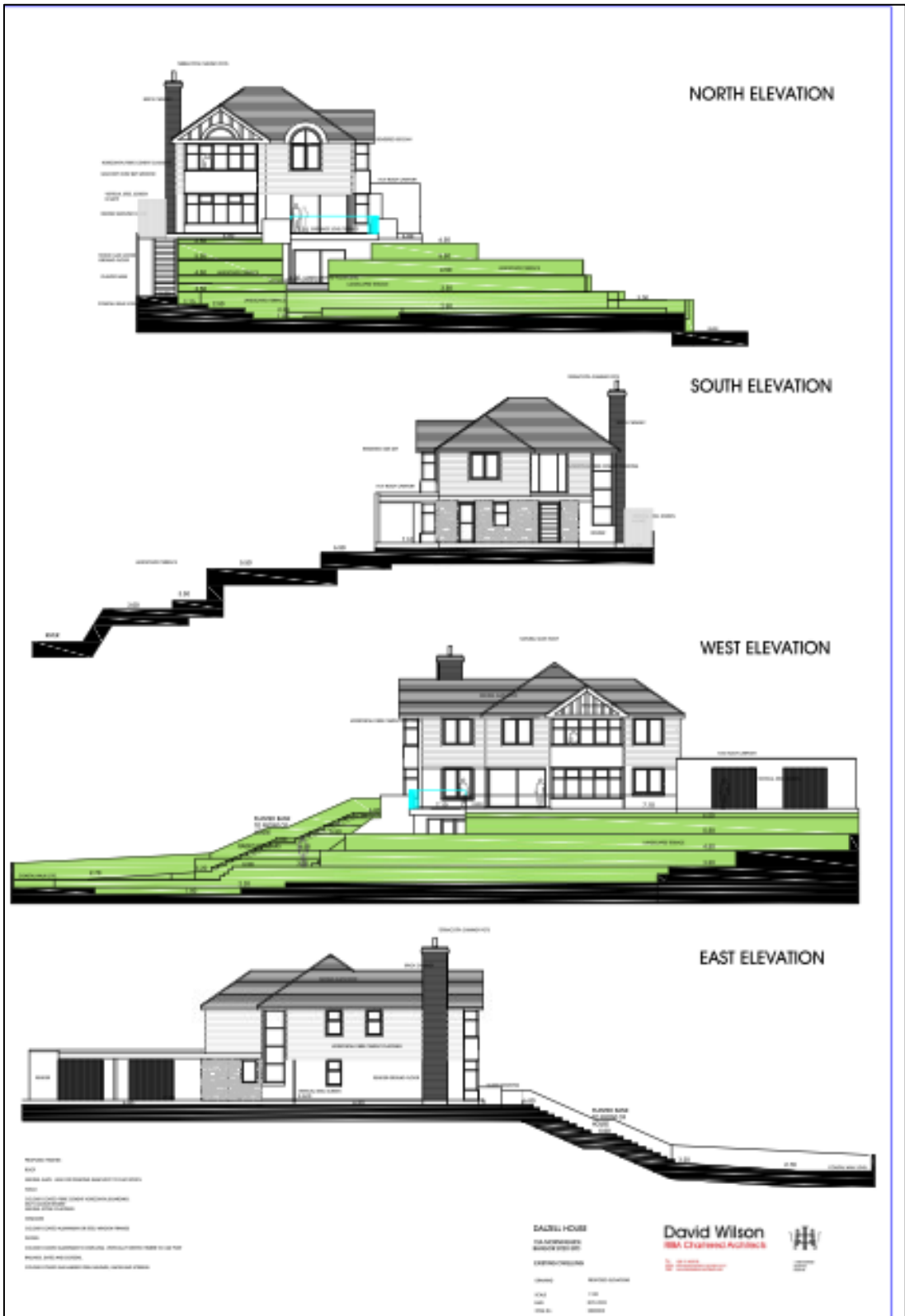
This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where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

**Case Officer
Signature:**

Date:



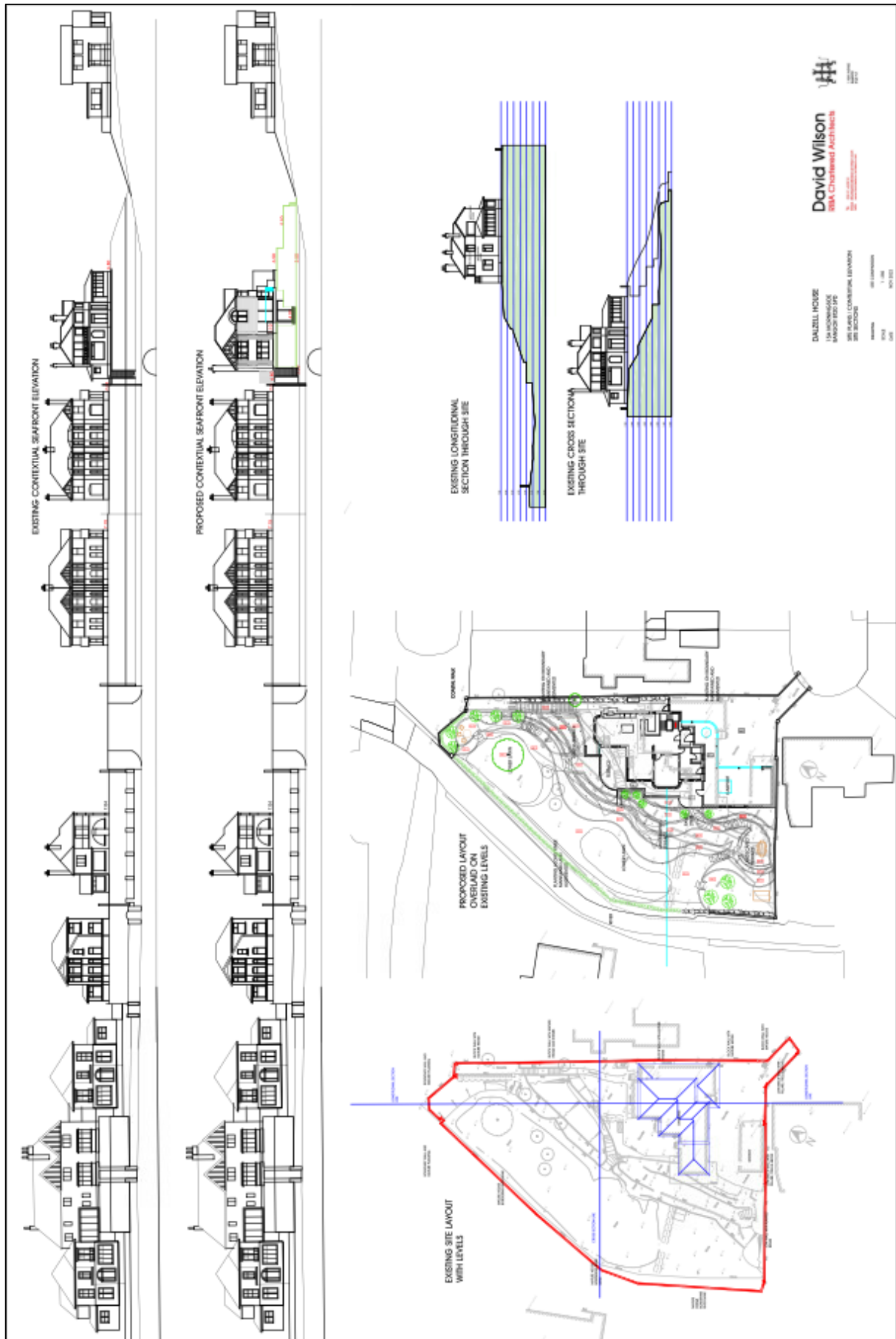
Site plan and existing plans



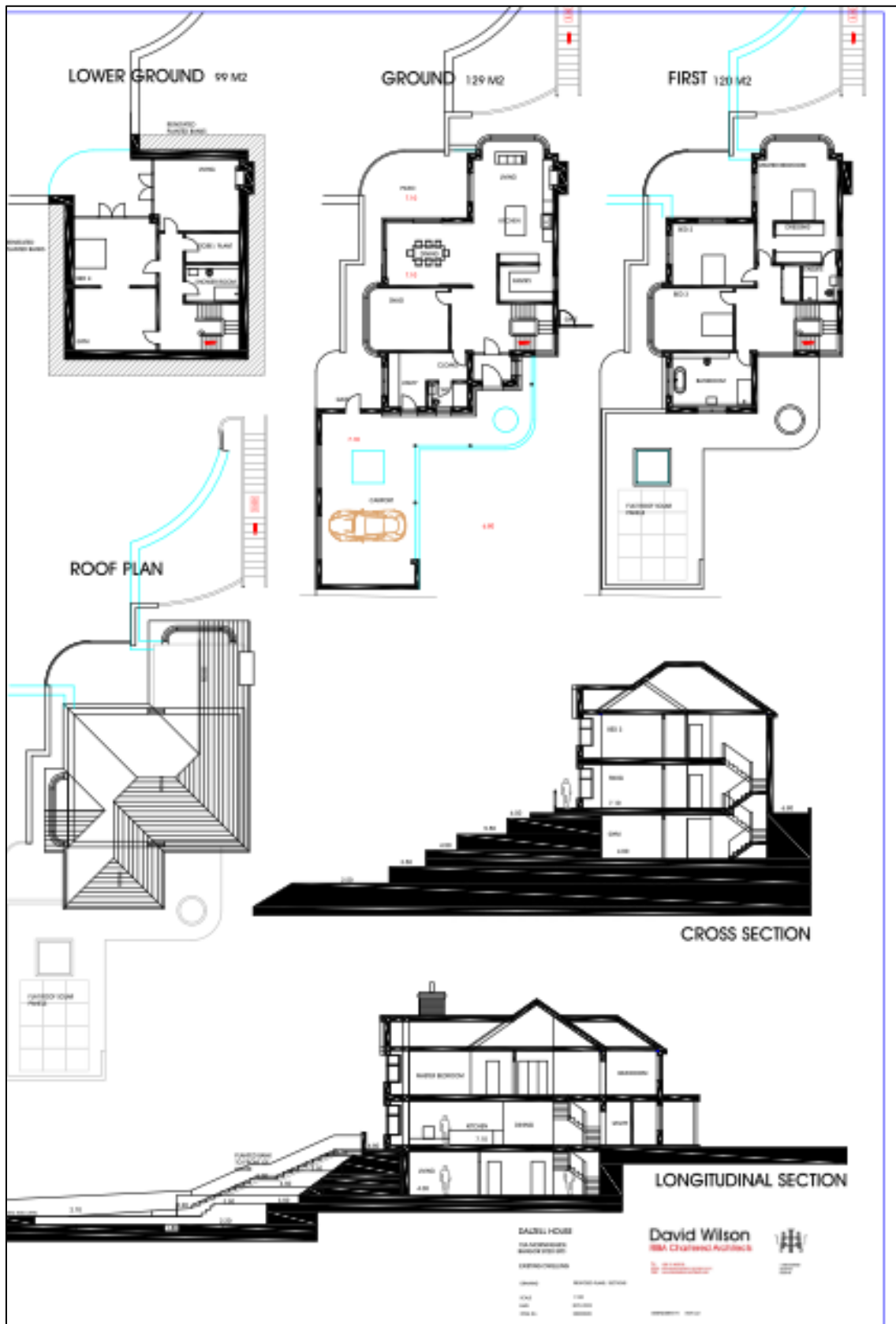
Proposed elevations



Proposed block plan



Site plan, contextual elevations and cross sections



Proposed floorplans and cross sections

HERBACEOUS PLANTING AND GRASSES AND SHRUB PLANTING



Agapanthus



Aster



Salvia nemorosa



Hostas / Polypodium vulgare



Cistus x purpureus



Sedum spectabile



Panicum virgatum



Festuca glauca



Carex 'Everest'



Allium / tulipa varieties



Verbena bonariensis



Zantedeschia aethiopica



Helleborus



Perovskia 'Blue Spire'



Hebe 'Rakaiensis'



Rosmarinus



Lavandula 'Munstead'



Geranium 'Johnsons blue'



Crocosmia 'lucifer'



Lonicera pileata



Viburnum tinus



Photinia fraseri



Hydrangea Macrophylla



Vinca major



Escallonia



Trachelospermum jasminoides

15a Morningside - Planting mood board
Emma Rayner Landscape Architects - March 2022

Planting mood board



Aerial view



View point 1 - existing



View point 1 – proposed



View point 2 - existing



View point 2 - proposed



View point 3 - proposed

ITEM 4.2

Ards and North Down Borough Council

Application Ref	LA06/2022/0863/F
Proposal	Dwelling and domestic garage
Location	Site 78m east of 31 Ballygowan Road, Comber DEA: Comber
Committee Interest	A Local development application 'called-in' to Planning Committee from the delegated list by a member of that Committee. Called in by Cllr McIlveen from delegated planning application list w/c 24 April'23: <i>"I would ask that application LA06/2022/0863/F is called in for the committee to determine whether it meets the criteria set out in CTY2a of PPS21 as a new dwelling in an existing cluster and that the Committee considers this application in light of what the PAC has held to be a cluster under Appeal reference 2019/A0024 which relates to development in this area."</i>
Validated	06/09/2022
Summary	<ul style="list-style-type: none"> • Site is located in the countryside therefore policies contained within PPS21 – Sustainable Development in the Countryside apply. • Application has been submitted under policy CTY2A - dwelling within an existing cluster of development. • Principle of a cluster of development previously established at this location by the Planning Appeals Commission in appeal decision 2019/A0024 – site for dwelling, 25m south of 31a Ballygowan Rd. • Several other permissions have since been granted under policy CTY2A following PAC decision. These proposals were considered to meet all of the policy tests of CTY2A. • Current proposal fails to meet Policy CTY2A <ul style="list-style-type: none"> ○ site does not provide a suitable degree of enclosure; ○ the development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and ○ will significantly alter its existing character and visually intrude into the open countryside. • Inadequate level of residential amenity and privacy for proposed dwelling. • Proposal also fails to meet policies, CTY8 Ribbon Development, CTY13 Integration and Design of Buildings in the Countryside and CTY14 Rural Character in that it

	<p>would create a ribbon of development, would be unable to provide a suitable degree of enclosure to integrate the dwelling into the landscape, result in a prominent feature in the landscape and result in a suburban style build-up of development.</p> <ul style="list-style-type: none"> • This proposal can be differentiated from the previous dwellings approved under CTY2A at this location as rather than consolidating and rounding off development within the established cluster, it will extend the cluster of development into the prominent and highly visible agricultural field to the south of the cluster. • If approved, this application will set a precedent for further approvals under policy CTY2A within the same agricultural field which will further expand the extent of the original cluster identified by the PAC. • Development within the field would be prominent and highly visible from the main Ballygowan Road, creating a built-up appearance and harming the rural character of the area. • No objections from third parties or consultees
Recommendation	Refusal
Attachment	Item 4.2a – Case Officer Report

**Development Management
Case Officer Report**

CTY2A

Reference:	LA06/2022/0863/F	DEA:	Comber
Proposal:	Dwelling and domestic garage	Location:	Site 78m east of 31 Ballygowan Road, Comber
Applicant:	Mourne Contracts NI Ltd		

Date valid:	06.09.2022	EIA Screening Required:	
Date last advertised:	13.09.2022	Date last neighbour notified:	09.09.2022

Consultations – synopsis of responses:

DFI Roads	No objection subj to condition
DAERA Natural Environment Division	No objection
NI Water	No objection
River Agency	No objection
Environmental Health	No objection
HED	No objection

Letters of Support	0	Letters of Objection	0	Petitions	0
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Summary of main issues considered:

- Principle of development
- Design and Appearance
- Impact on privacy or amenity of neighbouring properties
- Impact on the character and appearance of the rural area
- Biodiversity

Recommendation: Refuse Planning Permission

Report Agreed by Authorised Officer

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

1. Site and Surrounding Area

The site lies approximately 78m east of 31 Ballygowan, Comber. It comprises part of a grassed agricultural field and slopes downwards from west to east. The site is bounded to the north, east and west by a post and wire fence. There is a road to the north and east and a laneway to the west. It is outside of, and on the South-west side of the defined settlement limit of Comber. The site is accessed off the Northern side of the Ballygowan Road, a protected route. It is close to an archaeological site and monument (Motte, DOW010:022).

The existing access road also serves Comber Household Recycling Centre, Comber Cemetery and a Timber and Building Supplies yard as well as several existing dwellings and commercial units.

2. Site Location Plan



3. Relevant Planning History

The Site and its Surroundings

There is a complex planning history in the immediate environs of the application site and the following applications are considered relevant. Nos 31 and 33 were the original farm dwellings together with several outbuildings. The history includes the change of use of farm buildings to other uses including industrial/storage.

SITE 1: HISTORY

Reference: LA06/2018/0004/O Proposal: Site for dwelling

Address: 25m south of 31A Ballygowan Rd, Comber

Decision: APPEAL UPHELD (Ref 2019/A0024, 11/03/2020)

Reference: LA06/2021/0149/RM Proposal: Dwelling and garage

Address: 25m South of 31A Ballygowan Road, Comber

Decision: PERMISSION GRANTED (16/04/2021)



SITE 2: HISTORY

Reference: LA06/2021/0251/F Proposal: New dwelling

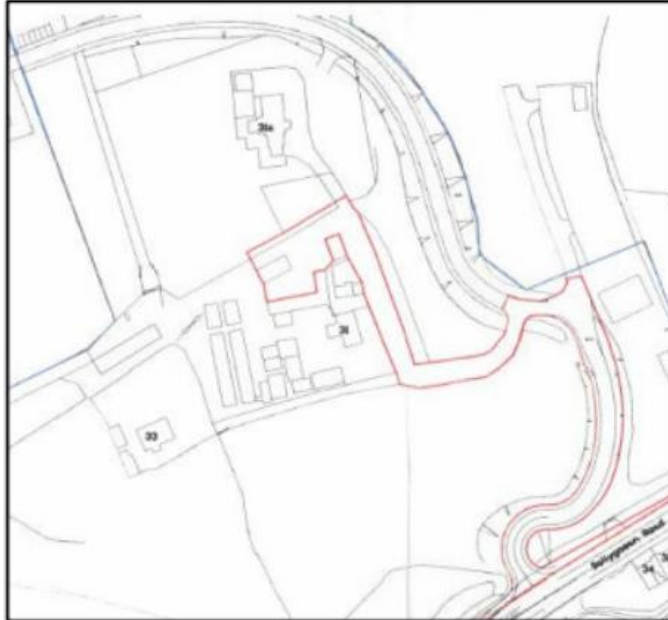
Address: Lands adjoining and 15m West of 29 Ballygowan Road, Comber

Decision: PERMISSION GRANTED (10/12/2021)



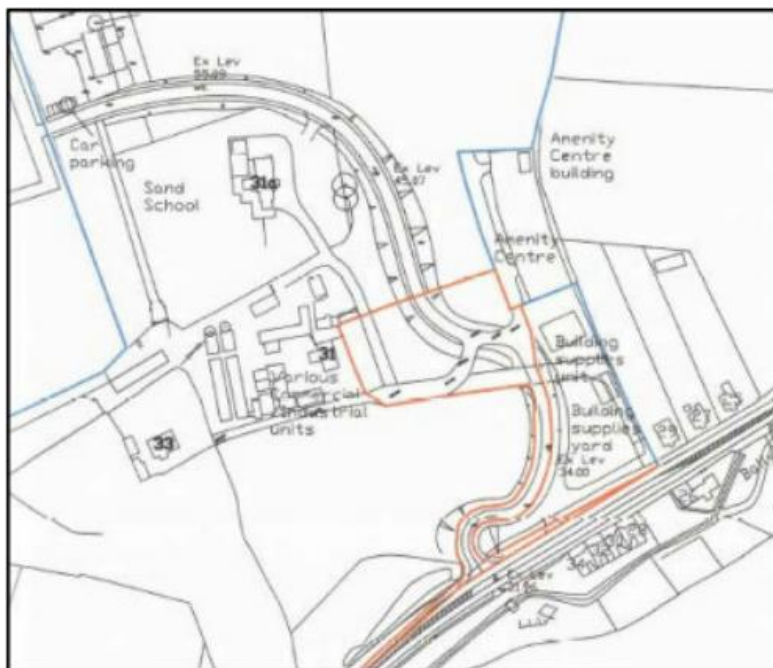
SITE 3: HISTORY

Reference: LA06/2021/0543/O Proposal: Site for dwelling
Address: Approx. 58m South of 31A Ballygowan Road, Comber
Decision: PERMISSION GRANTED (02/09/2022)
Reference: LA06/2022/0984/RM Proposal: Site for dwelling
Address: Approx. 58m South of 31A Ballygowan Road, Comber
Decision: PERMISSION GRANTED (15/02/2023)



SITE 4: HISTORY

Reference: LA06/2020/1098/F Proposal: Site for dwelling
Address: Approx. 45m East of 31 Ballygowan Road, Comber
Decision: PERMISSION GRANTED (29/03/2022)

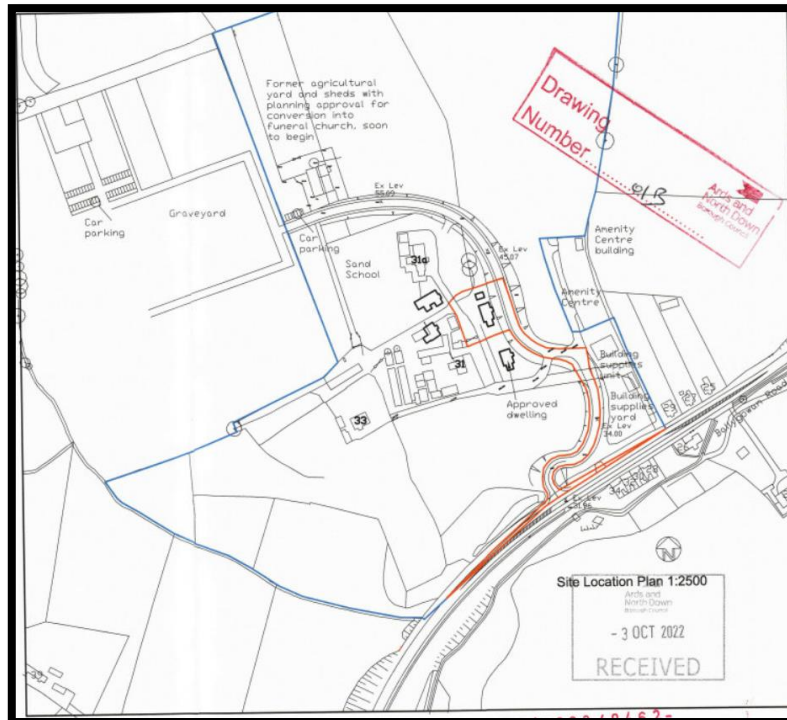


SITE 5: HISTORY

Reference: LA06/2022/0462/F Proposal: Dwelling and garage

Address: land approx. 38m NE of 31 Ballygowan Road, Comber

Decision: PERMISSION GRANTED (11/01/2023)



4. Planning Assessment

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

- Ards and Down Area Plan 2015 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Revised Planning Policy Statement 15: Planning and Flood Risk
- Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Guidance:

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

Principle of Development

Compliance with the Development Plan

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

The Ards and Down Area Plan is the Local Development Plan for this area. According to the Ards and Down Area Plan 2015 (ADAP) the site is located outside the designated Settlement Limit of the town of Comber (Proposal CR01) in open countryside.

Strategic Planning Policy

Regional planning policies of relevance are set out in the Strategic Planning Policy Statement and other retained policies, specifically PPS 21. Building on Tradition is also a material consideration. The guiding principle of the SPPS 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 harm to interests of acknowledged importance.

The applicant seeks full planning permission for the erection of a Single Detached Dwelling House and Garage in accordance with the policies within the SPPS and PPS21. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered acceptable in the countryside. One type is development within an existing Cluster. Policy CTY2a relates. Policy CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided six criteria are met.

- 1. 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.**

A Cluster has been established at this location, via the upheld Planning Appeal decision, Ref 2019/A0024, following the refusal of LA06/2018/0004/O for a site located approximately 123m to the north-west of the current application site. The Inspector considered a cluster existed at this location stating, *'I am satisfied that, when travelling from the north-east, the upper sections of the dwellings at Nos. 31,31a & 33 are intervisible with the 3 dwellings at Nos. 25, 27 and 29 and the builders' yard and recycling centre. I do not however consider that the dwellings on the southern side of the main road contribute to that outer "cluster" as they lie outside the range of vision of the development opposite. In reaching this conclusion, I find that as the significant and varied development located within the outer "cluster" includes the dwellings at Nos. 33 and 31a, as well as those at Nos 25, 27 and 29, the grouping does incorporate more than three dwellings and the first criterion of Policy CTY 2a is met.'*

The current application site lies south-east of the appeal site and on the edge of the Cluster identified by the PAC, therefore on this basis it is considered to also comply with criterion 1.

2. The Cluster appears as a visual entity in the local landscape.

In the appeal decision, Ref 2019/A0024, the Commissioner stated in paragraphs 16 & 17: *“I am satisfied that when travelling along the adopted road with its accompanying footpath leading to the cemetery, there is indeed an awareness of development on both sides and an appreciation that there is a significant concentration of development here, not normally associated with a rural area...I am satisfied that with the exception of dwellings on the southern side of the Ballygowan Road, they appear as a visual entity in the landscape...I disagree that this represents a dispersed collection of individual buildings in the countryside...and conclude that this grouping does appear as a visual entity in the landscape and the 2nd criteria of policy CTY2a is met.”*

On the basis of the Commission’s decision on the above appeal, the Council must accept that the cluster appears as a visual entity in the local landscape. As a consequence of the appeal decision accepting the principle of a cluster at this location, planning permission has since been granted for a further 4 dwellings within the ‘cluster’ accepted by the PAC, which has resulted in the existing group of development appearing even more prominent as a visual entity in the landscape.

3. The Cluster is associated with a focal point such as a social/community building/facility or is located at a crossroads.

In paragraph 18 of appeal decision 2019/A0024, the Commissioner outlined that, ‘The LPA acknowledged that the cemetery and the recycling centre both represent well used community facilities’. Further clarification was provided in paragraph 19 ‘The existing grouping is indeed associated with both community facilities, readily apparent when moving along the adopted road which also serves all of these buildings/facilities...I remain satisfied that as the existing grouping is associated with these two focal points, it complies with the 3rd criterion.’ Given the PAC’s view, the Council therefore must also accept that the proposal meets criterion 3.

4. The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the Cluster.

The site under consideration is situated at the edge of the cluster of existing development previously identified by the PAC and extends the existing development out along the road and into a separate previously undeveloped, agricultural field. While existing development within the cluster lies to the east and west of the site, this is separated from the site by a private lane to the west and an adopted road to the east, meaning that the site does not directly bound other development within the cluster and has no suitable degree of enclosure at all.



Aerial photos of the site

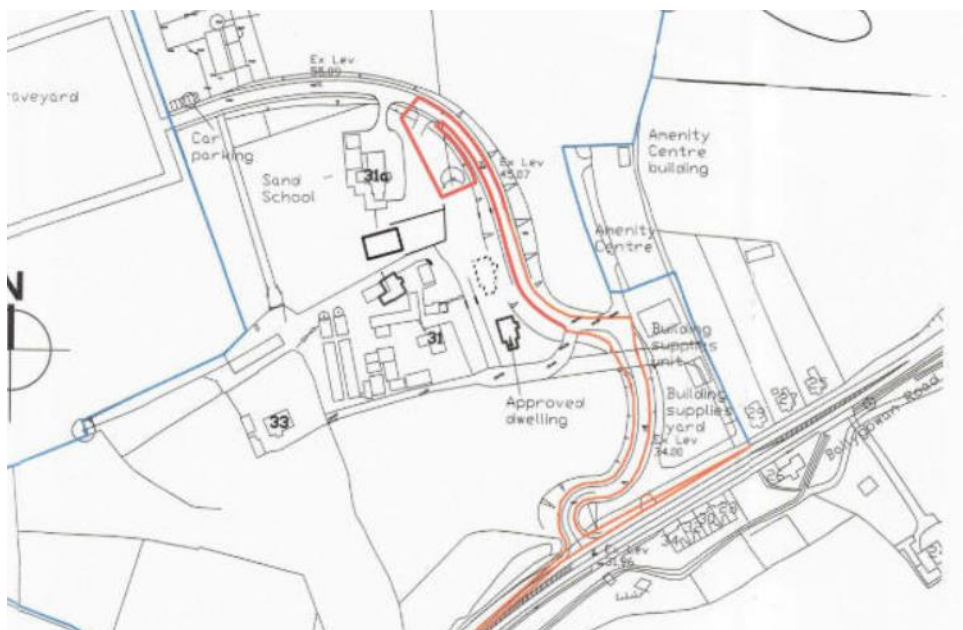
The site is extremely open and exposed due to the lane and public roads abutting its eastern, northern and western boundaries with no screening or boundary treatment along these edges to provide enclosure. The site also has an open boundary to the agricultural field immediately to the south. It is acknowledged that the site to the immediate north west was approved previously (LA06/2020/1098/F) and also had a laneway and road separating it from the adjoining development however, this site had a much better degree of enclosure, with mature vegetation and development to the west providing a good backdrop. This site was also considered to be centrally positioned within the cluster identified by the PAC and tightly contained by the existing development and surrounding lanes and roads on all sides. In contrast, the current site involves the extension of development further south into the previously undeveloped agricultural field to the south. I would be gravely concerned that if this current proposal is considered to meet this criterion, a very undesirable precedent will also be set for further development to the south within the same field, extending the cluster closer to the main Ballygowan Road rather than consolidating and containing it with the cluster. I am therefore of the opinion that the proposal fails to meet criterion 4 in that it fails to provide a suitable degree of enclosure.

5. 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.

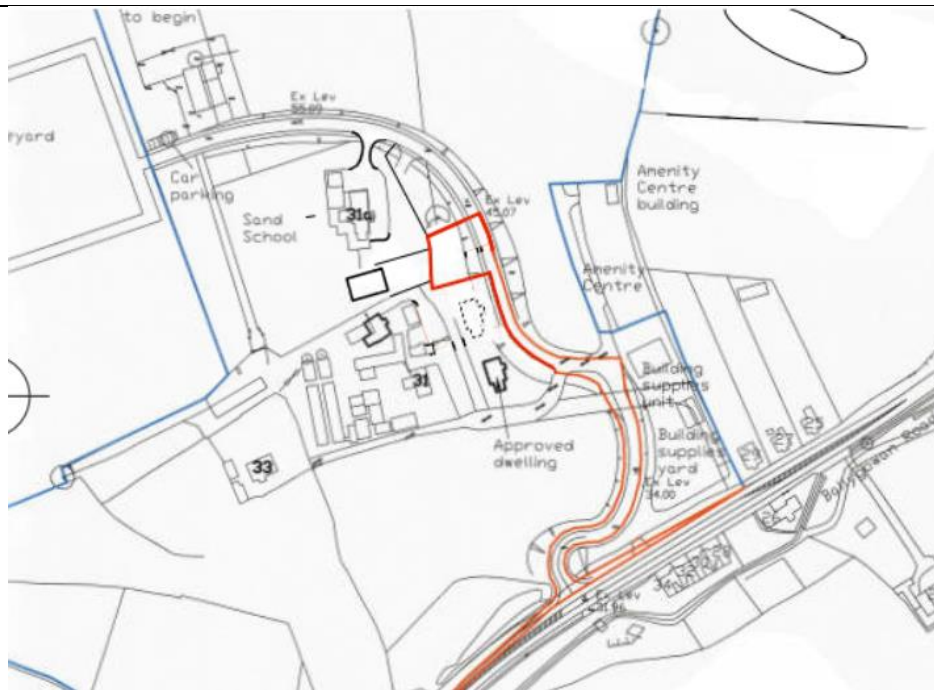
As outlined above, the proposal will extend the development within the identified cluster further south into the previously undeveloped agricultural field rather than consolidating it or rounding it off. The development would encroach into an open agricultural field with no means of enclosure, extending the built development further south closer to the main Ballygowan Road. Furthermore, the approval of a dwelling on this site would create a ribbon of development along this section of the existing road, adding to the two existing dwellings to the north west. These dwellings were previously approved under policy CTY2A as they were considered to satisfy the criteria of policy CTY2A, being well contained within the identified cluster and not intruding into the open countryside. Approval of the dwelling proposed in the current application to the south east of these existing dwellings, would create a ribbon of three dwellings along the existing road. Two further applications for two dwellings further to the north beyond the existing dwellings also remain under consideration (see site location plans below for LA06/2022/1204/F and LA06/2022/1314/F). These applications will be determined on their own merits but also taking account of any potential cumulative impact.

I am therefore of the opinion that the proposal cannot be said to “round off” or “consolidate”, especially as the proposal will extend the cluster further south into the open agricultural field between existing development and the main Ballygowan road. At present, the existing buildings to the north west and the road and lane to the northern and western boundaries of the site provide a defined edge to the cluster identified by the PAC. Approval of a dwelling on the application site would extend the outer edge of the identified cluster further into the countryside.

Furthermore, it will significantly alter the existing character of the cluster by creating a ribbon of development extending development beyond the original boundaries of the cluster identified by the PAC. The proposal fails this criterion.



LA06/2022/1204/F – Dwelling (Under consideration)



LA06/2022/1314/F – Dwelling (Under consideration)

6. Development will not adversely impact on residential amenity

The proposed dwelling will have no unacceptable adverse impact on the neighbouring properties with regards to overshadowing and overlooking. The closest dwelling to the site is no.31C which will face the rear of the proposed dwelling and be separated by approximately 35m.

With regards to the proposed dwellings' amenity space, it would be my opinion that the dwelling will lack good quality private amenity space. The site is totally surrounded by roads with no means of enclosure whatsoever, together with the dwelling to the north west on higher ground, all having the potential to overlook the amenity space to the rear of the dwelling should have an acceptable degree of privacy. This, together with the failure of the proposed boundaries to the to provide a suitable degree of enclosure will result in a sub standard level of privacy and private amenity space to the proposed dwelling.

In conclusion, with regard to my assessment of PPS21 CTY2a, the proposal fails to meet the requirements of criteria 4, 5 and 6 in that the identified site does not provide a suitable degree of enclosure, the development cannot be absorbed into the existing cluster through rounding off and consolidation, it would significantly alter the existing character of the cluster through the creation of ribbon development, it would visually intrude into the open countryside and would fail to provide an adequate level of privacy and private amenity space for the proposed dwelling.

Design, Appearance & Impact on Rural Character



Proposed front, rear, and side elevations

The proposed dwelling adopts a simple rural vernacular design approach with a pitched roof, and features including a chimney stack and pots. A small garage of similar form is proposed. The dwelling has a proposed ridge height of 6.9m. Materials include grey/black roof tiles and painted render with natural stone detail to side off shot and entrance. The dormer windows to the dwelling are set within the roof structure and are not in keeping with the Building on Tradition document, however the design of the dwelling is generally appropriate for the site and locality. A Design and Access Statement was submitted with the application.

CTY13 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.

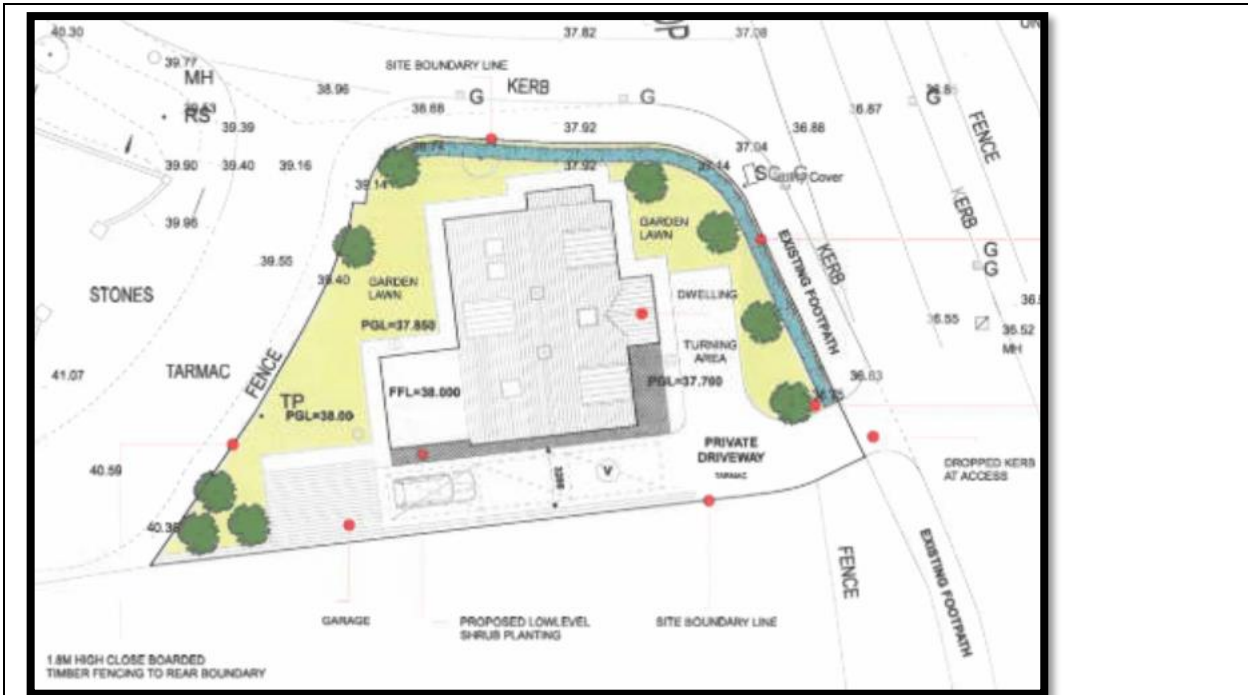
The dwelling is considered unacceptable as it will be a prominent feature in the landscape. The site currently has no existing natural boundaries and the only boundaries on site are post and wire fencing.



Application site is very open and visible from public road adjacent to existing builder's yard.



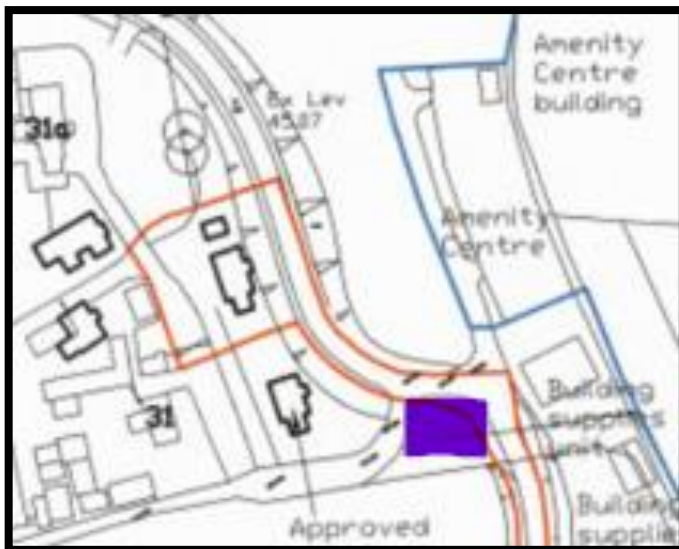
Application site completely open to all boundaries – no natural boundaries to provide backdrop or enclosure.



The site, as discussed, lacks any long-established natural boundaries and the boundaries proposed in my planning judgment are unable to provide a suitable degree of enclosure for the building to integrate into the landscape due to the sites isolated roadside location. There are no natural boundaries proposed along the southern and western sides of the site and so on approach from the south dwelling will appear prominent in the landscape and open to views. The site requires all four boundaries to provide enclosure and none of that which is proposed will provide any suitable integration. The dwelling proposed on site would rely primarily on the use of new landscaping for integration and that proposed is not considered adequate to achieve this. I therefore consider that the proposal fails to meet criteria (a), (b) and (c) of policy CTY13.

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.

The site has been identified as being located within a cluster by PAC decision 2019/A0024, however, as discussed, the site does not meet all the criteria for CTY2a. While the site is deemed to be located within the cluster, the proposal does not respect the pattern of development previously granted permission for additional dwellings within the cluster. The site, as discussed, lacks integration and is visually isolated from any existing built environment and does not share any boundary with existing development.



The site, highlighted purple, if granted permission would result in a third building being constructed at the end of an existing linear line of development. The site outlined red in this drawing granted permission for a dwelling and garage, this is currently under construction. The dwelling south of this site is built and habited. Travelling south along this road there would be a clear creation of ribboning. The proposal would also therefore be contrary to policy CTY8 Ribbon Development.

It is considered that a dwelling on this site would be contrary to criteria (a), (b) and (d) of policy CTY14 in that it would appear unduly prominent in the landscape due to its prominent, open location and lack of enclosure, it would result in a suburban style of build up when viewed with existing and approved buildings and it would create a ribbon of development.

Biodiversity

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. No such scenario was identified. The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

In terms of protected and priority species, Part 2 of the Checklist was referred to and did not identify a scenario where survey information may reasonably be required. A Completed Biodiversity checklist was provided in support of the application.

Access and Road Safety

A technical note was provided in support of the access aspects of the proposal. DFI Roads has advised that as the proposal complies with the protected routes policy under policy AMP3 it would have no objections to the proposal. The dwelling will be accessed off an adopted road already serving several dwellings and businesses. The existing access road adjoins the main Ballygowan Road rather than accessing directly off the protected route, therefore complying with policy AMP3. In addition to a detached garage there is sufficient space within the curtilage for car parking for residents and visitors.

Noise

Environmental Health were consulted and noted this proposed development is close to small mixed-use commercial/industrial sheds and a civic amenity site. While EH would have concerns on potential disturbance from noise from these activities - taking account

of their location, size, and operational use they would have no objections but require an informative to be attached. Environmental Health have requested another informative for Radon as the development is in a Radon Affected Area.

Sewerage, Water Supply & Drainage

NI Water have been consulted regarding existing water and sewer infrastructure and have no objections. They have confirmed there is a public water main within 20m of the proposed development boundary which can adequately service these proposals with an application to NI Water required to connect. Standard Conditions and Informatives have been provided.

Planning permission will only be granted for development relying on non-mains sewerage where it can be demonstrated that this will not create or add to a pollution problem. Applicants will be required to submit information on the means of sewerage disposal. DAERA Water Management Unit (WMU) were consulted and refer to Standing Advice, Conditions and Informatives to ensure the development will not have an adverse effect on the water environment.

The applicant has indicated on the submitted P1 form that the disposal of sewage will be via a septic tank. The location of the septic tank has not been indicated on any of the submitted plans therefore if the application was to be approved, it would have to be subject to a negative condition requiring submission and approval of details prior to the commencement of development as well as obtaining consent from the relevant authority.

DfI Rivers Planning Advisory and Modelling Unit were consulted in relation to flooding and drainage in line with the current Revised Planning Policy Statement 15 "Planning and Flood Risk". While DfI Rivers stated they have no specific reason to object from a flood risk perspective and a Drainage Assessment is not required by the policy they state that the developer should still be advised to appoint a competent professional to carry out their own assessment of flood risk and to construct in a manner that minimises flood risk to the proposed development and elsewhere.

5.

No letters of objection have been received.

6. Recommendation

Refuse Planning Permission

7. Refusal Reasons

1. The proposal is contrary to The Strategic Planning Policy Statement Policy for NI (para.6.73), and CTY1 and Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding

reasons why the development is essential in this location and could not be located within a settlement.

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the identified site does not provide a suitable degree of enclosure; the development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and will significantly alter its existing character and visually intrude into the open countryside and the proposal would fail to provide an adequate level of residential amenity and privacy for the proposed dwelling.
3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would result in the creation of ribbon development along the existing Road.
4. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and criteria (a), (b) and (d) of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing and approved buildings, and would create a ribbon of development.
5. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and criteria (a) and (b) of policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would result in a prominent feature in the landscape and the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape.

**Case Officer
Signature:**

Date:

ITEM 4.3

Ards and North Down Borough Council

Application Ref	LA06/2020/0483/O
Proposal	2 dwellings and detached garages
Location	Land immediately adjacent to and NE of 9 Corrog Lane, Portaferry DEA: Ards Peninsula
Committee Interest	A Local development application 'called-in' to Planning Committee from the delegated list by a member of that Committee. Called in by Cllr. McIlveen from delegated planning application list w/c 08 May'23 <i>"I would ask if the committee could consider whether this application meets with the criteria set out in Policy CTY 8 of PPS 21 and also for the committee to consider whether this site would be regarded as an important visual break, whether the proposed development would integrate appropriately in accordance with CTY 13, whether it meets the criteria contained in CTY 14 and whether it is sympathetic to the character of the AONB under policy NH6 of PPS 2.</i>
Validated	04/08/2020
Summary	<ul style="list-style-type: none"> • Site located in countryside -rural policies of SPPS and PPS21 apply. • Application assessed as infill proposal under policy CTY8 (Ribbon Development) of PPS21. • While a built-up frontage of three or more buildings is present at this location, the gap between the buildings is <u>not considered to be small</u> and is therefore contrary to policy CTY8. • Guidance contained in Building on Tradition (BoT) advises that 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 2 new plots. In this case, the gap measured between existing buildings at 113m is more than twice the length of the average plot width of 50m. • Site located within Strangford and Lecale AONB and is considered to constitute an important visual break in the built-up frontage when viewed from both Corrog Lane itself and from Deerpark Road to the south. Visual break would be lost as a result of the development, therefore proposal is also contrary to policy CTY8 in this regard.

	<ul style="list-style-type: none"> • Further guidance on the interpretation of CTY8 has been provided in the recent judicial judgement (Gordon Duff V Newry, Mourne and Down District Council (2022) NIQB 37]) which states that where there is a small gap site, the authority should nonetheless consider whether, by permitting that site to be infilled, it is acting in accordance with, or contrary to the purpose of the exception within the policy (which is to permit development where little, or nothing is lost in terms of rural character because of the existing and continuously built-up frontage). Consistently with the guidance in Building on Tradition, this should include consideration of the whether the grant of permission will result in the loss of an important visual break in the developed appearance of the local area. The size of the gap alone will not be determinative. • Proposal also fails to meet the requirements of policies CTY13 (Integration and Design of Buildings in the Countryside) and CTY14 (Rural Character) of PPS21 in that: <ul style="list-style-type: none"> (i) the buildings would result in prominent features in the landscape; (ii) the site would be unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape; (iii) the development would fail to blend with the landform with no existing trees, buildings or other natural features to form a backdrop; (iv) when viewed with the existing buildings, the proposal would result in a suburban style build-up of development; (v) the development would create a ribbon of development; (vi) the impact of ancillary works would damage rural character. • Objections received from 6 separate addresses • Road safety concerns raised however DFI Roads is content with proposal.
Recommendation	Refusal
Attachment	Item 4.3a – Case Officer Report

**Development Management
Case Officer Report**

Reference:	LA06/2020/0483/O	DEA: Ards Peninsula			
Proposal:	2 no. dwellings and detached garages.	Location:	Land immediately adjacent to and NE of 9 Corrog Lane, Portaferry, BT22 1PZ		
Applicant:	Mr J. Gracey				
Date valid:	10.08.2020	EIA Screening Required:	Yes (0.89ha)		
Date last advertised:	20.08.2020	Date last neighbour notified:	28.08.2020		
Consultations – Synopsis of Responses:					
DFI Roads		No objection.			
DAERA WMU		No objection.			
DAERA NED		No objection.			
NI Water (Multi Units)		No objection.			
Letters of Support	0	Letters of Objection	11 (6 separate addresses)	Petitions	0
Summary of main issues considered:					
<ul style="list-style-type: none"> • Principle of development • Design and Appearance • Impact on privacy or amenity of neighbouring properties • Impact on the character and appearance of the rural area • Biodiversity • Road safety 					
Recommendation: Refuse Planning Permission					
Report Agreed by Authorised Officer					
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Northern Ireland Public Register (planningsystemni.gov.uk)					

1. Site and Surrounding Area

The application site is located in the countryside outside any settlement designated in the ADAP 2015. The site comprises lands between Nos. 7 and 9 Corrog Lane which are to the north of Portaferry within a predominantly rural area.

The boundaries are defined by dense shrub to the north, a wooden fence to the south and mature hedging to the west (adjacent to the lane). The boundary to the east is open to the wider lands which includes a green field. The site is accessed via an access opening to the north-west corner onto the lane. The site is located over 400m east of Deer Park Road and over 390m south-east of the entrance to Corrog Lane itself. The land within the site is uneven and slopes upwards in a north-easterly direction meaning the site also sits on a slightly higher level than Corrog Lane.

The surrounding area is rural and is characterised by agricultural fields and rural dwellings.

2. Site Location Plan



Figure 1 – Site Location Plan

3. Relevant Planning History

No relevant planning history associated with the application site.

Planning histories mentioned in objection letters:

Reference: LA06/2018/1140/O

Proposal: Infill dwelling.

Address: 10m NE of 1 Corrog Lane, Portaferry

Decision: REFUSED (25/11/2019)

Associated with No. 7A Corrog Lane:

Reference: X/2013/0034/F

Proposal: Re-siting of approved farm dwelling (in substitution of X/2010/0172/F)

Address: 50m NE of 7 Deerpark Road, Portaferry

Decision: GRANTED (19/09/2013)

Reference: X/2010/0172/F

Proposal: Farm dwelling.

Address: 60m E of 7 Deerpark Road, Portaferry

Decision: GRANTED (07/06/2010)

Associated with 12 Corrog Lane:

Reference: LA06/2018/0271/F

Proposal: Replacement dwelling (Change of House Type to X/2015/0013/F)

Address: 100m SE of 10 Corrog Lane, Portaferry

Decision: GRANTED (30/11/2018)

Reference: X/2015/0013/F

Proposal: Replacement dwelling.

Address: 100m SE of 10 Corrog Lane, Portaferry

Decision: GRANTED (15/07/2015)

4. Planning Assessment

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

- Ards and Down Area Plan 2015 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Guidance:

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

Principle of Development

Development Plan

Under ADAP, the site lies within the greenbelt; however, this designation was superseded upon the publication of PPS 21 in June 2010. As there are no material provisions in the Plan that are pertinent to the proposal, the determination will be based on other material considerations. The site is within the Strangford and Lecale AONB. A Design and Access Statement has been provided in support of the application.

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 21. There is no conflict between the provisions of the SPPS and the retained policies in relation to the proposal, though there is more detail provided in PPS 21. In accordance with the transitional arrangements set out in the SPPS, the principle of the development should be determined in accordance with the retained policies of PPS 21.

Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 of PPS 21 identifies a range of types of development which in principle are considered to be acceptable in the countryside and which will contribute to the aims of sustainable development. One such type of development is the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8.

Policy CTY8 relates to the issue of ribbon development in the countryside. It states that planning permission will be refused for a building which creates or adds to a ribbon of development. The policy states that an exception will be permitted for the development of a small gap site (sufficient only to accommodate up to a maximum of 2 houses) within an otherwise substantial and continuously built-up frontage, 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.

For the purpose of this policy the definition of a substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Along the road frontage, there are two dwellings, Nos. 7 and 9, each with detached garages located to the sides of the dwellings. I am satisfied that these dwellings and their garages have direct frontage to Corrog Lane.

There is also an outbuilding adjacent to No. 7 and north of the site which is set back approximately 80m from the road. This outbuilding is not considered to have a frontage to the lane as the access to the more recently constructed dwelling (7A) effectively cuts off the plot of the outbuilding from having a frontage to the road (see recent aerial image in figure 2 below). The Planning Appeals Commission has previously ruled that

buildings with only an access to the road and no curtilage adjoining the road, are not considered to have a plot which has a frontage to the road. For example, in appeal 2018-A0191, one of the existing dwellings alleged to be within the established frontage had an access from the road leading to the dwelling however the curtilage of the dwelling was set back and did not adjoin the road therefore, the access by itself was not considered to constitute a building along the frontage.

Despite the outbuilding not having a frontage to the road, the two dwellings at Nos. 7 and 9 and their associated garages still constitute 4 buildings with a frontage to the road fulfilling the policy requirement for a line of 3 or more buildings along the road frontage.

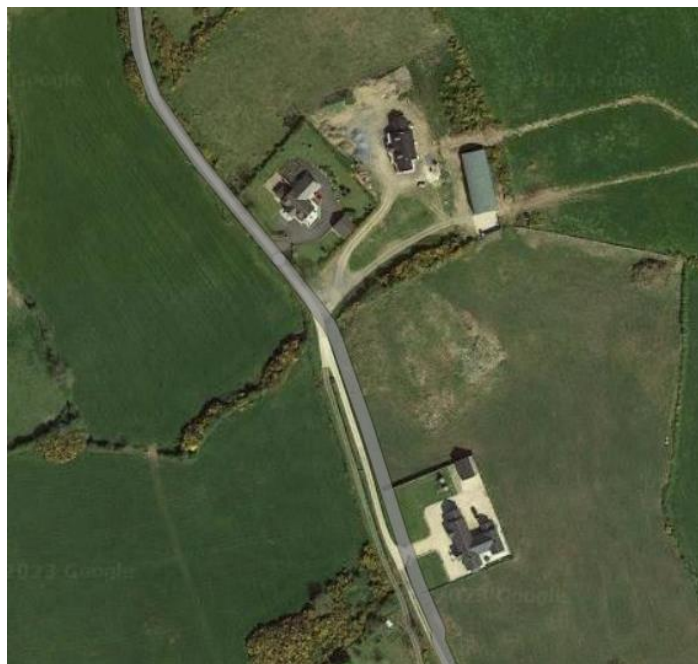
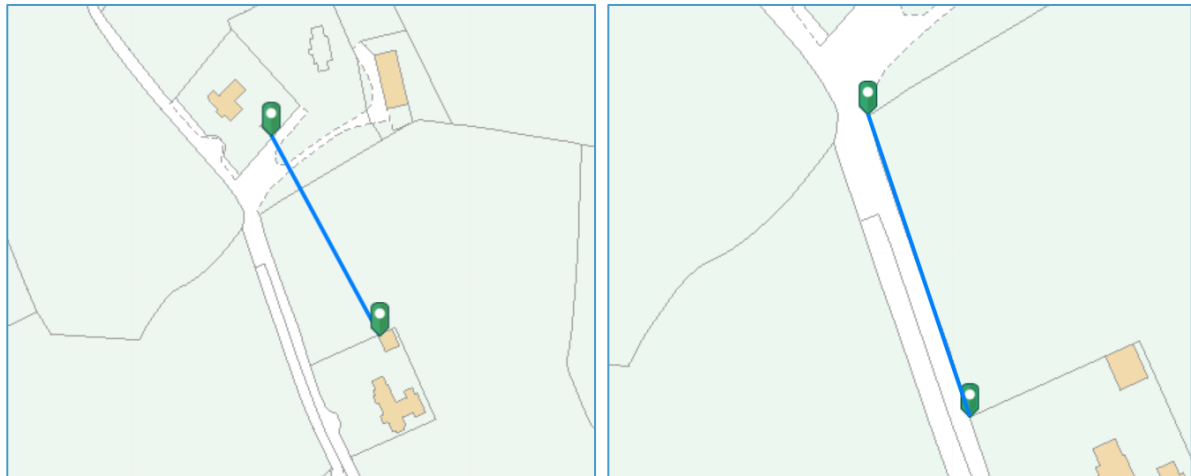


Figure 2 – Latest aerial view showing access to 7A separating the plot of the outbuilding from the road.

CTY8 also states that an infill opportunity will exist for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses. In accordance with Paragraph 5.34 of PPS21, the justification and amplification to the Policy, it is the gap between buildings rather than the application site that should be considered. The gap site must be sufficient only to accommodate up to a maximum of two dwellings. It must also be able to do so in a manner that respects the existing development pattern and meets other planning and environmental requirements. It is clear the gap is not the width of the site but rather the distance between the buildings.

I consider the gap in this instance to be between the detached garage of No. 7 to the north-west and the detached garage of No. 9 to the south-east. The total distance is approx. 113m. It must be determined whether or not this gap of 113m is small enough to accommodate up to a maximum of 2 dwellings while respecting the existing pattern of development. In order to assess this, the plot sizes and frontage widths of the existing dwellings within the frontage, must be considered. Policy CTY8 requires that a proposal for infill development should respect the existing development pattern along the frontage in terms of size, scale, siting, and plot size.



Gap of 113m

Frontage of 80m

Figure 3 – Gap and site frontage widths

Nos. 7 and 9 Corrog Lane each have a plot width of approx. 50m. Within the gap of 113m, two plots each with a width of 56.5m could be accommodated. When considering a proposal for 2 infill sites such as this one, the guidance document Building on Tradition (BoT) advises that 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 2 new plots. In this case, the gap is 113m and the average plot is 50m meaning the gap exceeds twice the length of the average plot width by 13m. I therefore do not consider that the gap can be described as small in this context.

Policy CTY 8 also requires an assessment as to whether the gap represents an important visual break and whether the loss of the visual break would result in a material change in the developed appearance of the local area. Many frontages in the countryside have gaps between houses that provide relief and visual breaks in the developed appearance of the locality that help maintain rural character. The infilling of these gaps will not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built-up frontage.

Building on Tradition Guidance also advises that sites may also be considered to constitute an important visual break depending on local circumstances. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings. Woodland forms visual break in short ribbon. Another type of visual break can be an existing stand of mature trees occurring between properties that appear to be ribbon development on plan. The trees contribute positively to the rural character in this area and are an important visual break in the development. There is no scope for infill in such a ribbon. In order to assess whether or not the site constitutes an important visual break, a visual assessment from critical public viewpoints within the surrounding landscape must be carried out.

Further guidance on the interpretation of CTY8 has been provided in the recent judicial judgement (Gordon Duff V Newry, Mourne and Down District Council (2022) NIQB 37]) which states that where there is a small gap site, the authority should nonetheless

consider whether, by permitting that site to be infilled, it is acting in accordance with, or contrary to the purpose of the exception within the policy (which is to permit development where little, or nothing is lost in terms of rural character because of the existing and continuously built-up frontage). Consistently with the guidance in Building on Tradition, this should include consideration of the whether the grant of permission will result in the loss of an important visual break in the developed appearance of the local area. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings. In this recent judgement, Justice Scoffield KC held that whether a site offers a visual break of such importance or significance is 'a matter of planning judgement; but it is a matter of common sense, and consistent with the guidance contained in Building on Tradition, that the larger the site, the more likely it is to offer an important visual break. As the reference to framing viewpoint (Building on Tradition P.73) illustrates, however, **the size of the gap alone will not be determinative** (my emphasis).

The gap between the existing buildings is perceived from two main public viewpoints; from Corrog Lane itself and from the nearby Deerpark Road to the south.



Figure 4 – View of site from entrance to 9 Corrog Lane



Figure 5 – View of mature hedge along site frontage looking north towards No. 7

From Corrog Lane, it is considered that the gap forms an important visual break between the existing development at Nos. 7 and Nos. 9 (see figures 4 and 5 above). The site has a mature road frontage hedge with large areas of gorse scrub within the site itself and these contribute to the visual relief between the two dwellings. The development of two dwellings on the site would require removal of most if not all of the hedge and scrub (see indicative site layout in figure 6 below). The existing visual break would be removed, and the development would create a continuous ribbon of development along this side of Corrog Lane. Given that the site is elevated above the lane, the dwellings would have a finished floor level approximately 2m above the lane and would therefore be highly visible with no real screening or means of integration.



Figure 6 – Indicative Site Layout

The site is also visible from Deerpark Road. Although this view is more distant, the site is perceived from this viewpoint within the wider landscape context of the AONB. When travelling along Deerpark Road, the site is visible in the landscape over a distance of approximately 520m from 5a Deerpark Road to the Waste Water Treatment Works (see Figure 7 below). As can be seen from the images in figure 8 below, the site occupies a prominent location in the landscape. The thick gorse on the site can be seen and the extent of the gap provides visual relief between the two existing dwellings from this view within the wider landscape setting. Two dwellings on this site will clearly result in skyline development and would be visible as a ribbon of development, intervisible with Nos. 7 and 9. As can be seen from the images below, the outbuilding adjacent to No.7 is barely visible in the landscape due to its set back. In conclusion, I consider that the site does represent an important visual break in development and the importance of this visual break is further reinforced given the prominent skyline location of the site within the AONB.

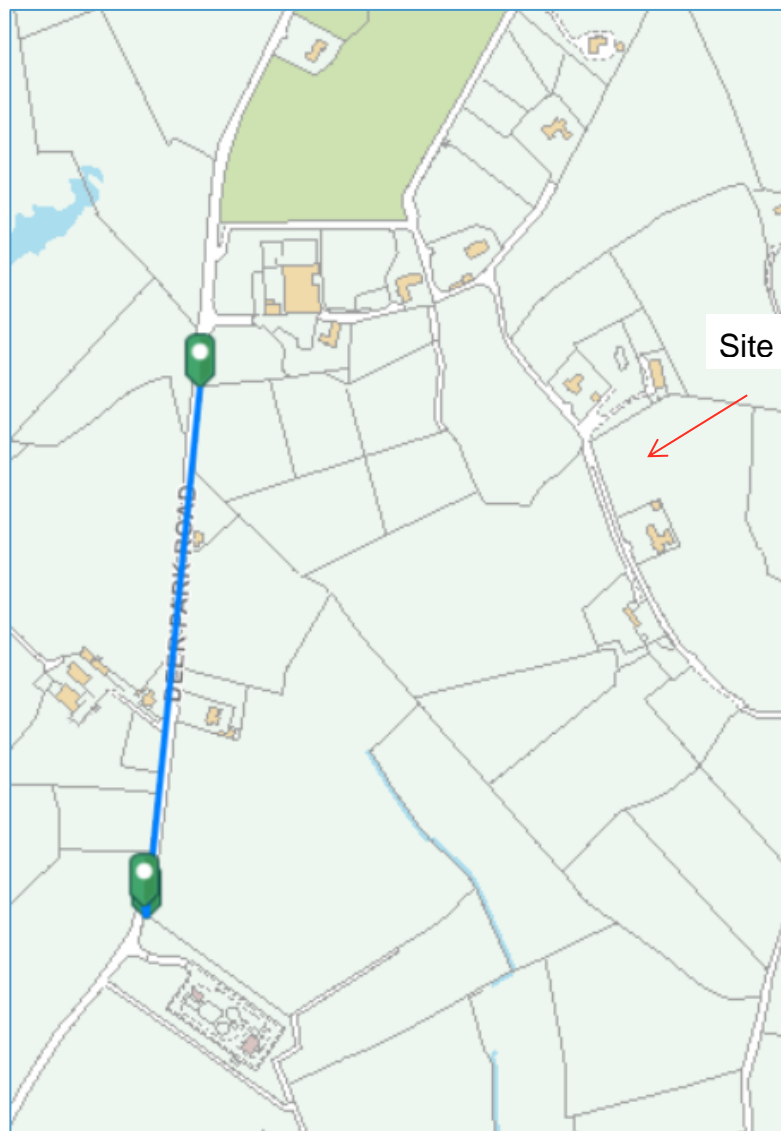


Figure 7 - Extent of views of site from Deerpark Road





Figure 8 – Site viewed from various points along Deerpark Road (Google Streetview)

Integration and Impact on Rural Character (Policies CTY13 and 14 of PPS21)

All proposals for buildings in the countryside are also required to comply with the criteria set out in policies CTY13 and 14. As already outlined above, the site occupies a prominent position in the landscape viewed both from Corrog Lane itself and Deerpark Road. While only outline planning permission is sought at this stage, an indicative layout has been submitted (see figure 6 above) which clearly shows how the dwellings would sit approximately 2m above the level of the lane occupying a prominent skyline position in the landscape, viewed from both Corrog Lane and Deerpark Rd which would be contrary to policies CTY13 and 14. The development of the site will also necessitate removal of large areas of roadside hedgerow and gorse scrub within the site further opening up the site to views and resulting in a complete lack of screening or natural means of enclosure or backdrop. While Corrog Lane is a narrow unadopted access road, it nevertheless already serves a number of dwellings and therefore views from the lane are considered to be public and the impact of the proposed development would be perceived by anyone travelling along the lane.

As the proposal fails to meet the criteria of CTY8 and will result in ribbon development it follows that it is also contrary to criterion (d) of policy CTY8.

Following the detailed assessment above of how the proposed development would sit within the landscape, in summary, it is considered that the proposal for two dwellings at this location, fails to meet the following criteria of CTY13 and 14:

CTY13

- (a) The buildings would result in prominent features in the landscape.
- (b) The site would be unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.
- (f) The development would fail to blend with the landform with no existing trees, buildings or other natural features to form a backdrop.

CTY14

- (a) The buildings would be unduly prominent in the landscape.
- (b) When viewed with the existing buildings, the proposal would result in a suburban style build-up of development.
- (d) The development would create a ribbon of development.

(e) The impact of ancillary works would damage rural character.

Sewerage Disposal

Septic tanks are proposed to deal with the sewerage needs. Consent to Discharge will need to be obtained from NIEA WMU as a separate matter. The proposal therefore complies with Policy CTY 16.

Residential Amenity

The application proposed is for outline permission therefore the detailed design of the dwellings has not been submitted. However, given the separation distances indicated on the indicative site plan I am content that the site could accommodate two dwellings without any unacceptable adverse impact on the amenity of the existing dwellings at Nos. 7 and 9.

Access and Roads Safety

The proposal will create 2 new access openings onto Corrog Lane as indicated on the indicative site plan. DfI Roads was consulted and in its initial consultation response raised no objections subject to condition.

Following receipt of several objections relating to road safety, DfI Roads was re-consulted and stated: *There should be a limit to the number of dwellings that this rural lane serves. DfI Roads is concerned that this lane is becoming built up and the Private Streets Order should soon be applied. In order to do this would be extremely difficult, as it would not be possible to comply with the new Design Guide.*

The Private Streets (NI) Order 1980 (the Order) and the Private Streets (Amendment) Order 1992 provide the statutory basis for the adoption of roads constructed by developers. Access roads serving 1 or 2 dwellings will not normally be determined for adoption, as such accesses will not require the laying out of streets.

Given that the proposal does not involve the laying out of streets, DfI Roads were asked for clarification on their response regarding the requirement for the adoption of the lane. In their final consultation response having further considered the proposal and the extent of existing development along the lane, DfI Roads raised no objection and added an informative to say that the access lane associated with the development is and will remain private and that responsibility for it rests solely with the developer. DfI Roads has advised that the Department has not considered, nor will it at any time consider the lane to constitute a "street" as defined by The Private Streets (NI) Order 1980.

The proposed site plan shows that there is adequate space within the site for parking.

On the basis of the comments received from DfI Roads as the competent authority, it is, therefore considered that the proposal complies with policies AMP 2 and AMP 7 of PPS 3 and will not prejudice road safety or significantly inconvenience the flow of traffic.

Designated Sites and Natural Heritage Interests

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the

requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

A Biodiversity checklist was submitted which demonstrates that the proposal is not likely to impact any protected species or priority species or habitats.

It is therefore considered that the proposal complies with policies NH1, NH2 and NH5 of PPS 2 Natural Heritage.

Policy NH6 of PPS 2 states that planning permission for new development within an Area of Outstanding Natural Beauty (AONB) will only be granted where it is of an appropriate design, size and scale for the locality and certain criteria are met relating to the special character and features of the AONB including local architecture and traditional boundary details.

While the indicative site layout plan and Design and Access Statement submitted with the application indicate that the proposed dwellings will be modest in size and the design and finishes could be conditioned to be appropriate to the AONB setting, as outlined above, it is the proposed prominent siting of the dwellings, the lack of integration and the resulting suburban style of ribbon development that would be considered to harm the character and landscape setting of this particular part of the AONB. In particular, the development will form a ribbon of development visible in the skyline from Deerpark Road over a significant distance of over 500m. The AONB in this area has managed to retain a predominantly dispersed pattern of settlement and it is considered that the formation of a visible ribbon of development on this prominent site would harm the rural character of the AONB. I therefore consider that the proposal fails to meet the criteria of policy NH6 of PPS2.

5 Representations

The proposal has been advertised in the local press and the neighbours have been notified as per Section 8 of The Planning (General Development Procedure) Order (Northern Ireland) 2015.

11 letters of objection have been received from 6 separate addresses:

- 1 Corrog Lane (2)
- 2 Corrog Lane
- 7 Corrog Lane (2)
- 9 Corrog Lane
- 10 Corrog Lane
- 12 Corrog Lane (4)

The following issues have been raised:

- **Contrary to PPS21 in particular the need to protect the countryside from unnecessary or inappropriate development.**

- **Contrary to CTY1 of PPS21 in that there are no overriding reasons why the proposal is essential and could not be located in a settlement.**

This has been considered in the Planning Assessment above.

- **Contrary to CTY8 of PPS21 in that the gap in this instance is between No. 9 and the dwelling under construction (No. 7A) which does not have a frontage to the lane.**

No. 7A has not been included in the assessment. The gap considered is between No. 7 and No.9.

- **The agricultural building does not have a frontage, only an access and an access does not constitute a frontage for the purposes of policy.**

This has been considered in the Planning Assessment above.

- **There is no continuously built up frontage along Corrog Lane as only Nos. 7 and 9 are visible.**

This has been considered in the Planning Assessment above.

- **Contrary to Policy CTY13 and CTY14 of PPS21:**
 - **Visual impact in particular from Corrog Lane and Deerpark Road (west).**
 - **Ribbon development.**
 - **Impact on rural character.**
 - **Prominence.**
 - **Suburban built-up of development.**

This has been considered in the Planning Assessment above.

- **Road safety and traffic impact in particular traffic along Corrog Lane itself.**
- **Concerns with regard to the Private Streets (NI) Order 1980 in that Corrog Lane serves a lot of existing properties presently therefore the Order must apply and the lane should be brought up to the appropriate standards.**

This has been considered in the Planning Assessment above.

- **Contrary to Policy NH6 of PPS2 regarding the spaced-out existing development in the AONB and the impact the proposal will have with regard to its layout.**

This has been considered in the Planning Assessment above.

- **Overdevelopment.**

The proposal would not represent overdevelopment of the site which could easily accommodate two dwellings with adequate parking and amenity space.

- **The refusal reasons for LA06/2018/1140/O apply to the application site.**

This application was refused on the basis that the site was not located within a substantial and continuously built of frontage of three or more buildings. Each case is considered on its own merits.

- **The proposal will set a precedent.**

The proposal would not set a precedent if approved. Each case must be considered on its own merits.

- **Multiple permissions have been granted along the lane including for a farm dwelling and barn conversion*.**

The permissions granted previously in this area have no bearing on whether the proposal meets Policy CTY8 of PPS21.

*I have carried out a GIS spatial search and found no permission relating to a barn conversion. No reference number has been provided.

- **Impact of construction works and traffic.**

All development works will require 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.

- **Questions regarding the P1 form.**

A completed P1 form has been provided by the developer. The information provided is taken in good faith and no evidence has been submitted to suggest that the details are false or inaccurate.

6 Recommendation

Refuse Planning Permission

7 Refusal Reasons

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

2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and would, if permitted, result in the loss of an important visual break in built development and the creation of ribbon development along Corrog Lane.
3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY14 criteria (a), (b), (d) and (e) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted, be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing buildings, create a ribbon of development and the impact of ancillary works would damage rural character which would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY13 criteria (a), (b) and (f) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted, result in prominent features in the landscape, the site would be unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape, would fail to blend with the landform and therefore would fail to integrate into this area of countryside.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the siting and scale of the proposal would not be sympathetic to the special character of the Area of Outstanding Natural Beauty in general and that of the particular locality.

ITEM 4.4

Ards and North Down Borough Council

Application Ref	LA06/2021/0630/F
Proposal	Conversion of barn to dwelling to include raising the roof and single storey extension.
Location	Outbuildings at 129 Newtownards Road, Ballyrickard, Comber DEA: Comber
Committee Interest	A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation
Validated	21/06/2021
Summary	<ul style="list-style-type: none">• Located in countryside therefore PPS21/SPPS rural policies apply.• Proposal is considered to meet the policy requirements of both the SPPS and Policy CTY4 - The Conversion and Reuse of Existing Buildings of PPS21.• It is considered that the building to be converted meets the SPPS 'Locally important' test. Vernacular building with a roadside presence constructed in Scrabo stone predates 1850 and was originally occupied as a dwelling.• Structural survey demonstrates suitability of building for conversion.• Sympathetic alterations proposed retaining original vernacular character of building.• Adequate private amenity space and parking provided. DFI Roads is content with regard to road safety.• Careful placing of windows and proposed boundary treatments ensure adequate levels of privacy for both existing and proposed dwellings. Environmental Health is content with regard to noise impact from adjacent farm business.• Objections received from 6 separate addresses considered in detail in case officer report.
Recommendation	Approval
Attachment	Item 4.4a – Case Officer Report

**Development Management
Case Officer Report**

Reference:	LA06/2021/0630/F	DEA: Comber	
Proposal:	Conversion of barn to dwelling to include raising the roof and single storey extension.		
Location:	Outbuildings at 129 Newtownards Road, Ballyrickard, Comber		
Applicant:	Mr & Mrs McConnell		
Date valid:	21/06/21	EIA Screening Required:	No
Date last advertised:	25/05/2023	Date last neighbour notified:	24/04/23
Letters of Support: 0	Letters of Objection: 13 from 6 different addresses	Petitions: 0	
Consultations – synopsis of responses:			
Environmental Health	No objections subject to conditions.		
HED (Historic Monuments)	Content		
NIEA – Natural Environment Division	No objections		
DfI Roads	No objections with conditions.		
NI Water	Approved with Standard Planning Conditions & Response specific conditions.		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of Development • Integration and Impact on Rural Character and the Area of Outstanding Natural Beauty (AONB) • Residential Amenity • Archaeology & Built Heritage • Water & Sewerage • Access and Road Safety • Biodiversity 			

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

Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal:

[Northern Ireland Public Register \(planningsystemni.gov.uk\)](http://planningsystemni.gov.uk)

1. Site and Surrounding Area

The application site is located at 129 Newtownards Road, Comber. It is occupied by a two-storey dwelling house and the one and a half-storey traditional stone barn with render finish. This barn lies immediately to the South of the main property on the approach to the Newtownards Road from Longlands Road.



129 Newtownards Road, Comber

Photos 1 & 2 – View of main house and barn from junction of Newtownards Rd/Longlands Road and closer on approach

The Design and Access Statement accompanying the application states “*the barn ...which predates 1850 was previously occupied as a dwelling house until the early 1900’s ...*”. Below are composite GIS OS historical map extracts of the area.



Illustrative Historical GIS Map (1832-1862)



Illustrative Historical GIS Map (1900-1932)

Historic maps included with the updated Design and Access Statement indicate that the barn predates 1846. The site is accessed off the Longlands Road. Current boundaries to the South and West site are formed by an agricultural enterprise (Sparky Pac Ltd) a large yard, and associated buildings. Sparky Pac Ltd is a supplier of home grown produce.



Photos 3 & 4 View of adjoining farmyard/agricultural enterprise – Freshfields/Sparky Pac Ltd

In the wider area are farms, individual dwellinghouses, a sewerage works and the Island Hill Park. The site lies between Newtownards and Comber, outside the defined Settlement Limit in open countryside within the Strangford and Lecale Area of Outstanding Natural Beauty.

2. Site Location Plan



129 Newtownards Road, Ballyrickard



129 Newtownards Road, Ballyrickard – Aerial Extract

3. Relevant Planning History

Site

None

Surroundings

Under **X/2007/1352/F** on lands adjacent to 1 Longlands Road, Comber, proposals for the expansion of an existing enterprise with new washhouse facility were granted planning permission on 31/07/2008.

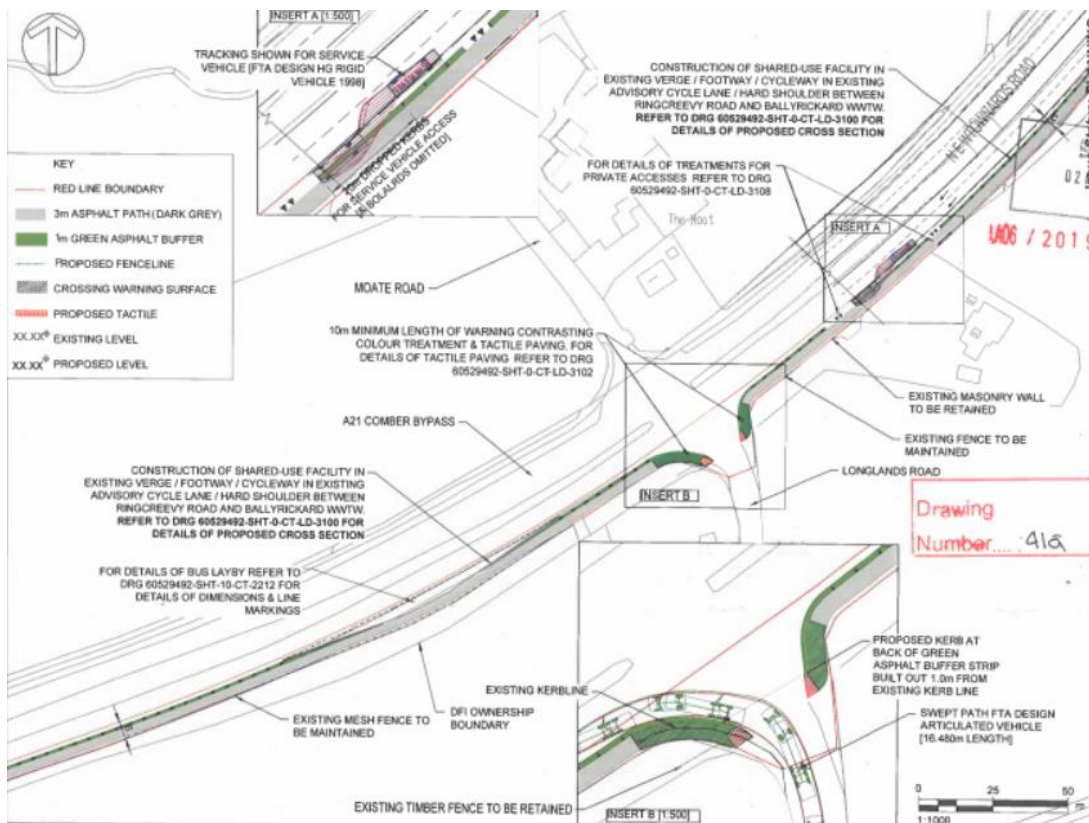
On the 12 March 2019 Planning Application Reference **LA06/2019/0308/F** was received for the extension of the Comber Greenway for 12kms from Belfast Road, Comber to Georges Street/Upper Greenwell Street, Newtownards. Includes 2 no car parks, 3 no pedestrian bridges, a controlled and uncontrolled pedestrian crossing, lighting, fencing and associated site and access works.

The proposed Greenway extension runs past the Newtownards Road end of Longlands Road. The key associated drawings are included in this report which show no major works are proposed at this location.

At the time of writing this report this application was still under consideration.



Extract from Location Plan, Drawing LA06/2019/0308 27 (Proposed Greenway) – Blue Star - current application site.



Drawing LA06/2019/0308 41A (Proposed Greenway) – Proposed Works at Longlands Road Junction.

4. Planning Assessment

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

- Ards and Down Area Plan 2015 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS2)
- Planning Policy Statement 3: Access, Movement & Parking (PPS3)
- Planning Policy Statement 6: Planning, Archaeology, and the Built Heritage (PPS6)
- Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21)
- Revised Planning Policy Statement: Planning and Flood Risk (PPS15)

Planning Guidance:

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

Principle of Development

Compliance with the Development Plan

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

The Ards and Down Area Plan is the Local Development Plan for this area. According to the Ards and Down Area Plan 2015 (ADAP) the site is located outside a designated settlement within open countryside.

Strategic Planning Policy

Regional planning policies of relevance are set out in the Strategic Planning Policy Statement (SPPS) and other retained policies, specifically PPS 21. Policy CTY1 of PPS 21 lists a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This includes the conversion and reuse of existing buildings for residential use under CTY4.

Paragraph 6.73 of the SPPS came into effect in September 2015, after PPS21 (2010). In relation to the conversion and re-use of existing buildings for residential use, paragraph 6.73 of the SPPS states:

“...provision should be made for the sympathetic conversion and re-use, with adaptation, if necessary, of a locally important building (such as former schoolhouses, churches and older traditional barns and outbuildings), as a single dwelling where this would secure its upkeep and retention.”

This updates and revises Policy CTY4 by including a higher test - stating that provision should be made for the conversion of a ‘locally important’ building, as opposed to “suitable building” where this would secure its upkeep and retention. The SPPS should therefore be afforded greater weight than PPS21 in determining this application. The SPPS does not define ‘locally important’ but the examples given in brackets are suggestive of buildings that generally have some local architectural merit or historic interest.

The proposal is to convert a traditional outbuilding which comprises part of the setting of the existing house, 129 Newtownards Road.



129 Newtownards Road, Comber
Photos 5 & 6 – View of main house and barn along Longlands Road

129 Newtownards Road is an attractive period property which frames the corner of the main Newtownards Road and Longlands Road. It is a prominent building of local architectural and historical interest. The barn to be converted is an integral part of this composition/group contributing to its character and setting.



129 Newtownards Road, Comber
Photos 7 & 8 – Farm boundary and front elevations of barn

The Updated Design and Access Statement (25/08/21) states:

“The barn which predates 1850 is a substantial building constructed in Scrabo Stone, which was owned by ... farmers in the Comber area during this period.... used as accommodation for the farm works, as indicated in the appendix indicating the census.”

The building, its roadside presence and traditional vernacular style, rectangular and linear in form, its traditional build of Scrabo Stone contribute to the building being considered locally important. It is also of interest in terms of local agrarian history. The proposal, therefore, represents a sustainable approach to development in the countryside in line with para 6.73 of the SPPS.

Policy CTY4 contains other specific requirements which, where applicable, will be addressed under the relevant topic-based considerations below together with the requirements of other policy guidance.

Integration and Impact on Rural Character and Area of Outstanding Natural Beauty

The application site is located within the Strangford and Lecale Area of Outstanding Natural Beauty, a landscape of distinctive character and special scenic value.



129 Newtownards Road, Comber
Photos 9 & 10 – Landscape & Lough Views

This building sits comfortably with the existing main house, a traditional two storey dwelling house. While not statutorily listed it has character.

The Design and Access Statement submitted with the application states:

“The existing building comprises of an existing barn structure constructed using traditional materials and has been roofed using Bangor Blue slates. The barn will be sympathetically converted retaining all existing openings and materials. The walls will be rendered, roof finished in slate to match existing...”



Proposed Elevations LA06/2021/0630 03A

The proposed conversion is to a modest three bedroomed dwelling.



Proposed Floor Plans LA06/2021/0630 03A

Criterion (a) of CTY4 requires the building to be converted to be of permanent construction. A structural survey accompanies the application which demonstrates this. It states: *“The integrity of the walls of the barn are in an excellent condition for a building of its age...”* and *“...of sufficient integrity to support a restoration project.”*

Criterion (b) states *“the reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and would not have an adverse effect on the character and appearance of the locality”* and (c) *“any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building.”*

As already mentioned, the main house, 129 Newtownards Road, is an attractive period property which frames the corner of the main Newtownards Road and Longlands Road. It is a prominent building of architectural and historical interest. The barn to be converted is an integral part of this composition contributing to its character and setting. Its proposed conversion sustains this building, use and composition and would not have any adverse effect on the character and appearance of the locality. It is considered that the works proposed are sympathetic to the scale, massing and architectural style and finishes of the existing building in accordance with (c). A modest 3 bedroomed property is proposed with the option to also utilise a ground floor snug as a further bedroom. Structurally there are a few alterations, increasing the ridge height and replacement

side extension. The majority of existing openings are retained, with the addition of a couple of more contemporary features such as sliding doors and a Juliet balcony. The finishes include the use of high-quality natural materials such as render for the walls and natural slate for the roof. The buildings adaptation will help sustain its future use. Services can be provided without significant adverse impact on the environment or character of the locality in accordance with (f) of CTY4. These are appropriate to the rural setting, having regard to local distinctiveness in line with Policy Guidance, specifically the requirements of CTY4, CTY14 and within Building on Tradition. Features such as pitched roof and the rendered walls reinforce the buildings traditional design. This, together with existing and proposed landscaping will facilitate the dwelling's integration into the surrounding landscape, an Area of Outstanding Natural Beauty.

Residential Amenity & Continued Agricultural Use of Adjoining Land and Buildings

The closest neighbours are the applicant's property 129 Newtownards Road and no 1 Longlands Road, separated by the farmyard/access to the vegetable operation and a large agricultural shed.

Criterion (d) of CTY4 requires that *"the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining lands or buildings."*

While no 129 is circa 9m's away, at ground floor level a new fence is proposed and at first floor level there are low level windows facing off a hall/landing – not main rooms. The new Juliet Balcony is positioned to face fields opposite so there will be no overlooking.



The Barn at 129 Newtownards Road
Photos 11, 12 & 13 – Neighbouring Uses & Properties

Environmental Health requested further information regarding potential noise impact from the adjacent farm and vegetable processing building. A Noise Impact Assessment was subsequently received and reviewed. The noise environment in the vicinity of the site is predominantly influenced by road traffic on the Newtownards Road. It was noted that although vehicle movements into the vegetable processing plant were audible on occasions, the noise from the vegetable processing plant is not the dominant noise source around the proposed building and garden. To meet noise reduction guidelines, however, conditions are attached for special glazing and acoustic fencing around the amenity area.

In terms of potential impact on the adjoining agricultural operation as it is the yard and access which is immediately adjacent to the barn it is not considered this would be unduly affected due to the scale of the operation in relation to an additional modest dwelling provided by conversion of an existing building. Any overlooking from the proposal will be over a yard, not the dwelling at 1 Longlands Road. This is largely used by a range of vehicles to access the substantial farm enterprise buildings to the rear. The intervening agricultural enterprise established boundaries will ensure the proposal will not cause any unacceptable adverse impact on residential amenity.

Other than noise Environmental Health have not raised other concerns in respect of the co-existence of the two uses.

In terms of protecting the privacy of the proposed dwelling, and neighbours, it is proposed that a condition is attached requiring obscure glazing to the window serving the proposed kitchen on the Southern boundary elevation facing the farmyard. This room also receives light from other windows. As the other two ground floor windows on the farmyard elevation have narrow rectangular slit windows, obscure glazing is not needed. One serving a study has this as its only light source.

Archaeology and Built Heritage

The application site is in the wider vicinity of an archaeological site, Motte, DOW010 031 which is on the opposite side of the main Newtownards Road. Historic Environment Division of the Department of Communities were consulted. Historic Environment Division (Historic Monuments), having considered the impact of the proposals are content the proposal is satisfactory to the SPPS and PPS6 policy requirements.

Water & Sewerage Disposal

Due to the proximity of the existing Wastewater Treatment Works before NI Water required confirmation that the requirements of Planning Policy Strategy PPS11, particularly Policy WM5 can be satisfied.

Guidance states that *“planning applications involving land within the vicinity of WwTW’s will not be approved where there is a loss of amenity from odour nuisance.”*(para 10.4)

An Odour assessment was subsequently carried out and submitted by the Agent. NI Water has considered the location of the property under this policy and confirm while inside the “Odour Consultation Zone Boundary” will not on the grounds of ‘incompatible development’ raise an objection to the any proposed development or reuse of the site.

NI Water are content this has been demonstrated with Standard Planning Conditions and Informatives contained in their response.

There is no public surface water sewer within 20m of the proposed development boundary and the existing network has reached capacity. The Agent has been advised to contact NI Water directly to see if a solution can be agreed.

Access and Road Safety

The proposed dwelling will utilise an existing access onto Longlands Road. Longlands Road is not a protected route. Ample parking will be provided in accordance with Creating Places standards. Adequate parking will remain for 129 to the front of the dwelling, with an area of hardstanding, as shown on drawing Reference LA06/2021/0630 05A.



Photos 14 & 15 Parking for existing house at 129 Newtownards Road; Drawing LA06/2021/0630 05A (Parking/Access).

DfI Roads was consulted and offers no objections subject to conditions and splays. The proposal will therefore not prejudice road safety or significantly inconvenience the flow of traffic. The position on the Comber Greenway route will facilitate alternative means of transport such as walking or cycling.

Criterion (g) of Policy CT4 requires that *“access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.”* A modest 3 bedroomed dwelling is proposed. The associated proposed level of use onto the Longlands Road contrasts to the vehicular movements associated with the adjacent farm business onto the road which has large container lorries, tractors and other vehicles using it daily. Again, DfI Roads was consulted and offers no objections.

Sufficient amenity space, circa 160sq m's of private amenity space is provided, exceeding the requirement within Creating Places, and again the Guidance for this is met for number 129 itself.

Biodiversity

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

NIEA Natural Environment Division was consulted and has considered the impacts of the proposal on designated sites and other natural heritage interests and on has no concerns with this proposal.

A Comprehensive Biodiversity Checklist, Parts 1 & 2 including a full report was completed by an ecologist to accompany the application. Further survey work and

detailed report by an ecologist was provided. NED has assessed this and is content no Potential Bat Roost Features were found by the ecologist and no further survey work required. Relevant notes and Informatives are contained in the response.

There are no Tree Preservation Orders on the site.

5. Representations

In total 14 letters of objection have been received from 6 different addresses. The addresses that have objected are 1, 4 and 12 Longlands Road; 17 and 19 Ringcreevy Road and Sparky PAC Ltd, Freshfields (consultants on behalf) with Cllr Jim Shannon MP objecting on behalf of one. The main material planning matters raised in submitted representations are summarised together below:

Access & Road Safety:

- The proposal does not meet PPS3 (Access, Movement & Parking) in that would prejudice the safety and inconvenience of road users. Visibility cannot be provided in accordance with standards in DCAN 15.
- Width of access renders it unacceptable for intensification of use. It will also intensify the use to the northern entrance to the dwelling 129 Newtownards Rd.
- The proposed building sits near a busy junction with Comber/Newtownards carriageway This is already a dangerous junction, and an additional residence can only add. There is already a working farm & wash house facility along with a large volume of traffic including large container lorries, tractors and vehicles using it daily. Also, frequent traffic to Island Hill Car Park.
- The Planning Application for the extension of the Comber Greenway shows that the Greenway if approved will be passing at the end of Longlands Road, right outside the boundary of no 129. This is already a dangerous junction, and an additional residence can only add.
- The proposed turning area for the conversion erodes the private amenity space to 129. Plans to include a boundary fence will decrease parking to existing dwelling. Near the main junction with the dual carriageway between Newtownards & Comber. Parking for 129 is not currently adequate as park on the roadside, obstructing sight lines.
- Access rights to the yard are for the owners of 129, not the proposed property.

DfI Roads have no objections. The level of traffic use to serve a small dwelling is minimal compared to the traffic generation associated with the substantial farm enterprise buildings to the rear. These matters have been addressed in detail under Section 4 above. The plans for proposed Greenway have been considered and there are no major works proposed at this location. DfI Roads are aware of

the proposed Greenway and would have taken into account when responding to this application. Other access matters are separate legal matters.

Precedent:

- This application would set a precedent for further conversions in vicinity which would harm the character of the area. A very similar planning application at 10 Longlands Road Comber, Reference LA06/2021/0145/F, conversion of barn to dwelling was refused planning permission on 14 June 2021. This application is approx. 300m's from the proposed conversion and should be treated similarly.

Application LA06/2021/0145/F was for the conversion of an agricultural shed, not a traditional vernacular barn. It was constructed with block wall, portal frame construction and corrugated steel panels. No two applications are directly comparable, and each is considered on its own merits. Precedent is not a concern in this instance as the policy requirements of the SPPS and PPS21 are satisfied.

Does not qualify as a 'Locally Important Building':

- It does not qualify as a 'Locally Important Building' under SPPS policy test, or display the characteristics of a dwelling as advocated in the Design and Access Statement.
- Works of raising the roof, size and scale are not considered sympathetic, contrary to CTY4.

This building satisfies the test in SPPS. This is fully considered in the planning assessment, Section 4 above, along with the proposed design. A viable use helps sustain a 'locally important' buildings future.

Does not satisfy PPS2 (Natural Heritage):

- It does not satisfy PPS2 (Natural Heritage) in that further ecological assessment is required regarding bats.

Further survey work has now been undertaken and a detailed report by an ecologist has been provided. NED has assessed this and is content no Potential Bat Roost Features were found by the ecologist and no further survey work is required to satisfy policy.

Impact on the Adjoining Farm Business:

- As the farmyard, property and land immediately abuts the Southern and Western curtilage it will directly impact on the day to day running of the farm business. It is contrary to criterion (d) of CTY4 which requires that "the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining lands or buildings."

- Concerned purpose is as a holiday let/Airbnb which will mean an increased risk for the adjoining farm business, Sparky Pac Ltd. Visitors may be unaccustomed to the busy farmyard. If children or adults were to enter the yard a serious accident could occur. The proposal would expose Sparky Park Ltd to potential third-party allegations of general noise smell and pollution. Open produce goes through the yard.

Compliance with CTY4 has been considered in detail in Section 4 of the report above. This application is for the conversion of a barn to a dwelling. There is no reference to a holiday let/Airbnb. Environmental Health have been consulted on noise and safety and have no objections subject to conditions.

Overlooking, Loss of Privacy & Noise:

- Concerned there would be overlooking and loss of privacy to no 1 Longlands.
- Numerous new windows are proposed on the Southern wall of the barn where pallets are stacked which would cause overlooking and dominance of employees.
- The noise survey was carried out in winter over a weekend, not the main ploughing, cultivating or planting season.

While the intervening agricultural enterprise established boundaries will ensure the proposal will not cause any unacceptable adverse impact on residential amenity, it is proposed that to further protect privacy, a condition is attached requiring obscure glazing to the window serving the proposed kitchen on the Southern boundary elevation facing the farmyard. This will also provide privacy to yard workers. Environmental Health are satisfied on noise issues.

Contrary to PPS11:

- NI Water are recommending refusal as an Odour Encroachment Assessment is required.

Assessment has been carried out and NI Water are satisfied.

12 Recommendation

Grant Planning Permission

13 Conditions

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with the Proposed Site Layout Plan 05A prior to the commencement of any other development hereby permitted.

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

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

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

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

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

5. All parking for the existing and proposed dwellings, as shown on Drawing LA06/2021/0630 05A shall be provided prior to occupation of the dwelling hereby approved and shall be permanently retained thereafter.

Reason: To ensure adequate parking on the site.

6. Prior to occupation of the dwelling all noise mitigation measures outlined in the Noise Impact Assessment, Proposed Change of Use from Barn to Residential Dwelling, 129 Newtownards Road, Comber, by F.R Mark and Associates, dated May 2023 shall be incorporated into the proposed development and permanently retained thereafter.

Reason: To ensure occupants of the proposed development are not adversely affected by noise.

7. Prior to occupation of the dwelling hereby approved, a 1.8m high timber fence as indicated on drawing LA06/2021/0630 05A be erected and shall be permanently retained and maintained thereafter. This shall have a mass of at least 15kg/m³, close boarded, overlapped with no gaps, and shall be installed as depicted in Figure 2 of the Noise Impact Assessment, prepared by F.R Mark and Associates and dated May 2023.

Reason: To provide screening, protect amenity and ensure occupants of the proposed development are not adversely affected by noise.

8. Glazing, capable of providing a sound reduction index of at least 29 dB RTra/28 dB Rw shall be installed within all habitable rooms within the residential development prior to occupation and shall be permanently retained thereafter. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 27dB Dne-Ctr when in the open position, shall be provided to all habitable rooms in the residential development prior to occupation and shall be permanently retained thereafter.

Reason: To ensure occupants of the proposed development are not adversely affected by noise.

9. The ground floor kitchen window on the Southern boundary elevation as indicated in green on drawing LA06/2021/0630 03A shall be fitted with obscure glazing prior to occupation of the dwelling hereby approved and this obscure glazing shall be permanently retained thereafter.

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

10. All existing walls of the building to be converted, as shaded yellow on Drawing LA06/2021/0630 03A, shall be permanently retained.

Reason: To safeguard the special architectural or historic interest, character, appearance, and integrity of this locally important building.

11. The proposed 1.8m fence to be located between 129 and the converted barn as indicated on drawing No. LA06/2021/0630 05A shall be erected prior to occupation of the dwelling hereby approved and shall be permanently retained thereafter.

Reason: To protect privacy and amenity of occupants.

14 Informative

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

**Case Officer
Signature:**

Date:



Project :
BARN CONVERSION

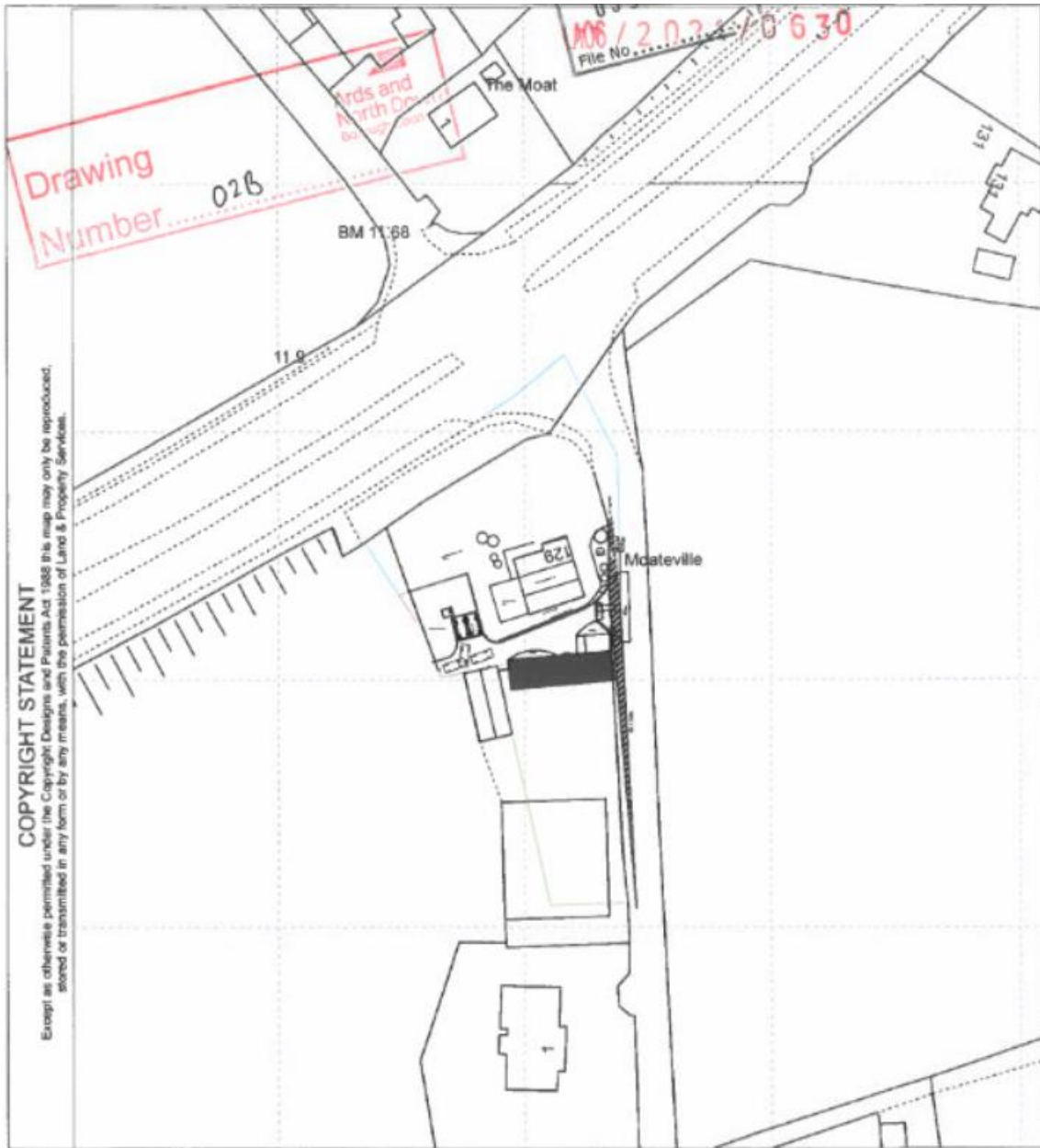
Dwg title **SITE LOCATION PLAN**

Dwg No. **89-01** Scale : **1:1250 @A4**

Revision **A** Date : **NOV 20**

C A R c h i t e c t u r e

Drawing Reference LA06/2021/0630 01B – Site Location Plan



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Project: **BARN CONVERSION**

Dwg title: **PROPOSED BLOCK PLAN**

Dwg No: **89-02** Scale: **1:500 @A4**

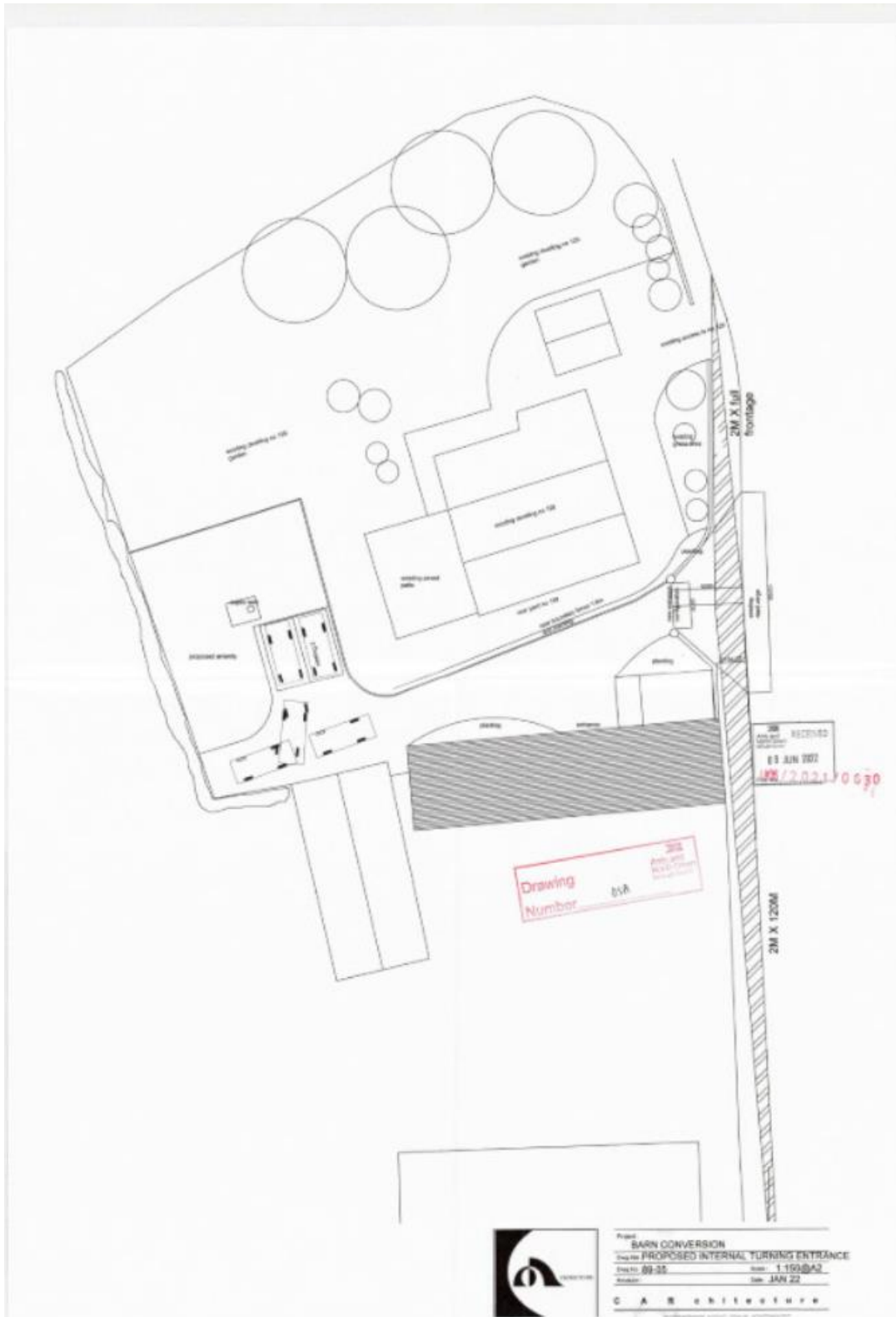
Revision: **C** Date: **NOV 20**

C A R c h i t e c t u r e

Drawing Reference LA06/2021/0630 02B – Site Block Plan



Drawing Reference LA06/2021/0630 03A – Proposed Floor Plans and Elevations



Drawing Reference LA06/2021/0630 05A – Entrance/Turning Proposals



Photo 1: 129 Newtownards Road with outbuilding behind. Corner Longlands & Newtownards Road.



Photo 2: 129 Newtownards Road with outbuilding behind (Close up), Longlands Road.



Photo 3: View of Farmyard/Adjoining Agricultural Enterprise.



Photo 4: View of Farmyard/Adjoining Agricultural Enterprise.



**129 Newtownards Road, Comber
Photo 5 – View of main house**



**129 Newtownards Road, Comber
Photo 6 – View of main house and barn along Longlands Road**



**129 Newtownards Road, Comber
Photo 7 – Farm boundary elevation of barn**



**129 Newtownards Road, Comber
Photo 8 – Front elevation of barn**



129 Newtownards Road, Comber
Photo 9 – Landscape View (towards application site – left)



129 Newtownards Road, Comber
Photo 10 – Lough View (from application site)



**129 Newtownards Road, Comber
Photo 11 – Barn adjoining neighbouring farmyard**



**129 Newtownards Road, Comber
Photo 12 – Barn (left) and existing house 129 (right).**



**129 Newtownards Road, Comber
Photo 13 – Towards neighbour, no 2 Longlands Road.**



**129 Newtownards Road, Comber
Photo 14 – Front access.**



**129 Newtownards Road, Comber
Photo 15 – Front access & Parking.**



**129 Newtownards Road, Comber
Photo 16 – Towards neighbour, no 1 Longlands Road (beyond shed).**

ITEM 4.5

Ards and North Down Borough Council

Application Ref	LA06/2021/1238/F
Proposal	One agricultural building (retrospective) and erection of two agricultural buildings with dry storage below one of proposed buildings
Location	Lands 45m North-West of No 17 Abbacy Road Mill Park Portaferry DEA: Ards Peninsula
Committee Interest	A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation
Validated	15/10/2021
Summary	<ul style="list-style-type: none">• The site is located in the countryside where the policies of PPS21 apply.• The development meets the requirements of Policy CTY12 for agricultural development.• DAERA has confirmed that the farm business has claimed subsidies in each of the previous 6 years and is therefore active and established in accordance with policy.• The sheds will be located within the existing farmyard and agricultural buildings previously located on the site have been demolished to accommodate the new buildings.• The sheds have a low ridge height of 4.7m and will be in keeping with the character of the rural area.• Due to concerns regarding odour/pollution the proposal has been amended to provide storage only (no livestock or slurry) and this will be conditioned as part of any approval.• A total of 23 representations have been received and the majority highlight concerns relating to one residential property (No.15b) - All issues raised in objection letters have been considered in the Case Officer Report
Recommendation	Approval
Attachment	Item 4.5a – Case Officer Report

Development Management
Case Officer Report

Reference:	LA06/2021/1238/F	DEA: Ards Peninsula	
Proposal:	One agricultural building (retrospective) and erection of two agricultural buildings with dry storage below one of proposed buildings.		
Location:	Lands 45m North-West of No 17 Abbacy Road Mill Park Portaferry		
Applicant:	Alexis Clarke		
Date valid:	15.10.2021	EIA Screening Required:	Yes
Date last advertised:	09.11.2022	Date last neighbour notified:	31.10.2022
Letters of Support: 0	Letters of Objection: 23 letters from 6 separate addresses	Petitions: 0	
Consultations – synopsis of responses:			
DFI Roads	No objection		
DAERA Water Management Unit	Content subject to standing advice		
NI Water	No objection		
DAERA Natural Environment Division	No objection subject to conditions		
Environmental Health	No objection		
Shared Environmental Service	No objection subject to conditions		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Integration and impact on rural character • Impact on AONB • Impact on residential amenity • Impact on biodiversity and designated sites 			
Recommendation: Grant Planning Permission			
Report Agreed by Authorised Officer			

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

1. Site and Surrounding Area

The site is located at lands 45m North-West of No 17 Abbacy Road, Mill Park, Portaferry. The site contains an agricultural shed, some foundations of a building and rubble where a building has been demolished. The shed is finished in concrete with grey cladding on the upper walls and roof. Access to the site is via a laneway off Abbacy Road. The site is located approx. 165m from the main Abbacy Road.

The site is within the countryside as designated in the Ards and Down Area Plan 2015. The area is predominantly rural in character with dispersed dwellings and farm buildings. Adjacent to the site is four dwellings and several other agricultural sheds and farmyards.

2. Site Location Plan



3. Relevant Planning History

No relevant site history.

4. Planning Assessment

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

- Ards and Down Area Plan 2015 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Principle of Development

The Ards and Down Area Plan 2015 sets out the land use proposals that will be used to guide development within the area. The site is within the countryside and the Strangford and Lecale Area of Outstanding Natural Beauty. There is no specific zoning. The proposal is therefore considered to be in conformity with the plan provided it complies with the relevant planning policies.

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 21. Policy CTY1 of PPS 21 lists a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This includes development on an active and established agricultural or forestry holding subject to complying with criteria listed in Policy CTY12. The relevant criteria will be considered in the assessment below.

The applicant submitted a completed P1c form and farm maps to demonstrate the farm holding is currently active and has been established for at least 6 years. DAERA confirmed that the business ID has been in existence for more than 6 years (Business ID allocated on 12/08/1996) and the applicant has claimed payments through the Basic Payment Scheme or Agri Environment scheme in each of the last 6 years and the proposed site is located within a yard (which is an unmapped area).

Due to the established nature and size of the farm it is considered reasonable that the buildings are necessary for the efficient use of the holding. Following a site visit it is noted that buildings on the site had been demolished and the proposal includes replacing these buildings. One shed has already been constructed. The applicant has submitted a supporting statement that the old buildings will be replaced to improve the efficiency of the farm holding, all other buildings are in use and there is no storage/protection for existing machinery which has to sit in the farmyard.

In terms of character and scale the proposed and retrospective sheds are appropriate to this rural location. The sheds will be low profile with ridge heights of 4.7m and will match the height of existing adjacent sheds. The sheds will be finished in concrete with grey cladding on the upper walls and roofs to be in keeping with the character of the area.



Proposed elevations showing height will match the existing adjacent building

Due to the scale and materials of the sheds and as they will be located within an existing farmyard, adjacent to several other sheds on the holding, the proposal will integrate into the local landscape. The site is located over 165m from the public road and therefore will not be visible over longer public views. The existing sheds within the farmyard will also provide a backdrop for the proposed sheds and it is considered that the proposed sheds will read with the existing holding which will also aid integration.



View of the site from the laneway showing the existing farm buildings

It is considered that the proposal will have no adverse impact on the natural or built heritage. The sheds are for storage only, will hold no livestock and will be located within an existing farmyard therefore there will be no adverse impact on natural heritage interests. The sheds will be conditioned in any approval for storage only and that they shall not house livestock. There are no built heritage features within the site.

The proposal will have no detrimental impact on the amenity of residential dwellings outside the holding from noise, smell and pollution as the sheds are for storage only (no livestock) and the proposed tank will be for dry storage only. This will be conditioned within any approval to ensure the amenity of nearby dwellings

is protected. The nearest dwellings outside of the holding (Nos. 13 and 15 Abbacy Road) are located at least 10m to the south-east of the retrospective shed. The low profile of the sheds (4.7m in height) and separation distance will ensure that there is no adverse impact on the amount of light received at these dwellings and the proposal meets the 25-degree angle light test.

There is another dwelling outside of the holding located 25m west of the site at No. 15b Abbacy Road. The low profile of the sheds (4.7m in height) and separation distance will ensure that there is no adverse impact on the amount of light received at this dwelling and the proposal meets the 25-degree angle light test.

Although new buildings are proposed, the applicant has demonstrated that these are to replace existing buildings that were old and poor quality, all other buildings on the holding are in use and there is lack of storage/protection for machinery which is sitting in the farmyard. The sheds will be finished in concrete and grey cladding which are sympathetic to the rural locality and the proposed sheds will be located adjacent to existing buildings on the holding.

It is therefore considered that it has been satisfactorily demonstrated that the farm holding is currently active and has been established for at least 6 years and the sheds are needed for the efficient use of the holding and will have no adverse impact on the character of the area, natural or built heritage or residential amenity. The proposal therefore complies with Policy CTY 12 and the principle of development of agricultural sheds at this location is acceptable.

Integration and Impact on Rural Character

It is considered that the proposal will integrate into the surrounding landscape as the sheds will have a low ridge height and will use materials that are sympathetic to the area. As the proposed sheds will be located within the existing farmyard, existing farm buildings will provide a backdrop which will aid integration.

The site will not be visible over longer public views as it is set back over 165m from the main Abbacy Road and the proposed sheds will read as part of the farm holding.

It is therefore considered that the proposal complies with policies CTY 13 and CTY 14 of PPS 21 as it will visually integrate into the surrounding landscape and will not cause a detrimental change to, or further erode the rural character of the area.

Impact on Area of Outstanding Natural Beauty

The proposed site is within the Strangford and Lecale Area of Outstanding Natural Beauty (AONB) and a Design and Access statement was submitted. It is considered that, as the proposal is for agricultural sheds within an established farm holding and the scale, massing and materials are sympathetic to the surrounding rural area, that the proposal is in keeping with the character of the AONB.

The proposal will use the existing laneway and access off Abbacy Road that is currently used for the holding.

There are no features of importance to the character, appearance or heritage of the surrounding landscape within the site to respect or conserve.

It is therefore considered that the proposal will have no adverse impact on the character of the AONB and will read with the existing farm holding.

Access and Roads Safety

The proposal will use the existing access onto Abbacy Road that is currently used for the farm holding. DfI Roads was consulted and offers no objections.

The proposal will therefore not prejudice road safety or significantly inconvenience the flow of traffic and is considered to comply with the relevant policies in PPS 3.

Designated Sites and Natural Heritage

This planning application was considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of Ards and North Down Borough Council which is the competent authority responsible for authorising the project.

Having considered the nature, scale, timing, duration and location of the project SES concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site as the site is approximately 340m from Strangford Lough SAC/SPA/Ramsar and as detailed in the supporting information no livestock are to be housed and no slurry to be stored in the proposed buildings therefore there will be no increase in ammonia emissions. There is therefore no source or pathway for operational impacts to the European sites.

SES has requested that a condition is added that no livestock shall be housed within the proposed buildings at any time to ensure the proposal proceeds as detailed in the supporting information.

DAERA Natural Environment Division (NED) was consulted and commented that it has considered the impacts of the proposal and on the basis of the information provided, has no concerns subject to recommendations. NED has provided conditions relating to a buffer of 10m between any construction works and nearby watercourse, run-off to be directed to an appropriate collection tank and no livestock to be housed within the sheds at anytime in order to protect designated sites.

The previous buildings on the site were removed prior to the application being submitted. The onus was on the applicant during the demolition to ensure that no protected species was harmed and was also bound by the Wildlife (Northern Ireland) Order 1985 (as amended).

As the sheds will be located within the existing farmyard, replacing existing buildings and there will be no removal of vegetation, it is considered that there will be no adverse impact on any natural heritage issues and the proposal is not likely to adversely impact protected or priority species or habitats.

It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2.

5. Representations

23 representations have been received from six separate addresses. The main issues of concern are:

- 15b incorrectly labelled as farm retirement dwelling -this dwelling is outside of the farm holding.

The impact of the proposal on No. 15b has been considered within the report and this dwelling has been considered as being outside of the farm holding. The labelling on the plan has not prevented the Council from considering the impacts on this dwelling.

- Vehicle store to be built at a location where no building existed previously/ it is an open area used for storage.

The planning statement refers to the replacement of buildings as some buildings are being replaced by the proposed sheds. However, it is not a requirement under Policy CTY12 that proposed farm buildings must replace existing buildings. A new building is acceptable where information is provided to demonstrate that there are no suitable buildings that can be used, the design and materials are sympathetic to the locality and adjacent buildings, and the proposal is sited beside existing farm buildings. The applicant has demonstrated that new buildings are necessary as the existing buildings are all being used, there is not enough storage and the older buildings needed modernised, the design and materials are sympathetic to the area and the proposed sheds are located adjacent to existing buildings on the holding.

- Tank was built using concrete blocks that was not adequate for slurry as per DAERA regulations, environmental consequences of slurry pit and impact on health of No. 15b.

Due to the concerns raised by objectors, Environmental Health, NIEA and Shared Environmental Service of the proximity of a slurry pit to residential properties outside of the holding, the impact on the water environment and designated sites at Strangford Lough, the applicant amended the proposal and removed the slurry pit. The tank is now proposed for storage only and this will be conditioned in any approval to ensure that nothing will be stored in it that would have an adverse impact on residential amenity or the environment or designated sites.

- Inaccuracies in location plan and site layout plan as not accurate representation of the area. The aerial view in the application statement is true reflection and clearly shows the close proximity of dwelling 15b.

The site layout plan is to scale and it can be easily measured to show the exact distance the sheds are from No. 15b.

- Application statement incorrectly labelled 2 of the demolished sheds as 'original calf sheds' – calves rarely if at all housed in these sheds.

Statement that noise or smell pollution of this proposal will be no different than what has existed at this same location is misleading.

This is not relevant to the proposal as regardless of what the sheds previously used for, any introduction of cattle into a new shed will be assessed and Environmental Health, NIEA and Shared Environmental Service consulted. The applicant was requested to submit details on the number of cattle expected to use the sheds to determine if there would be any adverse impacts on residential amenity, the environment or designated sites. The applicant then amended the proposal to remove all cattle from the sheds and use them for storage/workshop only.

- Environmental, health and safety and welfare impacts of new cattle sheds in close proximity to No. 15b – there are already two existing cattle sheds containing slurry beside No. 15b – result in three elevations of No. 15b being surrounded by sheds containing slurry – detrimental impact arising from noise, smell, pollution and rodents.

Due to concerns raised by the objectors, Environmental Health, NIEA and Shared Environmental Service in relation to the proximity of this proposed cattle shed to No. 15b and impact from noise, smells etc. the applicant amended the proposal to remove cattle from the sheds and any permission will be conditioned that the sheds shall not house any livestock at any time without the prior consent of the Council. This will ensure the residential amenity of No. 15b and any environmental interests are protected.

- Greater amount of noise pollution to No. 15b.

Environmental Health was consulted and had no concerns in relation to noise once the sheds were changed to storage only.

- Risk of slurry and silage effluent leakage to entrance of No. 15b and laneway.

The proposal was amended to remove the slurry tank from the proposal and the tank will now only be used for dry storage. This will be conditioned in any approval to ensure there is no slurry.

- Impact on air quality of residents of No. 15b and Strangford Lough– health risks to No. 15b from pollution such as ammonia and methane. In accuracy in application statement that ‘prevailing winds are away from No. 15b towards the proposal.’

Environmental Health, NIEA Natural Environment Division and Shared Environmental Service were consulted. Following concerns raised by the consultees in relation to impact on air quality and noise/smells to nearby dwellings, the applicant amended the proposal so that the sheds will not include any livestock and this will be conditioned in any approval to ensure that the residential amenity of nearby dwellings is protected and there will be no adverse impacts on the environment or designated sites at Strangford Lough.

- Proximity of sheds to No. 15b and loss of light.

Due to the separation distance of over 25m between the sheds and No. 15b and the low profile of the sheds 4.7m height, there will be no unacceptable adverse impact on the amount of light received at No. 15b and the proposal meets the 25-degree angle light test.

- Proposed sheds larger than buildings they will replace in terms of height and footprint. Application statement is misleading as states 'the existing buildings are being placed on the existing footprint of original farm buildings with a modest increase in terms of floorspace.' – gross area will increase from 162 sqm to 316 sq m which is nearly double/ not modest.

Policy CTY12 for agricultural development does not detail the size of buildings or that any replacement buildings cannot be larger than the previous buildings on the site. New development is acceptable provided it complies with the list of criteria in CTY 12. It is considered that the proposed sheds comply with Policy CTY 12 as the character, scale and materials are in keeping with the surrounding area. Plans show that the height of the new sheds will tie in with the adjacent shed that is to be retained. There are also larger sheds within the holding to the south-east of the site that will provide a backdrop for the new sheds. This will ensure the proposal integrates into the surrounding landscape and will not have any adverse impacts on the character of the rural area.

- Adverse traffic impacts to No. 15b – access blocked by the farm traffic.

The proposal will use the existing access to the farm. DfI Roads was consulted in relation to traffic impacts and road safety and offers no objections to the proposal. Issues of the access to No. 15b being blocked are not a material planning consideration and are a civil matter with the owner of the transport blocking the access.

- Sheds will obstruct views of No. 15b to the countryside which will impact wellbeing. Used to be a tree of the site facing No. 15b.

This is not a material planning consideration as there is no right to a view. It has been considered in the report that the proposal will have no unacceptable adverse impact on the amount light received at No. 15b. In relation to removal of the tree, this has not been included as part of the proposal and appears to have been carried out before the application was submitted. The tree was not protected by a Tree Preservation Order and the owner does not need planning permission to remove the tree.

- Inaccuracies in the application statement which the Council should not rely on – a visit to the site is required to gain understanding of the area.

The application statement is the applicant/agent interpretation on how the proposal complies with the relevant planning policies. The Council will make its own determination against the relevant policies based on the information provided

within the application, a site visit (carried out on 9 December 2021) and comments from the relevant consultees.

- Understand that farms may wish to modernise and develop over time but not to the detriment of inhabitants in dwellings in such close proximity.

The impact of the proposal on nearby residents has been considered in detail within the report and it is considered that now there is no livestock to be housed in the sheds, or a slurry tank provided, that there will be no unacceptable adverse impacts on residential amenity.

- Damage to garden wall of No. 15b. Risk to safety of kids playing in garden.

This is not a material planning consideration and is a civil matter between the owner of No. 15b and whoever caused the damage.

- The sheds could be built elsewhere on the farm away from No. 15b.

The Council has to consider the information submitted with application and the location the applicant wishes to gain permission for the sheds. It has been considered in detail within the report that the proposed sheds will have no adverse impacts on the character of the area, residential amenity or the environment.

- Unfair of applicant to say objectors' concerns are 'private interests' and that because they haven't complained previously about noise, smell, traffic etc this does not mean they have not been negatively impacted.

Any material planning considerations raised by an objector will be considered before a recommendation is made on an application.

- Farm machinery being parked on the septic tank of No. 15b, undermine structural integrity of the concrete slabs and septic tank.

This is not a material planning consideration and is a civil matter between the owner of No. 15b and whoever is parking on the septic tank.

- Sheds being used for business enterprise not associated with the farm.

The description of the proposal is for agricultural buildings and therefore permission will be granted for agricultural purposes only. If the buildings are used for enterprise other than agriculture, a complaint can be made to the Planning Enforcement Team to investigate if any breach has occurred.

- Inconsistent names on the plans for the different types of sheds proposed – sometimes vehicle store or machine store or general purpose shed.

The labelling on the plans all relate to agricultural use and the description of the proposal is for three agricultural buildings therefore once permission is granted the sheds can only be used for agricultural purposes.

- The applicant has built two further sheds south of the site that do not have planning permission.

There is an on-going enforcement case in relation to this and does not form part of this application.

6. Recommendation

Grant Planning Permission

7. Conditions

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

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

2. No livestock shall be housed in the agricultural buildings hereby approved at any time without the prior written consent of the Council.

Reason: To ensure the development is not likely to have a significant effect on any European site and in the interests of residential amenity.

3. The underground storage tank as indicated on the approved plans Drawing Nos. 02A and 03A shall be used for dry storage only.

Reason: To ensure the development is not likely to have a significant effect on any European site and in the interests of residential amenity.

4. A suitable buffer of 10 metres shall be maintained between the location of all construction works refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the watercourse present along the south of the application site.

Reason: To ensure the development is not likely to have a significant effect on any European site or the water environment.

5. All contaminated run-off from the facility and, concrete apron shall be directed to an appropriate collection tank, with no overflow or outlet to any waterway or soakaway.

Reason: To ensure the development is not likely to have a significant effect on any European site or the water environment.

Aerial Image of the Site



Site layout

Site Photos



View of retrospective shed



View of the farmyard with the retrospective shed and location of proposed sheds behind the metal fencing



View of the location of proposed sheds and retrospective shed from top of the laneway into the farmyard.



View of site from the laneway showing the retrospective shed and the proposed sheds to be built in front of the larger, rounded roof shed.

ITEM 4.6

Ards and North Down Borough Council

Application Ref	LA06/2022/0867/F
Proposal	<p>Public realm improvement scheme comprising upgrading of existing paving and kerbing; installation of new street furniture, seating, streetlights, litter bins, planters and cycle stands; reconfiguration of existing car parking; relocation of existing bus shelter; and all associated works.</p> <p>Variation of Condition 2 of permission LA06/2019/1267/F from '<i>The environmental scheme hereby approved shall not be commenced until the applicant has submitted to and received approval in writing from The Council for the proposals to be constructed as generally indicated on the drawings 03A bearing the Councils date stamp of 4th July 2021</i>' to '<i>The environmental scheme hereby approved shall not be commenced until the applicant has submitted to and received approval in writing from The Council for the proposals to be constructed as generally indicated on the drawing 04</i>'.</p> <p>Variation of Condition 8 of permission LA06/2019/1267/F from '<i>The materials and finishes of the proposed works shall be commenced in accordance with drawing No. 03A, and 06A bearing the Council date stamp of 4th January 2021 and drawing Nos 04, 05 and 07 bearing the Council date stamp of 13th December 2019</i>' to '<i>The materials and finishes of the proposed works shall be commenced in accordance with drawing No's 04 and 03 and, drawing No's 04, 05 and 07 bearing the Council date stamp of 13th December 2019</i>'.</p> <p>Variation of condition 9 of permission LA06/2019/1267/F from: '<i>The proposed lighting shall be in accordance with drawings 06A and 09A bearing the Council date stamp of 4th January 2021</i>' to '<i>The proposed lighting shall be in accordance with drawings 02B and 03</i>'.</p>
Location	<p>The Square, High Street, The Ropewalk, Church Street, Meetinghouse Street, Castle Street and Ferry Street including junctions with The Strand, Portaferry.</p> <p>DEA: Ards Peninsula</p>
Committee Interest	Council application
Validated	30/08/2022

Summary	<ul style="list-style-type: none"> • Application required to vary conditions 2, 8 and 9 of permission LA06/2019/1267/F (Portaferry public realm improvement scheme) due to proposed changes to positioning and design of street lighting. • Design changes and repositioning of streetlights are minor and sympathetic to the character of the Conservation Area. • Both the Council's Conservation Area Officer and Historic Environment Division are content with proposed amendments. • DFI Roads also content with proposed amendments.
Recommendation	Approval
Attachment	Item 4.6a – Case Officer Report

Development Management Case Officer Report

Reference:	LA06/2022/0867/F	DEA: Ards Peninsula	
Proposal:	<p>Public realm improvement scheme comprising upgrading of existing paving and kerbing; installation of new street furniture, seating, street lights, litter bins, planters and cycle stands; reconfiguration of existing car parking; relocation of existing bus shelter; and all associated works.</p> <p>Variation of Condition 2 of permission LA06/2019/1267/F from <i>'The environmental scheme hereby approved shall not be commenced until the applicant has submitted to and received approval in writing from The Council for the proposals to be constructed as generally indicated on the drawings 03A bearing the Councils date stamp of 4th July 2021'</i> to <i>'The environmental scheme hereby approved shall not be commenced until the applicant has submitted to and received approval in writing from The Council for the proposals to be constructed as generally indicated on the drawing 04'</i>.</p> <p>Variation of Condition 8 of permission LA06/2019/1267/F from <i>'The materials and finishes of the proposed works shall be commenced in accordance with drawing No. 03A, and 06A bearing the Council date stamp of 4th January 2021 and drawing Nos 04, 05 and 07 bearing the Council date stamp of 13th December 2019'</i> to <i>'The materials and finishes of the proposed works shall be commenced in accordance with drawing No's 04 and 03 and, drawing No's 04, 05 and 07 bearing the Council date stamp of 13th December 2019'</i>.</p> <p>Variation of condition 9 of permission LA06/2019/1267/F from: <i>'The proposed lighting shall be in accordance with drawings 06A and 09A bearing the Council date stamp of 4th January 2021'</i> to <i>'The proposed lighting shall be in accordance with drawings 02B and 03'</i>.</p>		
Location:	The Square, High Street, The Ropewalk, Church Street, Meetinghouse Street, Castle Street and Ferry Street including junctions with The Strand, Portaferry.		
Applicant:	Ards and North Down Borough Council		
Date valid:	30.08.2022	EIA Screening Required:	No
Date last advertised:	08.03.2023	Date last neighbour notified:	13.03.2023
Letters of Support: 0	Letters of Objection: 0	Petitions: 0	

Consultations – synopsis of responses:	
NIEA: Regulation Unit	No objections to variation of Condition 9 provided the Environmental Health Department of Ards and North Down Borough Council are in agreement.
NIEA: Natural Environment Division	No objection.
Historic Environment Division: Historic Buildings and Historic Monuments	No objection
DfI Roads	No objection.
Conservation Area Officer	No objection.
Shared Environmental Services	No objection.
Environmental Health	No objection.
NI Water	No objection. NI Water are currently engaging with the consultant in relation to the Public Realm Scheme in Portaferry. Existing infrastructure is due to be replaced ahead of this proposed work.
Summary of main issues considered:	
<ul style="list-style-type: none"> • Design and Visual Impact • Residential Amenity • Road Safety • Designated Sites and Natural Heritage Interests • Historic Environment 	
Recommendation: Grant Variation of Conditions 2, 8 and 9 of approval LA06/2019/1267/F	
Report Agreed by Authorised Officer	
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal Northern Ireland Public Register (planningsystemni.gov.uk)	
1. Site and Surrounding Area	
<p>The application site comprises several streets within Portaferry Village Centre, Portaferry Conservation Area and an Area of Archaeological Potential. The proposal is centered around The Square, Portaferry. From The Square the scheme extends North along Church Street and High Street, East along Meeting House Street, South along Ferry Street and Castle Street. From Castle Street the scheme also extends North along The Ropewalk. The scheme is within the vicinity of several Listed buildings including 8 Ferry Street, Market House, 23-24 The Square, and Portaferry Visitor Information Centre.</p> <p>The application site is within the village centre which is a service centre for the local area, with a broad range of retail units located mainly at The Square, Church Street, High Street, Castle Street and Ferry Street. In addition to retail units there are a number of community and religious buildings as well as terraced dwellings. The site has a</p>	

distinctive built heritage with several listed buildings. The current state of the footpaths is inconsistent in quality with numerous narrow and uneven sections, particularly along Ferry Street and Castle Street.

The square is the focal point of the village with numerous shop frontages facing onto it, while the square itself is currently predominantly used as a car park. Broadly speaking, the site slopes from the Market Square, onto Ferry Street and Castle Street in a NE to SW direction, towards Strangford Lough. Additionally, the site extends down Meeting House street, which gradually slopes towards the East away from The Square, it includes a small section of High Street which abuts the Square and a section of The Ropewalk which leads towards the local aquarium and a car park.

2. Site Location



3. Relevant Planning History

Approval LA06/2019/1267/F directly pertains to this current variation of condition application. Approval LA06/2019/1267/F granted full planning permission for a '*Public realm improvement scheme comprising upgrading of existing paving and kerbing; installation of new street furniture, seating, street lights, litter bins, planters and cycle stands; reconfiguration of existing car parking; relocation of existing bus shelter; and all associated work.*' Planning permission was granted on 5 March 2021 and expires on 4 March 2026.

Associated application LA06/2022/0688/DC awarded permission for discharging Condition 5 of approval LA06/2019/1267/F.

4. Planning Assessment

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

- Ards & Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Portaferry Conservation Area Guide
- Living Places

4.2 Principle of Development

Approval LA06/2019/1267/F granted full planning permission for a *'Public realm improvement scheme comprising upgrading of existing paving and kerbing; installation of new street furniture, seating, street lights, litter bins, planters and cycle stands; reconfiguration of existing car parking; relocation of existing bus shelter; and all associated work.*

The current variation of condition application simply seeks permission for varying Conditions 2, 8 and 9 so to alter the positioning and style of the street lighting approved under LA06/2019/1267/F. Except for the approved street lighting arrangement, no further amendments to approval LA06/2019/1267/F have been proposed.

Consequently, the current proposal remains compliant with the ADAP and SPPS as was previously determined under associated approval LA06/2019/1267/F.

4.3 Visual Impact of the Proposal on the Appearance of the Area and the Historic Environment

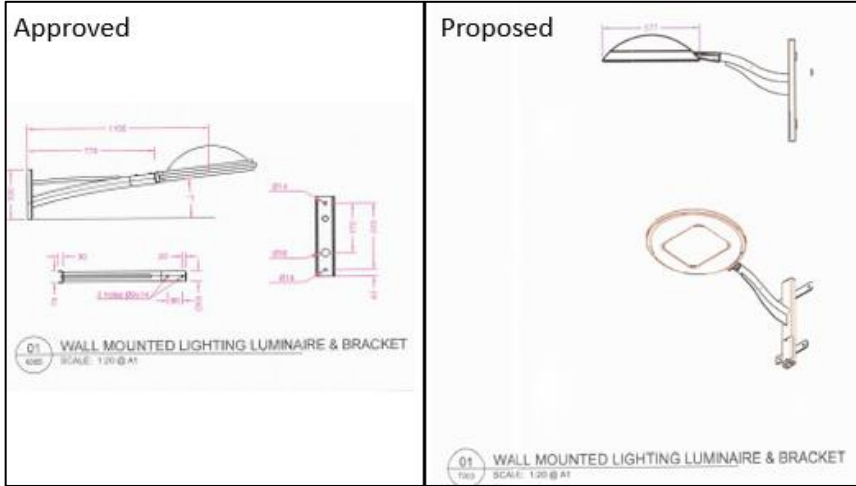
This application seeks to vary three conditions in total (Conditions 2, 8 and 9) on approval LA06/2019/1267/F as outlined above.

The applicant seeks to vary Condition 9 so the design and positioning of street lighting can be amended. Condition 2 stipulated that the approved environmental scheme shall be constructed as generally indicated on the drawings so also must also be varied to reflect the amended positions of the street lighting. Condition 8 relates to the materials and finishes of the proposed works and so also must be amended to reflect the amended design of the street lighting.

With regard to Condition 9 on approval LA06/2019/1267/F, Drawing 06A is the 'Typical details' drawing which illustrates the design of the approved street lighting. Drawing 09A of approval LA06/2019/1267/F is the 'Lighting General Arrangement' which illustrates the positions of the approved street lighting. Drawing 06A (Typical details) of approval LA06/2019/1267/F will be superseded by drawing 03 submitted with this application. Drawing 03 illustrates that the design of the approved street lighting will

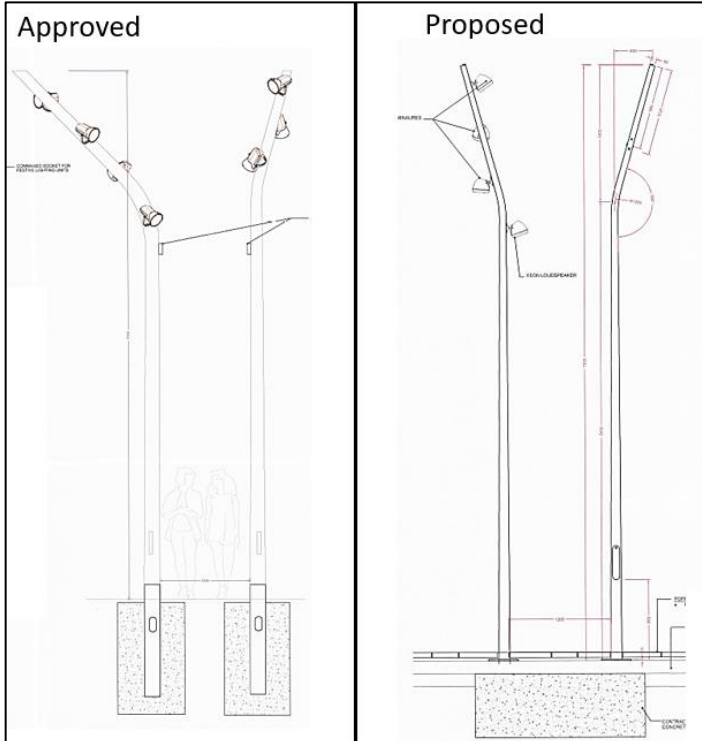
largely remain as approved. Specifically, the design of the approved wall mounted lighting would be altered to project slightly further from the building than previously approved but will largely be of the same design as the approved lighting (Figure 1) and will remain black in colour.

Figure 1: Approved and Proposed Street Light



Additionally, the approved 'feature post lighting' design would be slightly altered to that illustrated in Figure 2. As with the approved feature post lighting, the proposed feature post lighting would measure 7m high, be black in colour and have an adaptable box for speaker connections.

Figure 2: Approved and Proposed Feature Post Lighting



No further design changes have been proposed. It is my professional opinion that the design alterations are so minor as to have a negligible impact on the appearance and character of the area.

With regard to the siting/positioning of the approved street lighting, approved drawing 09A (Lighting General Arrangement) will be superseded by drawing 02B which illustrates the proposed amended positioning of the street lighting. Figures 3 and 4 demonstrate that the majority of alterations will be undertaken in and around The Square. Figure 5 highlights the proposed changes in green and illustrates that a small number of streetlights will either be relocated, reorientated or removed. These alterations are considered minimal and in keeping with the overall scheme.

Figure 3: Approved Lighting Positions at The Square

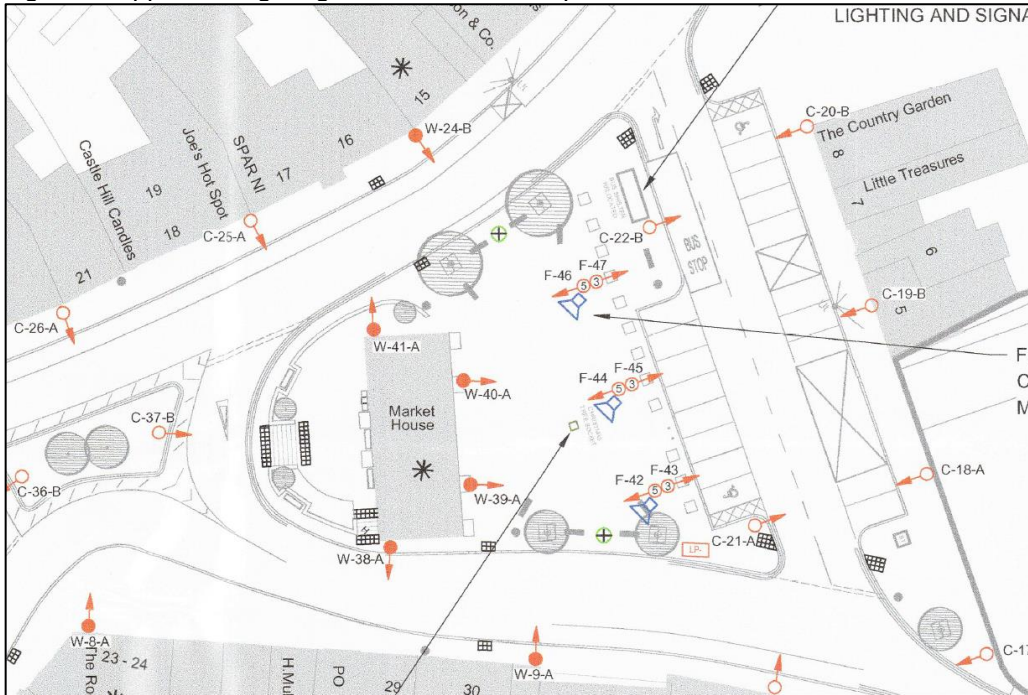


Figure 4: Proposed Lighting Positions at The Square

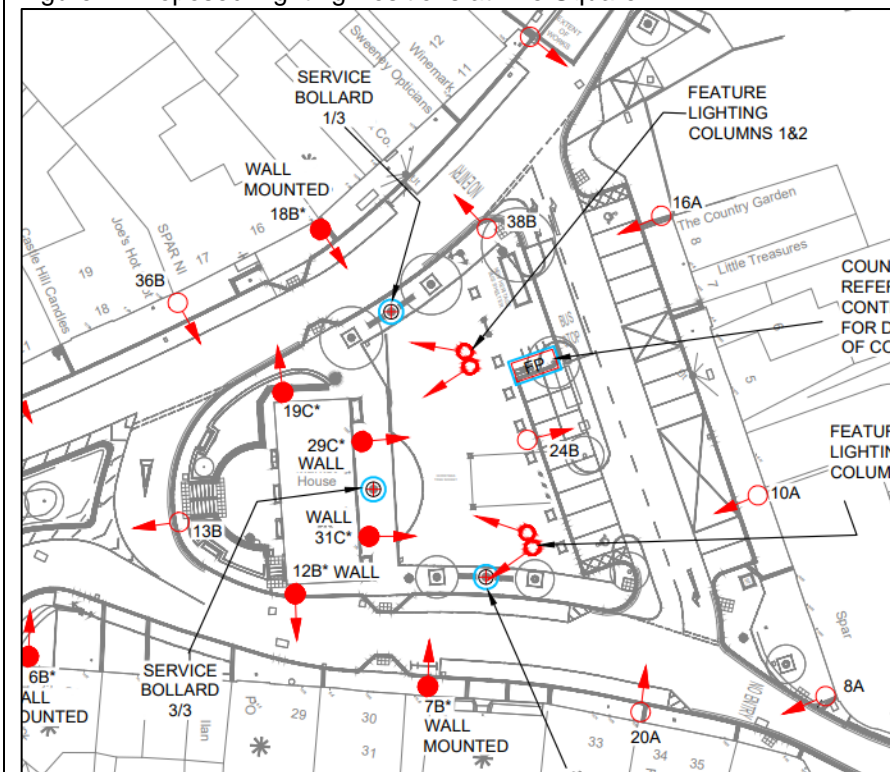
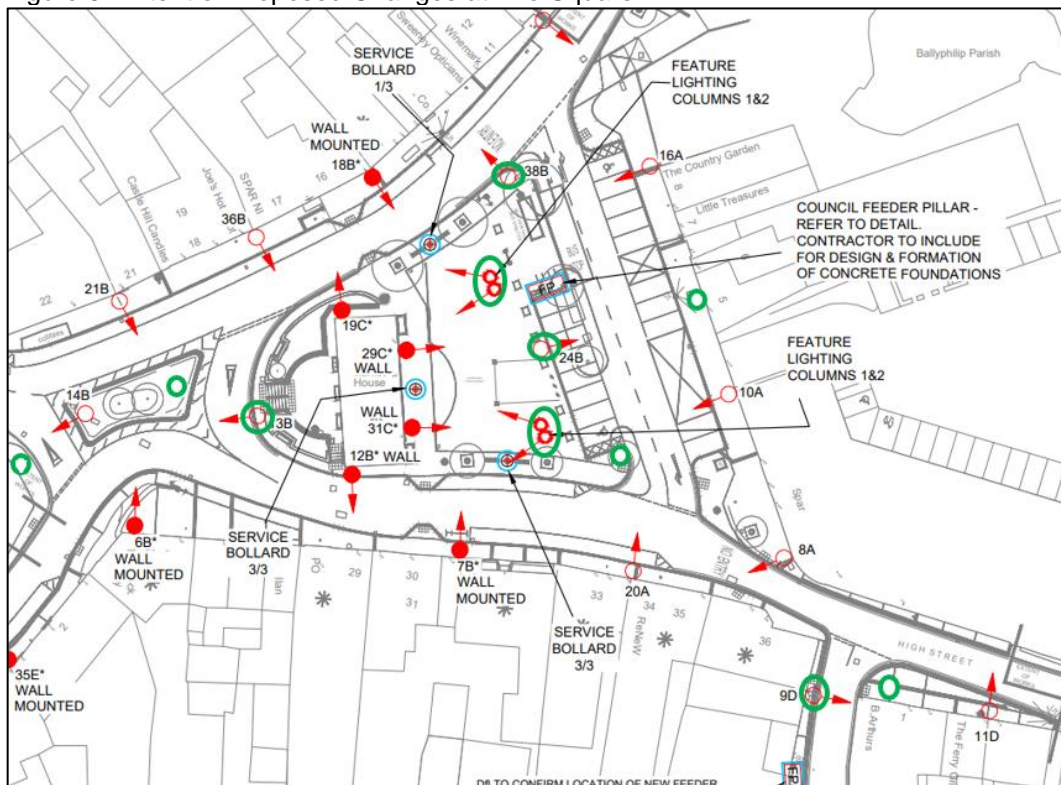


Figure 5: Extent of Proposed Changes at The Square



As the application site forms part of Portaferry Conservation Area, the Council's Conservation Area Officer was consulted and responded that, *'in terms of the visual impact upon the character and appearance of the conservation area, the proposed changes are very minor in nature, actually resulting in an overall reduction in the number of lighting columns and moving others to locations where there are already existing established lighting units. One of the central feature light columns in The Square has now been omitted which was a point of concern in my original response due to their scale and design. I would therefore offer no objections to this revised scheme on the basis of BH12 of Planning Policy Statement 6.'* I am therefore satisfied that the proposal will not adversely impact on the appearance or character of Portaferry Conservation Area.

As the proposal will also impact on several listed buildings, the Historic Environment Division (Historic Buildings and Historic Monuments) was consulted and responded that it is content with the proposal subject to the Planning Department conditioning the compliance with the submitted drawings. HED explained that it *'considers the impact of the proposal on the setting of the listed buildings shall be either equal to or a betterment of the lighting scheme approved under the previous 'LA06/2019/1267/F' application and the extant arrangement in the town.'* I am therefore satisfied that the proposal will not adversely affect the historic environment.

I am content to vary Condition 2 of approval LA06/2019/1267/F to ensure it reflects the amended Street Lighting Arrangement specified in varied Condition 9. I am also content to vary Condition 8 of approval LA06/2019/1267/F to ensure compliance with the approved material and finishes.

Overall, I am content that the visual impact of the proposed street lighting will not adversely affect the appearance or character of the Conservation Area and represents a betterment from the approved street lighting arrangement. The proposal therefore satisfies the relevant policy criteria.

4.4 Residential Amenity

The proposal was advertised, and neighbouring properties notified. No representations were received.

The Council's Environmental Health Officer was consulted on the proposal and raised no objection. I am therefore content the proposal will not adversely impact on residential properties.

4.5 Pedestrian and Vehicular Safety

DfI Roads was consulted on the proposal and responded with no objection. The proposal therefore satisfies the relevant policy criteria in PPS 3 as it will not detrimentally impact on the safe movement of vehicles or pedestrians.

4.6 Designated Sites and Natural Heritage Interests

The application site is located within the vicinity of Strangford Lough SAC, SPA, ASSI and Ramsar sites. Shared Environmental Services was consulted and responded that it has no objection as the proposal would not have any likely significant effect on the selection features, conservation objectives or status of any European site.

NIEA: Regulation Unit was consulted and responded that '*the Regulation Unit Land and Groundwater Team would have no objections to variation of Condition 9 provided the Environmental Health Department of Ards and North Down Borough Council are in agreement*'. The Council's Environmental Health Officer raised no objection to the proposal. Consequently, NIEA: Regulation Unit is content with the proposal.

NIEA: Natural Environment Division was consulted and responded with no objection.

In light of the above consultation responses, I can confirm that the potential impact of the proposal on Special Areas of Conservation, Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) with it considered that the proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

With regard to species protected by law, NIEA: NED responded with no objection.

The application site is also located in Strangford and Lecale Area of Outstanding Natural Beauty. The proposed amended street lighting arrangement will essentially upgrade existing street lighting which will not detrimentally impact upon the Area of Outstanding Natural Beauty, as was the case with approval LA06/2019/1267/F. The proposed amended street lighting arrangement has been designed to be sympathetic

to the historic fabric of the Conservation Area and will enhance the overall quality of the village centre within the AONB.

I am satisfied that the proposal complies with the relevant policy criteria in PPS 2 and will not adversely impact on protected sites, protected species or the AONB.

5. Representations

No representations were received.

6. Recommendation

Approve variation of Conditions 2, 8 and 9 of approval LA06/2019/1267/F

7. Conditions

1. The development hereby approved must be begun before 4 March 2026.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011, and in compliance with the original 5 year period provided by the decision issued on 5 March 2021 under planning application LA06/2019/1267/F.

2. The environmental scheme hereby approved shall not be commenced until the applicant has submitted to and received approval in writing from the Council for the proposals to be constructed as generally indicated on drawing 04.

Reason: In the interests of road safety and the convenience of road users.

3. A detailed programme of works and any required/associated traffic management proposals shall be submitted to and agreed in writing with the Council, prior to the commencement of any element of the works.

Reason: To facilitate the free movement of all road users and the orderly progress of work in the interests of road safety.

4. The development shall not be commenced until a Service Management Plan has been submitted to and approved in writing by the Council and subsequently implemented to its satisfaction.

Reason: In the interests of safety and convenience to the road user.

5. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under Condition 5 of the original permission LA06/2019/1267/F.

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

6. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under Condition 5. These measures shall be implemented, and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

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

7. The materials and finishes of the proposed works shall be commenced in accordance with drawing Nos. 04 and 03 and, drawing Nos. 04, 05 and 07 bearing the Council date stamp of 13th December 2019.

Reason: To ensure the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building.

8. The proposed lighting shall be in accordance with drawings 02B and 03.

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

9. Where new paving is laid next to curtilage structures and surfaces of listed buildings (dwarf walls, railing bases, and stone flagging), a separating membrane shall be employed.

Reason: To ensure the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building.

10. External PA speakers shall be detachable in nature and removed from feature light fittings and stored away when not in use.

Reason: To ensure the nature of the use proposed respects the character of the setting of the building.

Informative

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

Figure 5: Proposed General Arrangement Plan (Drawing 04)



Appendix 2: Site Inspection Photographs

Photo Group 1: View North from northern side of The Square car park



Photo group 2: View from within the car park of The Square facing North and South



Photo Group 3: View facing Northern side of The Square



Photo Group 4: View of Eastern side of The Square and Meeting House Street





Photo Group 5: View of Eastern side of the Square facing north – south





Photo Group 6: View of Northern side of Ferry Street Facing Credit Union



Photo Group 7: View travelling North from Southeast side of The Square





Photo Group 8: View from Western side of Portaferry Market Building facing South



Photo Group 9: View from Castle Street/The Square junction facing West



Photo Group 10: View from eastern side of Portaferry Castle Facing south on Castle Street





Photo Group 11: Views from The Strand facing Ferry Street, travelling north on Ferry Street





ITEM 5

Ards and North Down Borough Council

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	22 June 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	13 June 2023
File Reference	
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 decision 2020/A0147

Appeal Decisions

- The following appeal was dismissed on 03 April 2023

PAC Ref	2020/A0147
Application ref	LA06/2018/1176/O
Appellant	Nigel Kerr
Subject of Appeal	Refusal of planning permission for Dwelling and Garage
Location	Land adj. and to south of 200-202 Millisle Road, Donaghadee

The Council refused planning permission on the 22 October 2020 for the following reasons:

- 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 CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the identified cluster is not associated with a focal point or located at a cross-roads, the site does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster, development of the site would not be absorbed into the cluster and would visually intrude into the open countryside.
3. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal, if developed, would further erode the rural character of the area due to a build-up of development and the extension of a ribbon of development.
4. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the application site lacks long established natural boundaries at this exposed coastal location and would have to rely primarily on the use of new landscaping for integration.
5. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy NH1 of Planning Policy Statement 2, Natural Heritage, in that insufficient information has been submitted to demonstrate that the development of this land will not have an adverse effect on the integrity of adjacent European Sites.
6. The proposal is contrary to Paragraph 6.42 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the building is located within an area of the coast known to be at risk from coastal erosion.

It was accepted that with regard to Policy CTY 2a of PPS21, three out of the six listed criteria were met including there being a cluster of development at this location, a visual entity in the local landscape and, (subject to good design) a dwelling on the appeal site would not impact adversely on residential amenity.

The dispute therefore between parties related to the third, fourth and fifth criteria of Policy CTY 2a. The fourth criterion of Policy CTY 2a requires two elements to be met, the site to provide a suitable degree of enclosure with this requirement being reiterated in criterion (b) of Policy CTY 13 of PPS 21, which states that a new building will be unacceptable where the site fails to provide a suitable degree of enclosure. The Commissioner was of the opinion that the appeal site would fail to provide a suitable degree of enclosure given its open, coastal location therefore failing to meet the first element of the fourth criterion of Policy CTY 2a and Policy CTY 13 of PPS 21 with the Council sustaining its fourth reason for refusal.

The second element of the fourth criterion of Policy CTY 2a requires a site to be bound on two sides by development within the cluster. The Commissioner agreed with the Council in that the appeal site was not bound on two sides and

the appeal proposal failed to meet the two elements required by the fourth criterion of Policy CTY 2a.

The Council's third reason for refusal was sustained in relation to the fifth criterion of CTY2. The Commissioner was of the opinion that the proposal would extend built development south, which would visually intrude into the undeveloped coastline. From Millisle Road, any dwelling on the appeal site, regardless of siting and size, would fail to be absorbed into the existing cluster and would cause a detrimental change to the existing open character of the coastal area. As such, the appeal proposal fails to meet the fifth requirement of Policy CTY 2a and it also followed that the proposal also failed to meet Policies CTY 8 and 14 of PPS 21.

As the appeal development failed to comply with the third, fourth and fifth criteria of Policy CTY 2a of PPS 21 the Commissioner was of the opinion that the Council sustained its second reason for refusal.

The Commissioner also sustained the Council's first reason for refusal based upon Policy CTY 1 of PPS 21 which refers that the development must be essential in a particular location.

The Commissioner was of the opinion that an adequate Construction Environmental Management Plan (CEMP) would mitigate concerns regarding potential pollution during the construction and operational phases of the development and as such, the Council has failed to sustain its fifth reason for refusal based upon Policy NH 1 of PPS 2 – Natural Heritage.

The aim of the SPSS is to protect the undeveloped coast from inappropriate development and to support the sensitive enhancement and regeneration of the developed coast largely within coastal settlements. This area of coastline has been identified as an "area of high erosion risk". The Commission was of the opinion that it was appropriate to adopt a precautionary approach in the absence of a coastal erosion assessment from the Appellant, the high erosion risk, increasing number of storm events, predicted sea level rise, and the location of the appeal site located directly adjacent to the coast and sustained the Council's sixth reason for refusal based upon Paragraph 6.42 of the SPSS.

The Commissioner's report is attached to this Report.

New Appeals Lodged

2. The following appeal was lodged on the 01 June 2023

PAC Ref	2023/A0018
Application ref	LA06/2019/0891/F
Appellant	Mrs. Mounce
Subject of Appeal	Refusal of planning permission for 1no. dwelling
Location	50m North of 43 Newtownards Road, Donaghadee

3. The following appeal was lodged on 16 May 2023

PAC Ref	2023/E0011
Application ref	LA06/2020/0130/CA
Appellant	Lennie, Eddie
Subject of Appeal	Alleged (i) Unauthorised change of use of land and vehicle access to serve private golf range; (ii) Unauthorised erection of 5.5m high safety netting; (iii) Unauthorised erection of two floodlight columns; (iv) Unauthorised metal shed erected; (v) Unauthorised erection of polytunnel
Location	Lands north of 60 Ballyrogan Road, Newtownards

4. The following appeal was lodged on 01 May 2023.

PAC Ref	2023/E0006
Application ref	LA06/2021/0273/CA
Appellant	Marc Pedriel
Subject of Appeal	Alleged <ul style="list-style-type: none"> • Unauthorised formation of an access (including gate) and laneway; • Unauthorised material change of use of agricultural field to an area of stone hardstanding being used in conjunction with Oyster Farming; • Unauthorised parking of vehicles, siting of storage container and equipment associated with the Oyster farming use
Location	Land adjacent to entrance to private lane of 49, 51 & 53 Ringneill Road, Comber

5. The following appeal was lodged on 31 March 2023.

PAC Ref	2022/A0220
Application ref	LA06/2021/1141/F
Appellant	Newtownards Ltd, Castlebawn
Subject of Appeal	New car dealership including mobile structure for office use
Location	Site to rear of Tesco and adj to Translink Depot, A20 Relief Road, Newtownards

Appeals Withdrawn

6. The following appeal was withdrawn on 03 May 2023

Unclassified

PAC Ref	2023/L0003
Application ref	LA06/2022/0713/LDP
Appellant	Mr. & Mrs. Robie
Subject of Appeal	Proof of commencement of works of planning approval X/2007/0221/F for dwelling and detached garage
Location	16B Kilbright Road, Millisle

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

RECOMMENDATION

It is recommended that Council notes this report.

Appeal Reference:	2020/A0147
Appeal by:	Mr N Kerr
Appeal against:	The refusal of outline planning permission
Proposed Development:	Dwelling and garage
Location:	Land adjacent and to the south of 200-202 Millisle Road, Donaghadee
Planning Authority:	Ards and Down Borough Council
Application Reference:	LA06/2018/1176/O)
Procedure:	Written representations and Commissioner's site visit on 28 February 2023
Decision by:	Commissioner McShane, dated 3 April 2023.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are:
 - whether the proposed development is acceptable in principle;
 - visual amenity and rural character;
 - natural heritage; and
 - coastal erosion.
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 (the Act) requires regard to be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6 (4) of the Act requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as a LDP. The appeal site is located outside the settlement development limit for Donaghadee and within a Local Landscape Policy Area (LLPA).
4. The appeal site is in the open countryside, therefore Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) provides the relevant policy context. It is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document.
5. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Planning permission will be granted for an individual dwelling house in specified circumstances. The Appellant argues that

the proposed dwelling would be sited within an existing cluster of buildings in accordance with Policy CTY 2a.

6. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development, provided six specified criteria are met. The Council accepts that there is a cluster of development at this location (Criterion 1) and that it appears as a visual entity in the local landscape (Criterion 2). The appeal site comprises the front garden of the adjacent dwelling that stands gable end to the road. The ground floor front elevation, comprising floor to ceiling glass serving an open plan kitchen, dining, living area, is orientated to, and immediately overlooks the 0.13 ha appeal site. Notwithstanding this, the Council also accepts that, subject to good design, a dwelling on the appeal site would not impact adversely on residential amenity (Criterion 3). The dispute between the parties relates to the third, fourth and fifth criteria of Policy CTY 2a.
7. The third criterion of Policy CTY 2a requires the cluster to be associated with a focal point or be located at a crossroads. The parties agree that there is no focal point such as a social / community building / facility in the identified cluster. The T-junction between Ballyvester Road and Millisle Road is not rendered a staggered crossroads by Vester Cove, which is a cul-de-sac. The proposed development fails to meet the third criterion.
8. The fourth criterion of Policy CTY 2a requires two elements to be met. The first is that the site provides a suitable degree of enclosure. This requirement is reiterated in Policy CTY 13 of PPS 21, which states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape. Criterion (b) of Policy CTY 13 states that a new building will be unacceptable where the site fails to provide a suitable degree of enclosure.
9. The appeal site is located immediately adjacent to the coast. Its northern boundary is unmarked and the site is open to the dwelling located immediately adjacent. The southern boundary comprises recently planted shrubs and a 1m high post and wire fence that encloses the garden and extends east to the seawall. The seawall, which drops from the site to Ballyvester Beach, comprises the eastern boundary. The western (road frontage) boundary comprises a 1m high post and wire fence, 2m high hedge and 3 no trees. Topography within the site falls gently east to the seawall.
10. Travelling in both directions along Millisle Road, notwithstanding the buildings to the north of the appeal site and the vegetation, the appeal site would fail to provide a suitable degree of enclosure for a dwelling and garage, given its open, coastal location. The proposed development fails to meet the first element of the fourth criterion of Policy CTY 2a. It automatically follows that it also fails to meet Policy CTY 13 of PPS 21. Accordingly, the Council has sustained its fourth reason for refusal.
11. The second element of the fourth criterion of Policy CTY 2a requires the appeal site to be bound on two sides by development within the cluster. The site is bound to the north by other development (Nos.202 and 204). However, Nos 193-199 Millisle Road do not bound the appeal site, rather they are separated from it by Millisle Road, which has footpath along both sides. The appeal site is not

bound on two sides by development in the cluster. The appeal proposal fails to meet the two elements required by the fourth criterion of Policy CTY 2a.

12. The fifth criterion of Policy CTY 2a requires that 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. This is reiterated in Policies CTY 8 and 14. 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. Criterion (d) states that a new building will be unacceptable where it creates or adds to a ribbon of development as set out in Policy CTY 8.
13. Rather, than being centrally located within the cluster, the proposal would extend built development south, which would visually intrude into the undeveloped coastline, east of Millisle Road. From Millisle Road, any dwelling on the appeal site, regardless of siting and size, would fail to be absorbed into the existing cluster. This would cause a detrimental change to the existing open character of this coastal area. As such, the appeal proposal fails to meet the fifth requirement of Policy CTY 2a. It follows that the proposal also fails to meet Policies CTY 8 and 14 of PPS 21. Accordingly, the Council has sustained its third reason for refusal.
14. The appeal development fails to comply with the third, fourth and fifth criteria of Policy CTY 2a of PPS 21. Accordingly, the Council has sustained its second reason for refusal.
15. The Appellant referred me to numerous decisions by the Commission and the Council arguing that the approval of those applications set a precedent for allowing the current appeal. However, all proposals must be considered on their own merits in their site-specific circumstances.
16. I have not been persuaded that the circumstances of any of the cases referred to me are directly comparable with the those of the current appeal. For example, in three instances Commissioners found site specific characteristics to be so compelling as to outweigh the fact that the cluster was not associated with a focal point. Significantly, however, in these cases all the other criteria of Policy CTY 2a were met, which is not the case in this appeal. In another instance, it was found that a proposal, contrary to policy, would deliver a better environmental outcome without visual detriment to the rural character. However, that is not the case in this appeal. I have not been persuaded that the appeal proposal, which would be located in the front garden of the adjacent dwelling, would represent either planning gain or betterment. The approvals referred to do not set a precedent that would justify allowing the appeal proposal, which I have already concluded is contrary to Policies CTY 2a, CTY 8, CTY 13 and CTY 14 of PPS 21.
17. Policy CTY 1 is clear that other types of development will only be permitted where there are overriding reasons why the development is essential. I have not been persuaded that there are other overriding reasons why the proposed dwelling is essential. Accordingly, the Planning Authority has sustained its first reason for refusal based upon Policy CTY 1 of PPS 21.
18. The appeal site is located within LLPA 4: Croagh Patrick Nursing Home, St Patrick's Graveyard, standing stone and associated vegetation, as designated in

the ADAP. The plan states that LLPAs are those areas, within or adjoining settlements, which are of greatest amenity value, landscape quality or local significance, and therefore worthy of protection from undesirable or damaging development.

19. LLPA 4 includes the undeveloped stretch of coastline and small bay and foreshore enclosed by the town to the north and the headland to the south, which forms an attractive area of local amenity and tourist importance. I have already concluded above that the appeal proposal would fail to consolidate the existing cluster and integrate into the surrounding landscape. Rather it would extend development south into an undeveloped stretch of coastline and have a negative impact on the area. As such, the proposed development would also adversely affect the character of the LLPA. There is no support for the appeal proposal in the LDP.
20. The appeal site is located adjacent to the Outer Ards Area of Special Scientific Interest (ASSI), designated under the Environment Order (NI) 2002; the Outer Ards Special Protection Area (SPA) and East Coast Marine pSPA, designated under the EC Birds Directive; the Outer Ards Ramsar Site, designated under the Ramsar Convention; and the North Channel Site of Community Importance (SCI), designated under the EC Habitats Directive. Hereafter, these are referred to as the designated sites.
21. Policy NH 1 of Planning Policy Statement 2: Natural Heritage (PPS 2) states that planning permission will only be granted for a development proposal that is not likely to have a significant effect on a European Site; or a listed Ramsar Site.
22. The Council did not submit a statement of case, however papers on the file indicate that it initially argued that the proposal would be likely to have an adverse impact on the conservation objectives of the designated sites. I have taken all environmental information submitted into account. The Council's specific concerns relate to the degradation of the adjacent aquatic environment from contaminated run off resulting during construction and operational works and disturbance to ornithological features through habitat loss / construction activities.
23. It was, however, subsequently concluded that that an adequate Construction Environmental Management Plan (CEMP) would mitigate concerns regarding potential pollution during the construction and operational phases of the development. The submission of a CEMP to the Council for its approval could be required by condition. In this evidential context, the Council has failed to sustain its fifth reason for refusal based upon Policy NH 1 of PPS 2.
24. Paragraph 3.13 of the SPPS states that the planning system should help to mitigate and adapt to climate change by avoiding development in areas with increased vulnerability to the effects of climate change, particularly areas at significant risk from among other things, coastal erosion. The aim of the SPPS in relation to the coast is to protect the undeveloped coast from inappropriate development and to support the sensitive enhancement and regeneration of the developed coast largely within coastal settlements. For the purpose of policy, the developed coast includes existing settlements and existing major development, such as ports, isolated industrial units and power stations.

25. Paragraph 6.37 of the SPPS states that there are few types of development which require a coastal location and that the undeveloped coast will rarely be an appropriate location for new development. Paragraph 6.38 states that development should only be permitted on the undeveloped coast where the proposal is of such national or regional importance as to outweigh the detrimental impact on the coastal environment and where there is no feasible alternative site within an existing urban area in the locality. The appeal proposal is for a single residential dwelling. No argument was presented that the proposal is of national or regional importance or that there is no feasible alternative site in the nearby settlements of Donaghadee or Millisle.
26. Paragraph 6.42 of the SPPS states that development will not be permitted in areas of the coast known to be at risk from among other things, coastal erosion. Papers on file indicate that this particular area of coastline has been identified as an “area of high erosion risk”, which has been exacerbated by the construction of hard sea defences and the associated impacts on adjacent “undefended” areas.
27. The Marine and Fisheries Division of the Northern Ireland Environment Agency argue that the existing sea / retaining wall that forms the eastern boundary of the site is indicative that erosion is already an issue at this location. The Appellant does not dispute this but argues that the seawall already in place would protect the appeal site from the sea. He reinforces this claim by stating the sea wall also protects the adjoining sites to the immediate north. It is notable that the development on the sites to the north, approved under X/2007/0022/F in 2007, comprises two replacement dwellings.
28. No persuasive information has been submitted to address the concerns raised about the impact of the seawall on the undefended coastline or in respect of the future sustainability and climate resistance of the site. In the absence of a coastal erosion assessment from the Appellant, the high erosion risk, increasing number of storm events, predicted sea level rise, and the location of the appeal site located directly adjacent to the coast, it is appropriate to adopt a precautionary approach in this instance. Accordingly, the Council has sustained its sixth reason for refusal based upon Paragraph 6.42 of the SPSS.
29. The Council has sustained its first, second, third, fourth and sixth reasons for refusal based upon Policies CTY 1, CTY 2a CTY 8, CTY 14, and CTY 15 of PPS 21 and Paragraph 6.42 of the SPPS; therefore, the appeal fails.

This decision is based on the following drawings:-

- LPA Drwg No.01a: Site Location Plan (Scale 1:1250)
- LPA Drwg No.02: Available Visibility Splay (Scale 1:500)

COMMISSIONER MCSHANE

List of Documents

Appellant:- "APP 1" Statement of Case and Appendices
(O'Toole & Starkey Planning Consultants)

ITEM 6**Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	22 June 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	13 June 2023
File Reference	
Legislation	
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input checked="" type="checkbox"/> If other, please add comment below: n/a
Subject	Draft Memorandum of Understanding (MOU) between Departments regarding Offshore and Marine Renewable Energy Development
Attachments	Item 6a DAERA DfI DfE Letter to Local Councils Item 6b ANNEX A - Draft - MoU between DfE DfI and DAERA Item 6c Response from Council

Purpose of Report

To advise Members of a draft Memorandum of Understanding (MOU) proposed regarding Offshore and Marine Renewable Energy Development.

DAERA Marine and Fisheries Division wrote to the Chief Executive, alongside other relevant councils, advising of the intention to formulate an MOU between the three central government departments of Agriculture, Environment and Rural Affairs (DAERA), Infrastructure (DfI) and Economy (DfE) in relation to the offshore and marine renewable energy development in Northern Ireland.

Background

The NI Executive launched its Energy Strategy for Northern Ireland in December 2021, which established a renewable electricity consumption target of 70% by 2030 (increased to 80% by 2030 by the Climate Change (Northern Ireland) Act 2022). The Energy Strategy also established a commitment to diversify the renewables generation technology mix, with an initial focus on offshore wind and marine renewables.

DfE published its intention to develop an action plan to deliver 1GW of offshore wind in the Energy Strategy Action Plan 2022 (published 16 January 2022). To take this forward, DfE chairs a multi-agency steering group responsible for driving the development of the Offshore Renewable Energy Action Plan (OREAP) that takes account of the interests of all marine users while at the same time it is focussed on accelerating the processes that will enable offshore renewable energy deployment in Northern Ireland.

The three departments are participating members of that group. One of the key objectives of the OREAP Action Plan is to prioritise and streamline the process for licensing and consenting and this will be achieved partially by establishing this Memorandum of Understanding between DfI/DAERA/DfE to ensure that offshore renewable energy projects are prioritised and where possible, departments coordinate and communicate to progress applications expeditiously.

Members will note at point 15 of Annex A (Item 6b) there is direct reference to council jurisdiction to consider onshore planning applications which are not projects of regional significance. Additionally, attention is also drawn to the section on “Services to be provided by DfI (or Local District Council)” at page 8 of the same Annex.

A response was originally requested by 17 March, however, that date was extended to 25 May, after which the departments will finalise the draft and inform the respective Permanent Secretaries accordingly. Given the Council elections, retrospective approval is sought in relation to the response issued.

A copy of the response as issued is attached as Item 6c.

RECOMMENDATION

It is recommended that Members note the content of this report and attachments.

FAO: Mr Stephen Reid
Chief Executive
Ards & North Down Borough Council
City Hall
The Castle
Bangor
BT20 4BT
By email only
stephen.reid@ardsandnorthdown.gov.uk

DAERA Marine & Fisheries Division
1st Floor, Klondyke Building
Cromac Avenue
Belfast
BT7 2JA
Telephone: 028 90378387
Email:
MarineLicensingTeam@daera-ni.gov.uk
10 March 2023

Dear Sir,

The purpose of this joint communication is to share with you, a draft Memorandum of Understanding (MOU) between the three departments (Department for Infrastructure (DfI), Department of Agriculture Environment and Rural Affairs (DAERA) and Department for the Economy (DfE)).

The background to developing this MOU is contained in the vision and overview of the MOU itself at Annex A. In summary, the NI Executive launched its Energy Strategy for Northern Ireland in December 2021, which established a renewable electricity consumption target of 70% by 2030 (increased to 80% by 2030 by the Climate Change (Northern Ireland) Act 2022). The Energy Strategy also established a commitment to diversify the renewables generation technology mix, with an initial focus on offshore wind and marine renewables. DfE published its intention to develop an action plan to deliver 1GW of offshore wind in the Energy Strategy Action Plan 2022 (published 16 January 2022).

To take this forward, DfE chairs a multi-agency steering group responsible for driving the development of the Offshore Renewable Energy Action Plan (OREAP) that takes account of the interests of all marine users while at the same time it is focussed on accelerating the processes that will enable offshore renewable energy deployment in Northern Ireland. The three departments are participating members of that group. One of the key objectives of the OREAP Action Plan is to prioritise and streamline the process for licensing and consenting and this will be achieved partially by establishing this Memorandum of Understanding between DfI/DAERA/DfE to ensure that offshore renewable energy projects are prioritised and where possible, departments coordinate and communicate to progress applications expeditiously.

DAERA has led on the development of the MOU with direct and full engagement with DfE and DfI and we are at the stage now to share the draft with you. You will note at point 15 there is direct reference to district council jurisdiction to consider onshore planning applications which are not projects of regional significance. We would also draw your attention to the section on “*Services to be provided by DfI (or Local District Council)*” at page 8.

Your review of the draft MOU and consideration of the implications for you as a council are key to the successful implementation of it to progress all offshore renewable energy applications efficiently. Our next steps will be to finalise the draft and inform our Permanent Secretaries in the week beginning 20 March. Please provide any comments and feedback by 17 March, otherwise we will assume you are content.

Yours faithfully

Pp 

Alistair Beggs

Director, Department for Infrastructure, Regional Planning Policy and Casework

Kelly Mills

Deputy Director DAERA Marine & Fisheries Division, Regulations and Enforcement

Peter Russell

Director, Electricity and Security of Supply, Department for the Economy

Enc: Annex A - Draft MoU between DfE, DfI and DAERA - v0.1

Departmental logos to be inserted

MEMORANDUM OF UNDERSTANDING
between:

THE DEPARTMENT FOR INFRASTRUCTURE,

**THE DEPARTMENT OF AGRICULTURE, ENVIRONMENT AND
RURAL AFFAIRS**

and

THE DEPARTMENT FOR THE ECONOMY

**For
Offshore Renewable Energy Projects**

Xxx 2023

DRAFT Version 0.1

Memorandum of Understanding between the Department for Infrastructure, the Department of Agriculture, Environment and Rural Affairs and the Department for the Economy for Offshore Renewable Energy Projects

Vision

1. The Northern Ireland Executive published the Energy Strategy for Northern Ireland in December 2021, which established the vision of net zero carbon and affordable energy in line with the UK Government's 2050 commitment^[1]. The Energy Strategy identifies the need to diversify the electricity generation mix with an initial focus on offshore wind and marine renewables, and through the subsequent Energy Strategy Action Plan 2022, established a target of 1 Gigawatt (GW) of offshore wind from 2030 in Northern Ireland waters. This target is now being delivered via the Department for the Economy (DfE)-led Offshore Renewable Energy Action Plan.
2. The 1GW of offshore wind from 2030 target is Northern Ireland's most ambitious energy infrastructure plan, supplying enough energy to power one million homes with clean and affordable electricity. Delivering this will require a collaborative approach working across central government with those who manage, live close to, or work in the marine environment, and with the energy industry, to ensure that activities are being taken forward in a coordinated, informed, and transparent manner.
3. Achieving this vision will not only deliver clean electricity for Northern Ireland but will also attract investment into local communities and businesses and see the creation of new skilled jobs for Northern Ireland's workforce. All of this will support growth and innovation in the green economy and low carbon technology sector, contributing to the Department for the Economy's 10X Economic Vision^[2] - to deliver a ten times better economy with benefits for all our people.

Overview

4. This is a Memorandum of Understanding (MOU) between the Department for Infrastructure (DfI), the Department of Agriculture, Environment and Rural Affairs (DAERA) and the Department for the Economy (DfE). The relevant Departmental business areas are: DfI Strategic Planning, DAERA Marine and Fisheries Division and DfE Energy Group.
5. The MOU relates to infrastructure for offshore renewable energy projects within Northern Ireland territorial waters (i.e. out to 12 nautical miles from baseline) that require at least two of the following consents: a grant of planning approval under the Planning (Northern Ireland) Act 2011, a marine licence under the UK Marine and Coastal Access Act 2009 and consent under the Electricity (Northern Ireland) Order 1992.
6. For projects situated in transboundary locations the Departments will approach the relevant licensing authority to request participation.
7. All three Departments have responsibilities under retained EU law, such as Environmental Impact Assessment legislation.

Purpose of this Document

8. This MOU is an agreement between DfI, DAERA and DfE and sets out roles, responsibilities and clear lines of communication. It aims to ensure that offshore renewable energy projects

^[1] [Net Zero Strategy: Build Back Greener - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/strategies/net-zero-strategy-build-back-greener)

^[2] [10X Economy - an economic vision for a decade of innovation | Department for the Economy \(economy-ni.gov.uk\)](https://www.economy-ni.gov.uk/10x-economy)

are prioritised and where possible, Departments co-ordinate and communicate to progress applications expeditiously.

9. The MOU establishes a framework within which the three Departments will work closely together to ensure that planning, marine licensing and consent to construct, extend or operate applications for all offshore wind and marine renewable energy projects are brought to the most appropriate decisions as quickly and as seamlessly as possible.
10. For the purpose of the MOU, offshore renewable energy projects include energy infrastructure, both inshore and in the offshore region.
11. An “energy project” means all the physical infrastructure required to deliver an operational development proposal and to distribute the generated power to the electricity grid.
12. If DfI decides an offshore wind or offshore renewable energy project is not a development subject to Section 26 of the Planning Act 2011 (i.e projects of regional significance), DfE and DAERA will jointly approach the district council with jurisdiction to consider any onshore planning application(s) and request its participation in, and operation of, this MOU.
13. The Departments party to this MOU may, as they see fit, request advice or guidance from any organisations with an energy regulatory, infrastructure development role or a role as a landowner e.g. The Crown Estate, Utility reg, SONI.
14. While the MOU specifies working arrangements between Departments, it is not intended to be an exhaustive list of every aspect or to preclude communication about other issues, but rather is to engender a spirit of co-operation in achieving the Executive’s ambitions. It also includes arrangements for managing and reviewing the MOU.
15. The operation of this MOU is without prejudice to each organisation considering and deciding any application in accordance with the legal requirements/procedures of the relevant consenting regime.

Policy background

16. The three Departments have agreed that administrative co-operation between them should be reinforced to ensure applications for offshore renewable energy projects are streamlined and that all relevant issues are considered.
17. This is essential in enabling the offshore ambitions of the Energy Strategy for Northern Ireland³, which was published in December 2021, to be realised. The Energy Strategy makes a commitment to offshore wind forming a part of Northern Ireland’s future renewable electricity generation mix by ensuring the correct regulatory, financial and legislative environment is in place to attract investment opportunities in offshore wind and marine renewable developments in Northern Ireland waters. The MOU will complement the work being undertaken via the Offshore Renewable Energy Action Plan (OREAP) to deliver 1GW of offshore wind from 2030, the initial thinking of which has been outlined by DfE in the Draft Offshore Renewable Energy Action Plan, published in December 2022.⁴

³ <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/Energy-Strategy-for-Northern-Ireland-path-to-net-zero.pdf>

⁴ <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/energy-strategy-path-to-net-zero-action-plan.pdf>

18. The Climate Change Act (Northern Ireland) 2022⁵ came into effect on 6 June 2022 raising the commitment for renewable electricity consumption from 70%, as established in the Energy Strategy, to 80% by 2030. The Climate Change Act forms an important part of Northern Ireland's overall plan to addressing climate change.
19. The Green Growth Strategy⁶ is the Northern Ireland Executive's multi-decade strategy, balancing climate, environment and the economy in Northern Ireland. It sets out the long-term vision and framework for tackling the climate crisis. The 2020s will be focused on scaling up of low-carbon technologies and behaviours and building essential supply chains. As well as behavioural changes, this means deploying large volumes of renewable generation.

Governance and Ways of Working

20. The three Departments agree to engage at early stage on pre application meetings with developers/applicants. This will ensure there are no surprises, keeping each other appraised of developments.
21. Project specific groups will be established, as required with Departmental lead case officers.
22. Representation through the OREAP Steering or working group and other working groups as required.
23. Deliverables will include:
- i. Records of meetings;
 - ii. Report on achievement against the OREAP;
 - iii. Annual review of MOU as a minimum; and
 - iv. Report back to and if necessary escalate issues to DAERA Interdepartmental Marine Co-ordination Group (IMCG)

Management and Resolution of Issues

24. The three Departments will jointly be responsible for adherence to the MOU. Where any disputes, differences or complaints arise in relation to aspects of the services being provided by any Department, initially these should be considered and resolved by discussion between the appropriate Departmental Liaison Officers (**Appendix A**).
25. If the Departmental Liaison Officers are unable to resolve the matter, the issue shall be reported in writing to the relevant Departmental Directors no later than 5 working days after the identification of the problem or the date when resolution could not be reached. The Directors will investigate the problem, take appropriate action and report their decision to the Liaison Officers within 15 working days of the complaint being referred to them.
26. Any dispute, difference or question arising between Departments that cannot be satisfactorily resolved at Director Level shall be referred for consideration to the relevant Grade 3 officials before escalation to Permanent Secretary in each Department. Any resulting decisions will be final.

⁵ <https://www.legislation.gov.uk/nia/2022/31/enacted>

⁶ <https://www.daera-ni.gov.uk/consultations/consultation-draft-green-growth-strategy-northern-ireland>

Review of the MOU

27. This MOU will be reviewed annually by MOU Group and signed off at Director level (or as required), with the first review taking place no later than 12 months from the date it comes into effect.

28. Revisions will be made by agreement between the three Departments and endorsed by the Permanent Secretaries.

Formal Commitment to the MOU

29. This MOU will come into effect from the date it is signed by all parties and may be terminated by a party giving the other parties not less than six calendar months in writing of its intention.

Signed by DfI Permanent Secretary :

Signed:

Date:

**The Department for Infrastructure
Clarence Court
10-18 Adelaide Street
Town Parks
Belfast
BT2 8GB**

Signed by DAERA Permanent Secretary:

Signed:

Date

**The Department of Environment, Agriculture and Rural Affairs
Klondyke Building
Gasworks Business Park
Belfast
BT 7 2JA**

Signed by DfE Permanent Secretary :

Signed:

Date:

**The Department for the Economy
39-49 Adelaide St
Belfast
BT2 8FD**

Services to be provided by DfE

DfE agrees to:

- Notify other Departments through the Departmental Liaison Officers when it becomes aware of proposals, within **5 working days**, for energy infrastructure and energy installations requiring a consent under Article 39 or 40 of the Electricity (Northern Ireland) Order 1992 and for which planning and/or marine consents may be required;
- Nominate project case officers to liaise with the other Departments on offshore renewable energy projects for which consents from those Departments are required, **within 14 days**;
- Determine Electricity (Northern Ireland) Order 1992 consent applications and other relevant considerations of energy infrastructure and energy installations which require consent from the other Departments including EIA consent decision, in line with this MOU as efficiently as possible;
- Endeavour to provide consultation responses as soon as possible within the statutory timeframes;
- Share information as necessary and appropriate (in accordance with Departmental data protection guidelines and data sharing agreement);
- Work with the other Departments to overcome any administrative/common legal issues to resolve as soon as possible;
- Update the other Departments as required on the progress of any Electricity (Northern Ireland) Order 1992 applications;
- For each project the liaison officer will consult with other Departments on the merit and frequency of meetings (including the developer, where appropriate) to review or discuss progress of actual or prospective applications;
- Provide policy and background information on proposed offshore renewable energy projects requiring a consent under the Electricity (Northern Ireland) Order 1992, as required;
- Liaise with the other Departments in relation to project related joint Ministerial submissions, relevant NI Assembly debates and Ministerial/ Departmental correspondence, as necessary;
- Ensure that all matters of potential interest to planning, marine licensing and energy are tabled for discussion at OREAP Steering Group and/or their working groups as required the ; alternatively, if timescales are restrictive, relevant information should be forwarded to members electronically,
- Advise the other Departments of any offshore renewable energy project that it is considering supporting financially.

Services to be provided by DAERA

DAERA agrees to:

- Lead on review of MoU;
- Notify other Departments through the Departmental Liaison Officers when it becomes aware of proposals, within **5 working days**, of a marine licensing pre-application (screening, scoping) enquiries and/or formal application for marine renewable energy projects which consents from those Departments are required;
- Nominate project case officers to liaise with the other Departments on offshore renewable energy projects for which consents from those Departments are required, **within 14 days**;
- Seek to co-operate with the planning authority and applicant to streamline the screening /scoping process across the terrestrial and marine jurisdictions;
- Determine marine licensing applications and other relevant considerations for offshore renewable energy projects which require consent from the other Departments as efficiently as possible;
- For each project, the liaison officer will consult with other Departments nominated case officers on the merit and frequency of meetings (including the developer, where appropriate) to review or discuss progress of actual or prospective applications;
- Seek the views of the other Departments at an early stage and prior to public consultation, on marine licensing issues including legislation, that may have a significant impact on progression of renewable energy projects;
- Work with statutory and other consultees to encourage them to provide consultation responses as soon as possible, and within the statutory timeframes if possible;
- If required, provide an environmental expert opinion, to enable any other Department to meet its statutory obligations;
- Notify the liaison officer for the other Departments of any additional information required from developers to progress any marine licensing applications;
- Nominate the liaison officer and/or relevant official to attend any meetings to discuss progress or any issues with applications as required;
- Update the other Departments as required on the progress of any marine licence application;
- Share information as necessary and appropriate (in accordance with Departmental data protection guidelines and data sharing agreement);
- Work together with other Departments to overcome any administrative/legal issues to resolve as soon as possible;

- Inform the other Departments immediately in advance of a marine licence has been granted;
- Notify the liaison officer for the other Departments of any relevant FOI/EIR received by DAERA; and
- Liaise with the other Departments as appropriate in relation to project related joint Ministerial submissions, relevant NI Assembly debates and Ministerial/ Departmental correspondence, as necessary.

Services to be provided by Dfl (or Local District Council)

Dfl or Local District Council agrees to:

- Notify other Departments through the Departmental Liaison Officers when it becomes aware of proposals, within **5 working days**, of a planning application for offshore renewable energy projects for which consents from those Departments are required;
- Nominate project case officers to liaise with the other Departments on offshore renewable energy projects for which consents from those Departments are required, **within 14 days**;
- Seek to co-operate with the marine licensing authority and applicant to streamline the screening /scoping process across the terrestrial and marine jurisdictions.
- Determine planning applications and other relevant consideration for offshore renewable energy projects which require consent from other Departments, as efficiently as possible;
- For each project liaison officer will consult with other Department's on the merit and frequency of meetings (including the developer, where appropriate) to review or discuss progress of actual or prospective applications;
- Seek the views of the other Departments at an early stage and prior to public consultation, on planning issues including legislation, that may have a significant impact on energy projects;
- Work with statutory and other consultees to encourage them to provide consultation responses as soon as possible, and within the statutory timeframes if possible;
- Notify the liaison officer for the other Departments of any additional information required from developers to progress any planning applications;
- Nominate the liaison officer and/or relevant official to attend relevant meetings to discuss progress or issues with any applications as required;
- Update the other Departments as required on the progress of any planning application;
- Share information as necessary and appropriate (in accordance with Departmental data protection guidelines and data sharing agreement);

- Work with other Departments to overcome any administrative/legal issues to resolve as soon as possible;
- Notify the other Departments of any changes to permitted development policy for renewable technologies in advance of public consultation;
- Inform the other Departments as soon as possible once a planning application has been granted;
- Notify the liaison officer for the other Departments of any relevant FOI/EIR received by DAERA; and
- Liaise with the other Departments as appropriate in relation to project related joint Ministerial submissions, relevant NI Assembly debates and Ministerial/ Departmental correspondence, as necessary.

Appendix A - Departmental Liaison Officers

Department	Office Address	Departmental Liaison Officer	Grade	Contact number and email
DfE	Energy Division 39-49 Adelaide St Belfast BT2 8FD	XXXXX	XXX	Telephone: XXXXX Email: XXXX
DAERA	Marine Licensing Branch Marine & Fisheries Division Klondyke Building Gasworks Business Park Lower Ormeau Road Belfast BT7 2 JA	XXXXXXXX	XXXXXXXX	Telephone: XXXXXXXX Email: XXXXXXXXXX
Dfi	Strategic Planning Directorate Clarence Court 10-18 Adelaide Street. Belfast Bt2 8GB	XXXXXXXX	XXXXXXXX	Telephone: XXXXXXXX Email: XXXXXXXXXXXX

Appendix B – Glossary of terms

Offshore renewable energy - ORE is energy captured from waves, tidal currents and offshore wind.

Northern Ireland inshore region – Comprises the sea and seabed within the territorial sea (out to 12 nautical miles or the mid-line) adjacent to Northern Ireland, and the landward limit of the region is also defined. The Northern Ireland inshore region includes tidal rivers and all the sea loughs (including Lough Foyle and Carlingford Lough).

NI offshore region - The area that extends south-eastwardly from the 12nm territorial limit to the outer boundary of the Northern Ireland marine area (the midline between Northern Ireland and the Isle of Man).



Our Ref: COR 2023-096

Your Ref:



**Ards and
North Down
Borough Council**

D Black
DAERA Marine & Fisheries Division

Planning Department
2 Church Street
Newtownards
BT23 4AP

Via Email Only: MarineLicensingEnforcement@daera-ni.gov.uk

23 May 2023

Dear Sir/Madam

Ref: Draft MOU between DfI, DAERA & DfE regarding offshore wind and marine renewables

Thank you for your letter addressed to this Council's Chief Executive, Mr Stephen Reid, received originally 10 March 2023, with reminder issued 14 April.

I am responding to advise that as the Memorandum does not specifically engage the Council, we have no objection to its intent which aligns with the realisation of the Executive's Energy Strategy and Climate Change targets.

I would however comment on some of the bullets listed under **Services to be provided by DfI (or Local District Council)** on pages 8 and 9 of Annex A to your letter.

In respect of the following bullets:

- Update the other Departments as required on the progress of any planning application; and
- Inform the other Departments as soon as possible once a planning application has been granted;

the new Planning Portal allows users to track applications accordingly and therefore it is not considered that the Council requires to keep departments updated or advise when an application is decided. Advice is provided on the Department for Infrastructure's website in respect of how to search, track or comment on a planning application.

In respect of the bullet below, there should be no inference that Council will expend any monies on legal services as part of the MOU.

- Work with other Departments to overcome any administrative/legal issues to resolve as soon as possible.

Our Ref: COR 2023-096

Your Ref:



**Ards and
North Down**
Borough Council

Thank you for sharing this draft Memorandum of Understanding with the Council and I trust you will take on our comments as appropriate.

Yours sincerely,

PP

GE Kerr MRTPI
Head of Planning (Acting)

ITEM 7**Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	22 June 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	13 June 2023
File Reference	
Legislation	
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below: N/A
Subject	Quarter 4 Performance Report - Planning
Attachments	N/A

Context

Members will be aware that Council is required, under the Local Government Act 2014, to have in place arrangements to secure continuous improvement in the exercise of its functions. To fulfil this requirement Council approved the Performance Management Policy and Handbook in October 2015. The Performance Management Handbook outlines the approach to Performance Planning and Management process as:

- Community Plan – published every 10-15 years
- Corporate Plan – published every 4 years (Corporate Plan Towards 2024 in operation)
- Performance Improvement Plan (PIP) – published annually (for publication 30 September 2022)
- Service Plan – developed annually (approved April/May 2022)

The Council's 18 Service Plans outline how each respective Service will contribute to the achievement of the Corporate objectives including, but not limited to, any relevant actions identified in the PIP.

Reporting approach

The Service Plans will be reported to relevant Committees on a quarterly basis as undernoted:

Reference	Period	Reporting Month
Quarter 1 (Q1)	April – June	September
Q2	July – September	December
Q3	October – December	March
Q4	January - March	June

The report for Quarter 4 2022-23 is attached.

Key points to note:

- Due to ongoing issues with the MasterGov system (backend of replacement Planning Portal) officers are unable to update on performance of processing times for local, major and householder applications and enforcement cases. An update on statistics is expected from DFI Stats Branch in July with local monitoring being addressed through liaison with DFI and TerraQuest;
- Detail of monies received pertaining to planning application fees detail receipt of £211.4k in the last quarter of 2022/23.
- Statistics received from the Portal Team advises of the following from Go Live date (05/12/22) to 27 March 2023:
 - 412 cases received;
 - 263 of above cases received Online;
 - 298 decisions issued
- No meetings have taken place in Quarter 4 with DFI Roads due to senior staff changes within the Service but will be picked up in new financial year to address ongoing quality of consultation responses.
- Two appeal decisions against refusals of planning permission were received during Quarter 4 and both were dismissed by the Planning Appeals Commission.











RECOMMENDATION

It is recommended that the report is noted.

Quarterly Performance Report - Planning

Generated on: 13 June 2023

Last Update Q4 2022/23

Performance Data Traffic Light Icon	PI Short Name	Performance Data Current Value	Performance Data Current Target
	Undertake health and condition surveys of all existing historical Tree Preservation Order (TPO) sites		100%
	Number of weeks to process local applications from date valid to decision or withdrawal	0	15
	Number of weeks to process major applications from date valid to decision or withdrawal	0	30
	% of householder applications processed to recommendation with 8 weeks	0%	75%
	Appeals against refusal of planning permission dismissed by PAC	100%	60%
	% spend against budget	98.05%	100%
	% progress of all enforcement cases to target conclusion within 39 weeks of receipt of complaint (i.e. case closure, date on which Enforcement Notice or Breach of Condition Notice issued, summons to court (date solicitor instructed)	0%	70%
	AND, alongside 9 other Councils and the Department for Infrastructure, has agreed to award a contract to replace the NI Planning Portal system; the project is well underway and in its design and configuration stage	100%	100%
	Continue to work alongside Department for Infrastructure to identify improvements to the planning system through review of the implementation of the Planning Act, and contribution of consultees to the planning system (meetings/workshops)	0	3
	% staff attendance	90.87%	95%

Unclassified

Performance Data Traffic Light Icon	PI Short Name	Performance Data Current Value	Performance Data Current Target
	% staff reporting regular/monthly receipt of team briefings	100%	100%

ITEM 8**Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	22 June 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	05 June 2023
File Reference	N/A
Legislation	The Planning Act (Northern Ireland) 2011
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Update on Tree Preservation Orders (TPOs)
Attachments	N/A

Background

This report represents the quarterly update to Planning Committee regarding detail relating to Tree Preservation Orders served and applications for consent to carry out works to protected trees. This update provides information from 22 February 2023 (date of previous report) to 2 June 2023.

Detail

The table overleaf sets out the figures from the date of the last report to Committee.

RECOMMENDATION

It is recommended that the Council notes the content of this report.

Table 1 Tree Preservation Orders Served

TPO (Full or Provisional)	Date Served	Address
0		

Table 2 Consent for Works Decisions

TPO or Conservation Area	Consent Granted / Notification Accepted*	Consent Refused
Tree Preservation Orders	10	0
Address	1) 15 Carney Hill, Hollywood	
	2) 5 Martello Gate, Hollywood	
	3) 11 Woodbank Lane, Hollywood	
	4) 1 Manor Wood, Donaghadee	
	5) 1 Manor Wood, Donaghadee (second application)	
	6) 17 Clanbrassil Road, Hollywood	
	7) 16 Ailsa Road, Hollywood	
	8) 26 Ballymullan Road, Crawfordsburn	
	9) 30 Millers Park Avenue, Newtownards	
	10) Ballyalton House, 39 Ballygrainey Road, Newtownards	
Conservation Area	0	0

* Notification refers to when the Council receives notification of proposed works to trees within a conservation area. If the Council does not accept the proposed works, it must serve a TPO within the 6-week period from the date of notification. 'Notification Accepted' means that the Council did not consider it necessary to serve a TPO and thus there is no objection to the proposed works.

Detail

- 1) 15 Carney Hill, Hollywood – felling of 8 trees and 5 tree groups and carrying out of works to 103 trees and 12 tree groups - felling was due to poor condition and/or form
- 2) 5 Martello Gate, Hollywood- felling of 5 trees and carrying out of works to 10 trees - felling due to poor condition
- 3) 11 Woodbank Lane, Hollywood – felling of 3 trees and carrying out of works to 2 trees - the 3 trees had severe ash dieback
- 4) 1 Manor Wood, Donaghadee (application 1) – felling of 1 tree – due to condition – almost dead and located adjacent to road
- 5) 1 Manor Wood, Donaghadee (application 2) – carrying out of works to 1 tree

Unclassified

- 6) 17 Clanbrassil Road, Holywood – felling of 1 tree - this tree had severe dieback and was located adjacent to the entrance to the property and adjacent road
- 7) 16 Ailsa Road, Holywood – felling of 1 tree - this tree had severe ash dieback
- 8) 26 Ballymullan Road, Crawfordsburn – felling of 2 trees - both trees were of poor form and condition, and both were located adjacent to the access laneway of the property
- 9) 30 Millers Park Avenue, Newtownards – carrying out of works to 14 trees
- 10) Ballyalton House, Ballygrainey Road, Newtownards – felling of 1 tree - this tree to be felled was a mature cypress tree of poor form and located immediately adjacent to the gable of the listed building therefore the tree had outgrown its position

ITEM 9**Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	22 June 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	05 June 2023
File Reference	
Legislation	The Planning Act (Northern Ireland) 2011
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Update from Metropolitan Spatial Area Working Group
Attachments	Item 9a Minutes Feb 2023 and Agenda and Minutes April 2023 Item 9b Copy of DAERA Presentation

1.0 Background

1.1 Belfast City Council convened a cross council working group 'Metropolitan Spatial Area Working Group' (MSAWG) to assist with shared interest items for councils in the former Belfast Metropolitan Plan area and Local Development Plan production. This group remains in place for Belfast City Council (BCC) and the other Councils in the group post Plan Strategy adoption by BCC. The hosting rotates among the councils.

2.0 Detail

2.1 The most recent MSAWG meeting was hosted by this Council at City Hall Bangor on 18 April 2023, in person and via virtual platform. A copy of the minutes from February's meeting hosted by Lisburn City and Castlereagh

Council is attached at Item 9a along with the agenda and draft minutes for April's meeting.

- 2.2 The topic-based discussion was in relation to Climate Action Plan and Department for Infrastructure (DFI) consultation on draft strategic planning policy for Renewable and Low Carbon Energy. A DAERA official gave a presentation to the group on the Climate Action Plan and this is attached at Item 9b. DFI officials gave a verbal update on the draft policy which is at public consultation. (Item 10 of agenda for June's Planning Committee meeting)
- 2.3 The next meeting date and topic-based discussion is due to be confirmed.
- 2.4 The group thanked outgoing Elected Members at the meeting. Thanks were expressed to Alderman Gibson for his attendance and contribution. A new member is requested to be nominated to represent this Council alongside Councillor McRandal.

RECOMMENDATION

It is recommended that Members note the content of this report, the attachments and nominate another member to the group.

Item 9a

Metropolitan Area Spatial Working Group

1 February 2023 10.00-11.15am

Hosted by Lisburn & Castlereagh City Council

(Lagan Valley Island, Lisburn and remote via Zoom)

Draft Minutes

Attendees:

In Person

- Ald Amanda Grehan (AG) - Lisburn & Castlereagh CC (Chair)
- Lois Jackson (LJ) - Lisburn & Castlereagh CC
- Peter McFadden - Lisburn & Castlereagh CC
- Adam Smyth - Lisburn & Castlereagh CC
- Simon Russell (SR) – Antrim & Newtownabbey BC
- Dermot O’Kane (DO’K) – Belfast City Council
- Cllr Robert Logan – Mid & East Antrim BC
- Sandra Adams (SA) – Mid & East Antrim BC
- Susan Wilkin (SW) - DfI Strategic Planning
- Suzanne Bagnall - DfI Strategic Planning
- Claire Patton - DfI Strategic Planning
- Tony Rafferty (TR) – DfI Transport Planning Modelling Unit
- Graham Cardwell (GC) – Invest NI

Virtually

- Simon Thompson – Antrim & Newtownabbey BC
- Cllr Martin McRandal – Ards & North Down BC
- Leona Maginn (LM) – Ards & North Down BC
- Gail Kerr – Ards & North Down BC
- Catherine Blease (CB) - NIHE
- Sophie Matthews – Shared Environmental Services
- Stephanie Millar – DAERA (Speaker)
- Neil McAllister - NIEA

Apologies:

- Ald Allan Ewart - Lisburn and Castlereagh CCI
- Conor Hughes - Lisburn and Castlereagh CCI
- Donal Rogan - Lisburn and Castlereagh CCI
- Cllr Frazer Agnew – Antrim & Newtownabbey BC
- Cllr Jeannie Archibald-Brown – Antrim & Newtownabbey BC
- Ald Robert Gibson – Ards & North Down BC
- Cllr Conor Maskey - Belfast City Council
- Keith Sutherland - Belfast City Council
- Paul Duffy – Mid & East Antrim BC

Item No.	Minutes	Actions
1.0	Introductions/Apologies	
1.1	The Chair (AG) welcomed all the attendees. Introductions made and apologies recorded.	
2.0	Matters Arising from Minutes of Meeting 1 November 2022	
2.1	Minutes of the previous meeting on 1 November 2022 were noted. Action Point from that meeting were completed: <u>Action Point 1:</u> The presentation from the last meeting was circulated.	
3.0	Topic Based Discussion: DAERA NIEA Protection of our Water Environment	
3.1	<p>Stephanie Millar (SM) Water Regulation Team gave a presentation on the work of NIEA in relation to our water environment and its relevance to the production of LDPs:</p> <ul style="list-style-type: none"> • Introduced the basis of the Water Framework Directive • NIEA monitor and outlined varying water sources; <ul style="list-style-type: none"> <u>Freshwater</u>; diagram showed the recorded quality of this water source throughout NI. The Lough Neagh area, the main source of drinking water in NI was highlighted as being poor quality as a result of agricultural pollution and inappropriate waste water discharge (accounts for 48% of pollution problem). <u>Bathing Water</u>; has improved over the last 4 years and is considered excellent for the majority of the coastline and, overall has a very good status. This is a result of extensive investment by NI Water to ensure it meets a standard in its discharge out to 2km from the coast. This requirement is driven by NIEA. <u>Shellfish</u>; stocks are affected to the extent that this food source cannot be taken to plate, often requires the shellfish to be cleaned in Europe before consumption. Highlighted Belfast Lough where waste water impacts stocks via E Coli (human source). • NIEA should be a contributor to emerging LDPs, for example Blue/Green infrastructure proposals are pointless if rivers are already dead because of heavy pollution. It is therefore critically important to protect our water sources. • Key Issues with wastewater infrastructure <ul style="list-style-type: none"> - Treatment capacity of WWTW at or already over limit - Reliance on combined sewer systems, some between 150 and 200 years old, resulting in pressure points - Wastewater collection system in most urban centres is not adequate resulting in spills of untreated sewage - Too high a risk of out of sewer flooding - Unacceptable private sewage infrastructure - Substantial release of sewage related debris • Decision makers should be cognisant of these issues • In Belfast the Living with Water Programme has undertaken extensive modelling to understand the 'flow & load' on the system. Findings show huge quantities of untreated discharge, even in dry weather conditions. This picture is replicated across NI (up to 1000 similar discharge points) but NIEA is working with NI Water to tackle these problem areas through investment. • Key issues of overloading a system already at capacity; 	AP 01

	<p>Wastewater can back up into peoples homes; There is inadequate screening at overflow points and debris is discharged to river and the sea; Private infrastructure provision is not the answer to circumvent public network connection in urban areas where the infrastructure cannot accept additional discharge, unless there is good flows and NI Water are content. NI Water are dealing with a legacy of poor private infrastructure provision.</p> <ul style="list-style-type: none"> • NIEA regulations – <ul style="list-style-type: none"> - Setting storage requirements within sewage collection system - Setting closure requirements for particular overflows - Treatment standards / storage requirements for/at WWTW - Joint approach to private sewage discharge consents - Enforcement against no compliance/ pollution incidents • NIEA can enforce these Regulations with ultimately prison sentence if NI Water does not comply with its requirements under the Water Directive. • A solution – allowing NIW to take more control in planning process whereas currently, wastewater treatment solutions come post planning decision, but SM suggests they should be in advance of decisions. • Pre application engagement is critical at the LDP and Development Management stages. There are already several housing developments heading into difficulties due to no capacity in the network and private wastewater treatment are no available solutions. <p>A question and answer session took place following the presentation.</p> <p>DO'K asked what is being done in NIEAs regulatory role to ensure prosecutions. How do we ensure delivery? Asked about SUDS and the potential use of these and their role in helping the wider issue of water quality and reduction of waste water into the system?</p> <p>SM advised the following;</p> <ul style="list-style-type: none"> - 2007 NI Water inherited infrastructure which hadn't been invested in, requires huge investment - Environment Agency entered into voluntary agreement – NIEA part of the financial regulatory / PC21 – 19 WWTWs identified for upgrade, prioritised based on quantities of untreated sewage – through Environment Quality Group. - Living With Water – requires 2.4 billion over 12 years - Programme is generational - Have to fight for their investment - Not NI Water's fault that their infrastructure is collapsing - Enforcement process goes through normal channels ending with Crown Prosecution <p>Due to time restrictions AG requested that DO'K follow up the SUDS question directly with SM. This was agreed by both parties.</p> <p>AG thanked SM for presentation.</p>	
4.0	General Updates from Councils	
4.1	<p><u>Lisburn & Castlereagh City Council</u> (LJ)</p> <ul style="list-style-type: none"> • Noted that the PAC report on the dPS IE was now with the Department who council are due to meet with on the matter later this month. • Preparation work is ongoing for the LPP 	-

	<p><u>Belfast City Council</u> (DO'K)</p> <ul style="list-style-type: none"> • Work continuing on LPP • taking forward number of studies in terms of retail and landscape works • Working closely with partners in Edinburgh on the Sustainability Appraisal, an equality impact assessment – and corporate coms • 17 SPGs now out to consultation • Had meeting with housing associations to iron out issues around social and affordable housing. Work is ongoing. <p><u>Antrim and Newtownabbey</u> (SR)</p> <ul style="list-style-type: none"> • IE finished in June 2022, PAC have advised their report is due in the new-year (2023). • LPP work ongoing – • Members workshop held in January 2023; • Landscape designations and Heritage Studies ongoing; • Retail monitor for top 2 tiers completed. • Housing monitor completed for previous year • 2 SPGs produced, your home and planning permission and TPOs. <p><u>Ards and North Down Borough Council</u> (LM)</p> <ul style="list-style-type: none"> • Published online housing/land monitor • Web viewer has been updated • Advancing draft of policy options for draft Plan Strategy. <p><u>Mid & East Antrim Borough Council</u> (SA)</p> <ul style="list-style-type: none"> • IE completed in August 2022; PAC report not yet released from PAC as yet. • Working on methodologies for LPP in terms of what studies need to be done. 	
5.0	Updates from Consultees	
5.1	<p><u>DfI Strategic Planning</u> (SW)</p> <p>LDP – Wider programme</p> <ul style="list-style-type: none"> • Direction to Fermanagh & Omagh to adopt plan with modifications, keen to progress with decision to adopt. F&O are first council to have undertaken the fact checking exercise was considered helpful to the process – due to liaise with officials in LCCC on fact checking their dPS shortly <p><i>Planning improvement –</i></p> <ul style="list-style-type: none"> • LDP recommendations, a workshop was held on 24 January giving the prospective from the welsh facilitators who have had experience of the planning making process • Exercise on improvement in the system undertaken, collating the results from that at present. • Environmental governance review in terms of Water. The planning process should react positively to the situation set out in today's presentation. This should be recognised by the LDP and DM processes <p><i>Low carbon energy</i></p> <ul style="list-style-type: none"> • Review of Strategic Planning Policy on Renewable & Low Carbon Energy, consultation on draft document due this month. Publication of consultation document will be considered soon <p><u>DfI Transport Planning and Modelling Unit</u> (TR)</p>	

	<ul style="list-style-type: none"> • BMTP – draft vision and objectives have been established, leading to draft principles. Aiming to hold stakeholder engagement on these in mid-February hosted by Atkins then taken forward to project board at the end of the month. • The 5 different variances of BMTP as LPPs are produced are not clear. Atkins are producing a road map to set out the process for each council area • Through objectives and indicators, trying to identify options and in terms of transport network hierarchies they are asking councils to input to that process. • Belfast Strategic Transport Model – has fallen behind but working on creation of a web viewer to share results of modelling in terms of passenger numbers, work networks and future growth. • Car Parking Strategies – F&O completed and being taken forward which will streamline process for other councils. • TPMU sits within the Assets Management Group of DfI Roads; Colin Woods – Deputy Secretary of Transport and Road Asset Management Liz Loughran – has moved to Climate Change Team James Redmond – Acting Director of the Transport Planning and Policy Division (TPPD), remit includes BMTP <p>Northern Ireland Housing Executive (CB)</p> <ul style="list-style-type: none"> • Commissioning 2 studies, Viability and Second Homes <p>Invest NI (GC)</p> <ul style="list-style-type: none"> • Note: GC represents INI not DfE. INI remains willing to help each council going forward with LDPs <p>Shared Environmental Services (SM)</p> <ul style="list-style-type: none"> • SES is reviewing its hourly rate change, which has remained since 2018. Apologies if this impacts on any council requiring a review of their SAs. • Working on methodologies for SAs to LPPs, early stages and would require significant input from LDP teams but SES remains available to advise on the matter. 	
6.0	Action Points	
6.1	<p>AP 01: LCCC to obtain and circulate today's presentation</p> <p>AP 02: DfI to confirm availability of speaker/presentation re Renewable and Low Carbon Energy for next meeting</p>	
7.0	<u>AOB/Next Meeting/Close</u>	
7.1	<p>LJ suggested it might be appropriate that the theme of the next topic be an overview from the Department on the Strategic Planning Policy on Renewable & Low Carbon Energy. LJ requested attendance from DfI – Policy. SW had indicated that attendance can be arranged. Hosting council to approach and organise</p> <p><u>Next Meeting</u></p> <p>The date and hosting council for the next meeting to be agreed.</p> <p>There being no other business the Chair thanked all for attending in person or virtually. Meeting closed at 11.15am</p>	AP 02

METROPOLITAN SPATIAL AREA WORKING GROUP

A G E N D A

2pm Tuesday 18 April 2023

Host – Ards and North Down Borough Council (hybrid meeting – MS teams link)
City Hall, Castle Park Avenue, Bangor

No.	Agenda Item	
1.0	Introductions / Apologies	
2.0	Minutes of previous meeting held February 2022 action points arising:	
3.0	Topic Based Discussion Renewable and Low Carbon Energy – Strategic Planning Policy review <ul style="list-style-type: none">Philip McGowan Assistant Director Department for Infrastructure (DFI) Strategic Planning Policy and Guidance	
4.0	Updates from Councils <ul style="list-style-type: none">ANBCANDBCBCCLCCCMEABC	
5.0	Updates from consultees <ul style="list-style-type: none">DfI Strategic PlanningDfI Transport Planning & Modelling UnitNIHEINISESTranslink	
6.0	Action Points	
7.0	AOB / Next meeting	

Hosted by:

Metropolitan Area Spatial Working Group
18 April 2023 14:00-16:00
Hosted by Ards and North Down Borough Council
(City Hall, Bangor and remote via Zoom)

Draft Minutes

Attendees:

In Person

- Peter McFadden (PmF) - *Lisburn & Castlereagh CC*
- Cllr Martin McRandal – *Ards & North Down BC*
- Leona Maginn (LM) – *Ards & North Down BC*
- Gail Kerr (GK) – *Ards and North Down BC*
- Louise Flinn – *Ards and North Down BC*
- Dermot O’Kane (DO’K) – *Belfast City Council*
- Keith Sutherland (KS) - *Belfast City Council*
- Ald Robert Gibson (RG) – *Ards and North Down BC*
- Jonathan McFerran (JMcF)– *DAERA (Speaker)*
- Graham Cardwell (GC) – *Invest NI*

Virtually

- Sophie Matthews (SM) – *Shared Environmental Services*
- Sandra Adams (SA) – *Mid & East Antrim BC*
- Deirdre Watson – *Translink*
- Alistair Beggs – *DfI – Strategic Planning (Speaker)*
- Simon Thompson (ST) – *Antrim & Newtownabbey BC*
- Simon Russell (SR) *Antrim*
- Catherine Blease (CB) – *NIHE*
- Philip McGowan (PMcG) - *DfI (Speaker)*
- Donna Whelan (DAERA)
- Christopher Mills (DFC)

Apologies:

- Paul Duffy – *Mid & East Antrim BC*
- Cllr Robert Logan – *Mid & East Antrim BC*
- Ald McDonald - *Mid & East Antrim BC*
- Susan Wilkin (SW) - *DfI Strategic Planning*
- Suzanne Bagnall - *DfI Strategic Planning*
- Lois Jackson (LJ) - *Lisburn & Castlereagh CC*
- Ald Amanda Grehan (AG) - *Lisburn & Castlereagh CC*
- Claire Patton - *DfI Strategic Planning*
- Cllr Conor Maskey - *Belfast City Council*
- Cllr Carl Whyte – *Belfast City Council*
- Donal Rogan - *Lisburn and Castlereagh CCI*
- Ald Allan Ewart - *Lisburn and Castlereagh CCI*
- Ald Agnew – *Antrim & Newtownabbey Borough Council*
- Cllr Archibald-Brown – *Antrim & Newtownabbey Borough Council*

Item No.	Minutes	Actions
1.0	Introductions/Apologies	
1.1	The Chair (GK) welcomed all the attendees. Introductions made and apologies recorded.	
2.0	Matters Arising from Minutes of Meeting 1 February 2023	
2.1	Minutes of the previous meeting on 1 February 2023 were noted.	
3.0	Topic Based Discussion: Climate Action Plan 2023-2027	
3.1	<p>Jonathan McFerran (JMcfF), Deputy Director for Green Growth Department of Agriculture, Environment and Rural Affairs (DAERA) gave a presentation on the Climate Action Plan 2023-2027</p> <p>JMcfF provided a background to green growth and described it as a multi decade, multi Departmental strategy – net zero by 2050</p> <ul style="list-style-type: none"> • DAERA – lead Department • Minister Poots approved the draft Green Growth Strategy and will be one of the first items to go before new NI Executive. <p>Green growth is climate action (GHG emissions reduction), green jobs and clean environment (water, air, build quality) taking into account biodiversity and the environment.</p> <p>Green jobs key – expensive and difficult to get to net zero but there are opportunities for jobs which don't exist at the moment.</p> <ul style="list-style-type: none"> • Set up within DEARA following Bills from the Department and the Green party, Minister Poot's Climate Change Act gained Royal Assent on 6 June. • Target is net zero by 2050 – advice given to NI by the Climate change committee was 82% but NI assembly voted to achieve 100%. • Public bodies need to report how they are heading towards net zero. • Transition committee will be set up for those most affected eg Agriculture. • Northern Ireland Climate Commissioner is included with the legislation. <p>5-year carbon budgets for key sectors every year.</p> <p>Agriculture is part of the solution. Farmers want to look after the environment, but more can be done.</p> <p>Every NI Department has been asked about policies to get towards net zero, this will form climate action plan.</p> <ul style="list-style-type: none"> • Delaying has an exponential negative effect. 	

- Not only about reducing emissions within energy sector, transport, buildings and agricultural but also enhance biodiversity and protect and restore ecosystems.
- Will need to collaborate with Ireland and GB.

Economic and social role of agriculture – if you take farmers out of rural communities how does this affect the heart of these communities.

March 2023- Climate change committee report independent advice for NI suggests 62% for third carbon budget period then 100% by 2050. Using 1990 base year, by 2020 23% reduction, 2020-2030 need to have 48% reduction.

- Renewables – modern gas network can take bio methane and hydrogen.
- Agriculture – bio methane through anaerobic digestion
- Surface transport – by 2032 every new car or van should be zero emission.
- Buildings – retrofitting other ways of heating.

To get to net zero by 2030 estimated need:

- 22% reduction in dairy cattle.
- 17% reduction in beef cattle
- 18% reduction in sheep.

CAP should be published in Dec 2024 following a 16 week consultation period.

Presentation ended.

A question and answer session took place following the presentation.

GK thanked Jonathan for his presentation and asked is it only by the introduction of a grant to promote an area of renewables that there is an interest or are farmers actively contacting DAREA to ask how they can assist.

JMcF highlighted livestock slurry is nutrient rich and anaerobic digestion can help to strip excess phosphorous. Gave example of a agri business taking slurry and through the anaerobic digestion, produce bio methane which will go back to the grid. This will need planning. DAREA would like to see this as hubs rather than small scale farmers.

GK – Ards and North Down Borough Council declared a Climate emergency in 2019 and council documents and LDP shall also take account of this in context.

RG – Welcomed the plan and noted its detail and timescales and recognises the challenges including the lack of Assembly. Reflected on the agri sector and that farmers are keen to farm at a high standard. Questioned nature of anerobic digesters- large buildings as these can provide a challenge and there may be a large number of objections.

JMcF – There are around 80 digesters currently in NI and some will likely expand and will need planning. New agricultural policy being developed in DAREA and this includes measures to reduce emissions without cutting livestock numbers.

GK – LDPs shall take rural issues into consideration. For any local plan the strategic plan is needed.

Topic Based Discussion: Renewable and Low Carbon Energy – Strategic Planning Policy review

GK – Introduced Philip McGowan and Alistair Beggs from DfI.

AB briefed the meeting on the Regional Strategic Planning policy for renewable and low carbon energy.

- 12 week consultation launched on 6 April and engagement is an opportunity to shape and influence the policy in its final form.

Background –

- Prior to SPPS in 2015, minister commitment given to review on strategic planning policy on renewable energy.
- Call for evidence in 2016 and an independent research report. DfI appointed expert strategic environment assessment consultant to ensure compliance with appropriate regulations.
- Pre public consultation engagement with stakeholders (Issue paper), closed Feb 2022 with just over 40 responses received.

Aims to ensure that policy remains fit of purpose and up to date and intends to inform LDP process.

Drive to decarbonise so policy will help to ensure that planning system will support wider efforts of government in addressing climate change.

Policy needs to balance importance of climate change emergency whilst protecting natural and built environments and landscapes.

The draft policy is a change in emphasis towards maximising renewable energy for the benefit of economies and communities.

Policy seeks to ensure appropriate protection for local landscapes.

Document will not be treated as a material consideration or carry any weight in determination of planning applications or during LDP preparation.

Next steps –

- Public consultation closes 30 June and responses taken into account and given careful consideration.

PMcG – sustainable development is at the heart of the planning system. Previously ROCs drove certain types of development therefore strain on the planning system. Continued engagement necessary with DfE and DAERA. Community acceptance is important.

	<p>GK thanked both PMcG and AB and reminded the attendees of the closing date 30 June and recommended circulation amongst other Departments within councils. GK asked about timescales going forward.</p> <p>PMcG 75-100 responses are expected. 2 months estimated for analysis and view to finalisation of policy this calendar year. However, may not be <i>published</i> this year.</p> <p>AB noted it will depend on Ministers returning.</p> <p>Do'k primacy lies with the plan so would like to understand thinking as proposals come forward as to the materiality of the policy and what weight would rest.</p> <p>AB no weight at present and will depend upon policy adoption in its final form. Recognised there may be a degree of tension between some LDP's.</p> <p>GK advised attendees to email PMcG and AB with any matters for clarification. Parties agree.</p> <p>JmF, PmG and AB left the meeting at 2.55pm</p>	
4.0	General Updates from Councils	
4.1	<p><u>Lisburn & Castlereagh City Council</u> (PMcF)</p> <ul style="list-style-type: none"> • Noted that the PAC report on the dPS IE was now with DFI • Preparation work is ongoing for the LPP • Progressing with employment and Housing monitor interactive maps and landscape work regarding SILINC's <p><u>Belfast City Council</u> (DO'K)</p> <ul style="list-style-type: none"> • Agreement has been achieved to adopt DPS, 2 May 2023. • 17 SPGs ready to go in front of the planning committee for adoption. • Work continuing on LPP <p><u>Antrim and Newtownabbey</u> (ST)</p> <ul style="list-style-type: none"> • Awaiting PAC report following delay. Timelines are unknown • Progressing with Draft LPP workstream • Working through strategic landscape assessment including LLPA's, AVC's and ATC's • Strategic housing assessment – Housing monitor completed for 2022/23 and will be presented to the planning committee following the election period. • 2 SPGs produced: 'Your home and planning permission' and TPOs. <p><u>Ards and North Down Borough Council</u> (LM)</p> <ul style="list-style-type: none"> • Advance draft of policy options for draft Plan Strategy with elected members agreed save for one sub policy. Further engagement with Elected Members. • Shall shortly be commencing new monitoring rounds. <p><u>Mid & East Antrim Borough Council</u> (SA)</p>	-

	<ul style="list-style-type: none"> Noted that the PAC report on the dPS IE was now with the Department and 12 week period due to expire at the end of May. Working on methodologies for LPP in terms of what studies need to be done. 	
5.0	Updates from Consultees	
5.1	<p><u>DfI Strategic Planning</u> (AB)</p> <ul style="list-style-type: none"> AB acknowledged adoption of BCC Plan Strategy DfI are currently looking at Lisburn and Castlereagh City Council and Mid and East Antrim Borough Councils DPS and cannot confirm timescales. <p><u>DfI Transport Planning and Modelling Unit</u></p> <ul style="list-style-type: none"> No representative in attendance to provide update. <p><u>Northern Ireland Housing Executive</u> (CB)</p> <ul style="list-style-type: none"> Liaising with councils as requested and available for advice. <p><u>Invest NI</u> (GC)</p> <ul style="list-style-type: none"> INI remain willing to help and assist each council going forward with evidence. <p><u>Shared Environmental Services</u> (SM)</p> <ul style="list-style-type: none"> Resources continue to be a constraint and request notice is given for HRA and SA work. <p><u>Translink</u> (DW)</p> <ul style="list-style-type: none"> Available for consultations as necessary and providing evidence as required. 	
6.0	Action Points	
6.1 AP1	Circulation of slides from DAERA presentation	ANDBC
AP2	Next meeting to be agreed through Plan Principals and new Elected Members names included for circulation following committee nominations.	All PPTO
7.0	<u>AOB/Next Meeting/Close</u>	
7.1	LM noted Ald. Robert Gibson's last meeting and prompted for thanks for his contribution as he is stepping down from his role within council and GK also expressed thanks and to that of term by Cllr McRandal on behalf of ANDBC for attendance.	

<p>RG reflected on his time and expressed appreciation for the comments and the support.</p>	
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Next Meeting

The date, topic and hosting council for the next meeting to be agreed and minutes will be circulated. (AP2)

There being no other business the Chair thanked all for attending in person or virtually. Meeting closed at 15:10.

NORTHERN IRELAND CLIMATE ACTION PLAN 2023-2027



Northern Ireland
Executive



Developing Northern Ireland's First Climate Action Plan

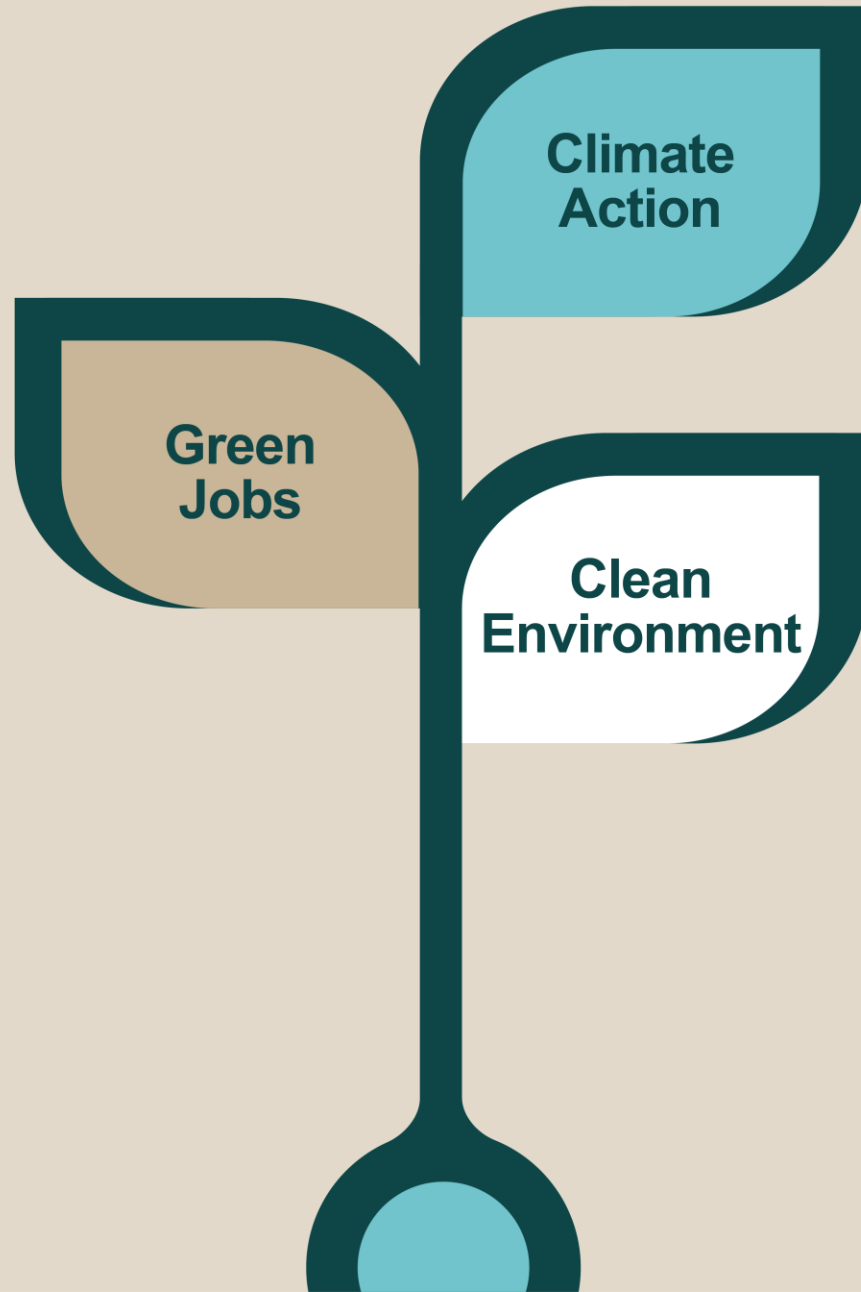
Metropolitan Spatial Area Working Group

18 April, 2023

Green Growth Strategy

- Draft Green Growth Strategy approved by Ministers Oct 2021
- Consultation completed Dec 2021
- Redraft following consultation approved by DAERA Minister
- Awaiting return of NI Executive





Climate Action

Reduce greenhouse gas emissions through adaptation and mitigation measures.

Green Jobs

Develop a low carbon, inclusive, skilled workforce and a strong circular economy.

Clean Environment

Quality built environment, clean air and water, more sustainable land use, improved habitat and greater biodiversity.

Climate Change Act (NI) 2022

ACT



Passed Final Stage in the Assembly on
9th March 2022.

Received Royal Assent on 6th June 2022.

NET ZERO 2050

Sets a target of
net zero
greenhouse gas
emissions by
2050.

Public Body Reporting

5
YEARS

**CARBON BUDGET
CLIMATE ACTION
PLAN**

**NORTHERN
IRELAND
CLIMATE
COMMISSIONER**

**SECTORAL
PLANS**



**JUST
TRANSITION
FUND FOR
AGRICULTURE**

**JUST
TRANSITION
COMMISSION**

Sectors identified in the Climate Change Act

1. Energy Production
2. Business and Industrial Processes
3. Public Buildings (Buildings sector)
4. Transport
5. Residential Buildings
6. Waste
7. Fisheries
8. LULUCF
9. Agriculture
10. Financial Assistance

Climate Action Plan

- DAERA is the lead department, working on behalf of the NI Executive to produce Northern Ireland's first Climate Action Plan. Climate Action Plans will be produced every 5 years and will align with carbon budget periods.
- Significant work has taken place within DAERA, with members of the Green Growth Strategic Oversight Group (SOG) and with other Departmental representatives to scope and set the direction for the Climate Action Plan, in the context of our climate change legislation.
- Each department has been asked to submit their draft proposals and policies to DAERA for inclusion in the Climate Action Plan.
- The purpose of the first Climate Action Plan will be to help ensure that the first NI Carbon Budget for the **2023-2027** budgetary period is achieved. It is a detailed and strategic framework for measuring, planning, and reducing greenhouse gas (GHG) emissions.
- The Climate Action Plan must also set out how interim targets (for 2030 and 2040) and the overall target for net zero will be achieved by 2050.

Climate Action Plan

- As well as outlining a series of targets and budgets for carbon reduction with associated reporting requirements, the Climate Change Act (Northern Ireland) 2022 contains provisions relating to other environmental metrics e.g.
 - *The Climate Action Plan associated with the carbon budget should include measures which will contribute to achieving public health and biodiversity goals.*
 - *Proposals and policies shall as far as is practicable, support nature-based projects that enhance biodiversity, protect and restore ecosystems, and seek to reduce, or increase the removal of, greenhouse gas emissions or support climate resilience.*
 - *The Climate Action Plan must contain a target on soil quality to be achieved during the relevant budgetary period.*
- In providing input, all NI departments are required to have regard to or take into account:
 - *the desirability of coordinating with UK, ROI etc.*
 - *the just transition principle.*
 - *the special economic and social role of agriculture.*
 - *the desirability of using nature-based projects.*
 - *the risk of carbon leakage and the desirability of eliminating or minimising that risk.*

CCC Advice report: The path to a Net Zero Northern Ireland - 02 March 2023

Carbon Budget

- 2023-27 - 33% average annual reduction on 1990 levels
- 2028-32 - 48% average annual reduction on 1990 levels
- 2033-37 - 62% average annual reduction on 1990 levels

Targets

- 2030 - 48% reduction on 1990 levels
- 2040 - 77% reduction on 1990 levels

March 2023

Advice report:
The path to a Net Zero
Northern Ireland



<https://www.theccc.org.uk/publication/advice-report-the-path-to-a-net-zero-northern-ireland/>

CCC Advice report: The path to a Net Zero Northern Ireland - 02 March 2023

The report considers that achieving the necessary reduction in emissions (compared to 1990 levels) by 2050 will require:

- **Energy Generation:** Deployment of new renewable electricity generation is required at scale in Northern Ireland, with access to appropriate energy storage and decarbonised back-up solutions.
- **Surface Transport:** By 2032, every new car and van sold in Northern Ireland should be zero-emission. This implies substantial investment to expand the electric vehicle charging infrastructure in Northern Ireland.
- **Buildings:** All newly constructed homes should be zero-carbon as soon as practicable, with no requirement for later retrofit. Substantial improvement is also required in the energy efficiency of existing buildings. **By 2030 for homes off-gas grid and 2033 for homes on-gas grid, all new heating appliance installations should be zero-carbon.**
- **Business and Industry:** Industry in Northern Ireland should **cut fossil fuel use by 45% by 2030**. Achieving this will require a coordinated combination of resource efficiency, energy efficiency and fuel switching.
- **Agriculture:** A reduction in livestock numbers with a **22% reduction in numbers of dairy cattle, 17% in beef cattle and 18% in sheep by 2030** compared to 2020.
- **Land Use:** Management of peat must shift fundamentally: **low-yielding trees must be removed from peat soils by 2030**, all extraction sites must be restored by 2035, and by 2050 more than half of peatland in Northern Ireland should be under restoration in addition to that already under sympathetic management. Afforestation will also need to increase substantially: **average tree-planting rates need to increase from an average of 226 hectares per year over the last decade to 1,000 by 2024, and 3,100 by 2035.**
- **Engineered Removals:** Northern Ireland must **scale up bioenergy plants, biogas generation with anaerobic digestion of wastes and conversion of this biogas into biomethane**, while developing the capability to capture and store the CO₂ generated in these processes.

CCC's Advice report: Carbon Budget (2023-2027)

Year	Total NI Emission Levels (MtCO ₂ e)	% reductions on 1990
1990 / 1995 (Baseline)	28.1	-
2019	22.6	20
2020	21.5	23
2021	Published June 2023	
2022	Published June 2024	
2023		27
2024	Average 33% emissions reduction per year in	30
2025	First Carbon Budget	33
2026		35
2027		38
2030 (Target within CC act)	14.6 or less	48

Next Steps

- Drafting the Climate Action Plan
- Further work with departments and their stakeholders
- Consultation –
 - Climate Action Plan & Carbon Budget
 - Public Body Reporting

NORTHERN IRELAND
CLIMATE
ACTION
PLAN 2023-2027



Northern Ireland
Executive



ITEM 10**Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	22 June 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	14 June 2023
File Reference	
Legislation	The Planning Act (Northern Ireland) 2011
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below: N/A
Subject	DFI consultation - draft SPPS - Renewable and Low Carbon Energy
Attachments	Item 10a draft SPPS - Renewable and Low Carbon Energy (DFI) Item 10b draft response from Ards and North Down Borough Council

Background

- 1.1 The purpose of this report is to seek members' agreement on the draft response (Item 10b) to the Department for Infrastructure's (DFI) public consultation draft of the Revised Strategic Planning Policy (SPPS) on Renewable and Low Carbon Energy (copy attached at Item 10a).
- 1.2 Members shall be aware that an Emerging Issues paper consultation was released by DFI in 2021. The Council responded to that consultation round (Item 12 January 22) and submitted to DFI raising particular concerns with some of the approach.
- 1.3 DFI intends to revise the strategic planning policy for renewable and low carbon energy to ensure that it remains fit for purpose, to inform decision making for

development proposals of this type. DFI intends to inform the Local Development Plan process and for local authorities to bring forward appropriate policy approaches within the framework of the revised regional strategic policy and the context of wide-ranging responses to climate change.

Detail

2.1 The consultation draft introduces three new regional strategic objectives for renewable and low carbon energy which include to:

- ensure that sustainable renewable and low carbon energy development is facilitated at appropriate locations to maximise renewable energy that contributes to the transition to a low carbon economy;
- secure an appropriate mix of energy provision as indicated in the Energy Strategy and supporting documents, which maximises benefits to our economy and communities; and
- enable energy from offshore renewable and low carbon energy development proposals to be appropriately connected to onshore networks.

2.2 The consultation draft also introduces new aspects of the policy including references to the importance of an energy mix including offshore, solar, repowering and co-location, as well as catering for emerging technologies and associated infrastructure such as Battery Energy Storage Systems (BESS) and green hydrogen.

2.3 Particular concerns arise that the proposed regional policy is less prescriptive on certain important elements which may not be conducive to providing the required certainty and clarity to all those engaging in the planning system.

2.4 Members should note the key concern of Planning Service, that the proposed regional policy may leave new Local Development Plans at a perceived variance with the emphasis of new draft regional policy. The draft policy introduces a new requirement for each Council to identify the *'most appropriate areas for renewable energy development'* within their respective area as part of the Local Development Plan process. Planning officers do not agree this is the most appropriate approach and raised questions regarding this in the previous Issues paper consultation (in 2022). This approach is at odds with particulars of local areas that have clear landscape sensitivities and potential significant implications on cost and ability of councils to address. It is considered that it would have been more appropriate for DFI to resource, co-ordinate and ultimately develop a strategic spatial approach for renewables and low carbon energy planning on a regional scale to meet the ambitious targets for Northern Ireland.

- 2.6 Following the public consultation (and any amendments) a published update will take place to the SPPS 'Renewable and low carbon energy' regional policy, which the Council must then take account of in both plan-making and decision-taking.

RECOMMENDATION

It is recommended that Members note the content of this report, consider and approve the draft response to the DFI consultation be issued to DFI before closing date of 30 June 2023.

Revised Regional Strategic Planning Policy

Renewable and Low Carbon Energy

Public Consultation Draft



Department for

Infrastructure

An Roinn

Bonneagair

Department fur

Infrastructure

www.infrastructure-ni.gov.uk

April 2023

DRAFT

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psi@nationalarchives.gsi.gov.uk

Public Consultation: Give us your views

You are invited to give your views on this (draft) revised regional strategic planning policy on renewable and low carbon energy by using the weblink below:

www.infrastructure-ni.gov.uk/consultations/draft-renewable-and-low-carbon-energy

All responses to this public consultation exercise should be made electronically.

The draft policy consultation is accompanied by an Environmental Report, Non-Technical Summary and Section 75 Equality of Opportunity Screening Analysis Form. These are available to view or download from the abovementioned web link. You may wish to reference these supplementary documents when responding to the Department with your views on the draft revised policy.

The consultation period will end at 5pm on 30th June 2023. The Department will not accept any comments received after this deadline.

The information gathered will be considered by the Department and will help inform the revised regional strategic planning policy on renewable and low carbon energy in its final form.

No material weight should be applied to this public consultation draft revised policy document. However, when issued in its final form, the revised policy will supersede the existing provisions of the SPPS's Renewable Energy subject policy, published in September 2015 (pages 90 – 93 refer) and will take precedence over the provisions of extant Planning Policy Statement 18: 'Renewable Energy' (PPS 18) which continues to be retained under transitional arrangements of the SPPS, whilst councils bring forward their Plan Strategies.

Any relevant supplementary and best practice guidance, such as Best Practice Guidance to PPS 18, will continue to apply unless and until it is replaced by the Department.

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The Department may publish a summary of responses following the closing date for receipt of comments. Your response, and all other responses to this publication, may be disclosed on request and/or made available on the DfI website (redacted). The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of responses as this will give you guidance on the legal position about any information given by you in response to this publication.

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Introduction

The aim of this review is to ensure that strategic planning policy on renewable and low carbon energy development remains fit for purpose and up to date to inform decision-making in relation to development proposals for this subject area. It is also intended to inform the Local Development Plan (LDP) process and enable plan-makers to bring forward appropriate local policy approaches, all within the framework of regional strategic planning policy and the wider contemporary context for energy and climate change. This includes Northern Ireland's Energy Strategy, published on 16 December 2021 (which references this review) and the Climate Change Act (Northern Ireland) 2022 which received royal assent on 6 June 2022. The Energy Strategy established a renewable electricity consumption target of 70% by 2030 that was then increased to 80% by 2030 by the Climate Change (Northern Ireland) Act 2022.

Work is ongoing across government to develop Northern Ireland's first Climate Action Plan and there are a range of strategies under preparation that will support it, which may have implications for the planning system. These include the draft Green Growth Strategy for Northern Ireland, the draft Environment Strategy for Northern Ireland, the draft Northern Ireland Peatland Strategy 2021-2040, and the draft Nature Recovery Strategy for Northern Ireland.

Renewable energy targets

The planning system has already made a positive contribution to meeting and exceeding previous renewable energy strategy targets with 51% of electricity consumed being generated from indigenous renewable sources to date.¹

Since the reform of the planning system and the transfer of planning powers to local government on 1 April 2015, to the end of September 2022, 837 renewable energy planning applications were approved, including:

- 32 wind farms

¹ <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/Issue-26-Electricity-Consumption-and-Renewable-Generation-in-Northern-Ireland-January-2022-to-December-2022.pdf>

- 583 single wind turbines
- 32 hydroelectric plants
- 93 applications for solar panels
- 76 biomass/anaerobic digesters
- 21 other (includes, Landfill Gases, Waste Incineration and Heat Pumps)

The planning system also provides for some small-scale renewables to be developed without the requirement to submit a planning application – specific types and scale of development set out in legislation² benefit from permitted development rights. The Department has recently concluded a consultation on amendments to permitted development rights for the installation of domestic microgeneration equipment which involves proposed changes to the nature and scale of permitted development rights for the installation, alteration, or replacement of heat pumps (air source and ground or water) to align with modern standards and requirements.

Going forward, the planning system will continue to play its part to support the achievement of the new, more ambitious, target in the Climate Change Act (Northern Ireland) 2022, which requires that *“The Department for the Economy must ensure that at least 80% of electricity consumption is from renewable sources by 2030”*. In doing so it is important that there continues to be a balance between facilitating renewable and low carbon energy development and other important interests of acknowledged importance, such as the assessment of potential environmental and amenity impacts of development and the protection of important habitats and landscapes.

As well as recognising that regional strategic planning policy must remain up-to-date and fit-for-purpose, the Department is also aware of the need to improve the process for plan-making and the determination of planning applications, including for renewable and low carbon energy development. Therefore, separately, but related, the Department is taking forward a Planning Improvement Programme, aimed at creating an efficient, effective, and equitable planning system trusted to deliver high quality, sustainable, inclusive and healthy places.

² The Planning (General Permitted Development) Order (Northern Ireland) 2015 refers.

Whilst this policy review will result in revisions to the Strategic Planning Policy Statement (SPPS), changes to extant planning legislation (including permitted development rights) or regional planning guidance on renewable and low carbon energy are outside the scope of this exercise. It is also important to note that this review of regional strategic planning policy will not involve any amendment to existing statutory environmental requirements with which renewable and low carbon energy developments must comply.

The Department would welcome comments on the following section (paragraphs 1.1 – 1.30) which is proposed to replace the current subject policy on renewable energy in the SPPS (pages 90-93).

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Renewable and Low Carbon Energy

- 1.1. Northern Ireland has significant renewable energy resources and a vibrant renewable and low carbon energy industry that continues to make an important contribution towards furthering sustainable development and as a significant provider of jobs and investment across the region.
- 1.2. Northern Ireland's Energy Strategy 'Path to Net Zero Energy' recognises that Northern Ireland must take advantage of our natural resources to generate clean energy. It sets out a target to "*Meet at least 70% of electricity consumption from a diverse mix of renewable sources by 2030*". It recognises that to achieve this objective "*A renewable electricity consumption target of at least 70% likely means that we will need to double our renewable generating capacity in order to meet new demands from heating our homes and powering our vehicles*". Energy accounts for almost 60% of Northern Ireland's greenhouse gas (GHG) emissions. The Energy Strategy sets out a pathway for energy to 2030 that will mobilise the skills, technologies and behaviours needed to take us towards our vision of net zero carbon and affordable energy by 2050.
- 1.3. Whilst the Energy Strategy established a renewable electricity consumption target of 70% by 2030 this was then increased to 80% by 2030 by the Climate Change (Northern Ireland) Act 2022. The Act places a duty on departments to ensure that the net emissions account for the year 2050 is at least 100% lower than the baseline and to ensure that the net emissions account for carbon dioxide for the year 2050 is at least 100% lower than the baseline for carbon dioxide.
- 1.4. As supported by the Energy Strategy and the Regional Development Strategy 2035 (RDS) renewable and low carbon energy development here reduces our dependence on imported fossil fuels and brings diversity and security of supply to our energy infrastructure.
- 1.5. Whilst the technology in this policy area continues to emerge and advance, the main sources of renewable and low carbon energy are wind, sun (solar photovoltaic / thermal energy), moving water (hydropower), heat extracted from

the air, ground, and water (including geothermal energy), biomass (wood, biodegradable waste, and energy crops such as for use in an Anaerobic Digester). In addition to developments which generate renewable energy from these sources there are also current and emerging technologies that can help maximise the transition to net zero carbon emissions, such as battery energy storage systems (BESS).

- 1.6. The aim of the SPPS is to maximise sustainable renewable and low carbon energy from a wide range of technologies, at various scales, in appropriate locations within the built and natural environment, without compromising other environmental assets of acknowledged importance. Full account should be taken of the target to generate 80% of electricity consumption from renewable sources by 2030, as well as prevailing environmental legislation and relevant strategies which will support Northern Ireland's Climate Action Plan.

Regional Strategic Objectives

- 1.7. The regional strategic objectives for renewable and low carbon energy are to:
 - ensure that sustainable renewable and low carbon energy development is facilitated at appropriate locations to maximise renewable energy that contributes to the transition to a low carbon economy;
 - secure an appropriate mix of energy provision as indicated in the Energy Strategy and supporting documents, which maximises benefits to our economy and communities;
 - ensure that the environmental, landscape, visual, safety and amenity impacts associated with or arising from renewable and low carbon energy development are adequately addressed;
 - ensure adequate protection of the region's built, natural and cultural heritage features;
 - facilitate the integration of renewable and low carbon energy technology into the design, siting and layout of new development and promote greater application of the principles of Passive Solar Design; and

- enable energy from offshore renewable and low carbon energy development proposals to be appropriately connected to onshore networks.

Regional Strategic Policy

- 1.8. In the context of the aim and objectives above, planning authorities must positively facilitate Northern Ireland's full potential for renewable and low carbon energy development (electricity and heat). Councils must set out policies and proposals in their LDPs to maximise the plan area's contribution to achieving the renewable energy targets. The preparation of local policy criteria to support a diverse range of technologies at different scales will further assist in the appropriate deployment of such development. This should include the factors to be taken into account in decision-making such as locational criteria, technology specific criteria, the integration of micro-generation and passive solar design, and opportunities for heat networks, where appropriate.
- 1.9. Having undertaken an assessment of their area's full potential, councils must bring forward spatial policies in their LDP which identify the most appropriate areas for renewable energy development, including wind farms. A presumption in favour of such development will apply in identified areas. Local policies should contain the detailed locational criteria to be considered at the planning application stage.
- 1.10. Whilst councils will have identified areas most appropriate for renewable and low carbon energy development this does not mean that remaining areas cannot facilitate any such development. Outside of identified areas (and until areas are identified) some landscapes may be able to accommodate renewable and low carbon energy development more easily than others.
- 1.11. It is recognised that there are landscapes across Northern Ireland where their intrinsic value should be protected against inappropriate renewable and low carbon energy development. A cautious approach for renewable and low carbon energy development proposals will apply within designated landscapes which are of significant value, such as Areas of Outstanding Natural Beauty, World

Heritage Sites and their wider settings, including the Giant's Causeway and Causeway Coast World Heritage Site. Visually dominant development proposals should be avoided in such sensitive landscapes as it may be difficult to accommodate developments and their associated infrastructure, without detriment to the region's cultural and natural heritage assets.

1.12. All renewable and low carbon energy development and associated buildings and supporting infrastructure³ will be permitted where the proposal will not result in an unacceptable adverse impact (alone or in combination with other developments) on the following planning considerations, which cannot otherwise be mitigated:

- public safety, human health, or residential amenity (communities and individuals);
- visual amenity and landscape character, including cumulative impact;
- biodiversity, nature conservation, archaeological or built heritage interests;
- local natural resources, such as air quality, water quality or quantity;
- the capacity of and effects on the transportation network; and,
- impacts on tourism, recreation, and public access to the countryside.

1.13. For all proposals, the factors to be considered on a case-by-case basis will depend on the type and scale of the development and its local context. Proposals will also be assessed in accordance with normal planning criteria, including such considerations as: access arrangements; road safety; design; integration; odour; noise; shadow flicker; glint and glare; separation distance; cumulative impact; communications interference; and the inter-relationship between these considerations. All proposals should take account of the local environment and, as appropriate, design any access, fences, gates and planting accordingly. Ancillary infrastructure and associated works such as service roads,

³ Planning applications should include matters such as the power generation / capacity associated with the proposal, e.g. megawatts (MW/MWh).

earthing cabling, ground remodelling etc. also require careful consideration in the determination of any renewable and low carbon energy development proposals⁴.

- 1.14. In plan-making and decision-taking, planning authorities must take full account of the above-mentioned aim and targets, the regional strategic objectives and policy provisions, local circumstances, and the wider environmental, economic, and social benefits of renewable and low carbon energy development to local communities and to everyone in Northern Ireland.
- 1.15. Climate change is also having an adverse impact on nature and biodiversity. Within their project, developers should protect and, where feasible, seek to enhance biodiversity which could contribute to strengthening existing nature networks and restoring degraded habitats.
- 1.16. For wind farm development⁵ a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply. This will also apply to any wind turbine development with a rotor diameter of 50m or greater.
- 1.17. Planning authorities should encourage and support the use of previously developed land (of low ecological value) for solar farms in countryside locations. Solar farms which are well planned and well screened can have an acceptable visual impact if located sensitively in the local landscape. Poorly designed schemes which will have a negative impact on the landscape should not be supported. Favourable consideration should be given to large scale rooftop solar power where there are no unacceptable impacts, including glint and glare.
- 1.18. Well designed and appropriately located anaerobic digestion (AD) plants can make a positive contribution to optimising the potential for renewable and low carbon energy and should be located as close to the waste source as possible. Farm AD plants should be designed and sited to integrate and cluster with the

⁴ This is to ensure that all aspects of the proposed development are properly considered through the planning application process including appropriate identification and consideration of any likely significant effects assessed for the 'whole project' for the purposes of Environmental Impact Assessment (EIA).

⁵ Defined as development comprising more than 2 turbines.

existing group of farm buildings and be of a size and scale appropriate to the location in which it is proposed. Proposals must be carefully considered to ensure that any potential adverse impacts related to the size and scale of the development are compatible to the location in which it is proposed. As well as existing statutory environmental requirements and the normal planning considerations, impacts on the transportation network will be important.

- 1.19. Whilst advancements and changes in technology may mean schemes are not like for like, life extension and re-powering of existing development has the potential to continue to maintain or enhance installed renewable energy generation, where appropriate. Therefore, a presumption in favour of proposals to re-power, expand and extend the life of existing solar and wind farms applies unless the impacts identified (including cumulative impacts) are unacceptable and cannot be mitigated. Approvals for renewable and low carbon energy development proposals may be time-limited. However, areas identified as appropriate for wind farms are expected to be suitable for use in perpetuity.
- 1.20. Co-location of renewable and low carbon technologies and supporting infrastructure has potential benefits and should be facilitated, where appropriate.
- 1.21. In plan-making and decision-taking planning authorities should encourage the use of micro-generation energy and the retrofitting of renewable and low carbon energy technologies.
- 1.22. The ability of the landscape to accommodate development depends on careful siting, the skill of the designer and the inherent characteristics of the landscape such as landform, ridges, hills, valleys and vegetation. The siting and cumulative landscape and visual impact of all renewable and low carbon energy developments (including approved development) is of great importance and must be carefully considered. The cumulative impact will increase, for example, as the number of wind turbines and/or solar farms in an area increases and local amenity deserves particular attention. Landscape and visual impact assessments will assist in the consideration of cumulative impact. Considerations will include the impact on the character and quality of the landscape, its sensitivity, and the level to which the proposed development will

become a significant or dominant characteristic of the landscape. For large scale developments, developers should seek to avoid valued designated landscapes and areas close to key vantage points from roads, viewpoints, and settlements. The relevant aspects of the supplementary planning guidance 'Wind Energy Development in Northern Ireland's Landscapes' and other relevant practice notes should be taken into account in assessing all wind turbine proposals.

- 1.23. ETSU-R-97 remains the UK standard methodology for the assessment of noise from wind energy development and it, along with 'A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise' prepared by the Institute of Acoustics, should be taken into account by decision-takers, including any future update to this standard. Potential noise impacts, including amplitude modulation, from wind turbines on surrounding properties must be carefully considered. Applicants should seek to minimise and mitigate against any potential impacts from wind energy proposals which are likely to result in shadow flicker on nearby properties.
- 1.24. Planning authorities must support emerging technologies which will assist with maximising renewable energy potential such as green hydrogen production facilities, and battery energy storage systems that help with maximising efforts to decarbonise energy use by gaining full benefit from renewable sources. Planning applications for BESS development must be accompanied by details of the type, number, capacity and chemical composition of batteries to enable full assessment by planning authorities in line with their statutory responsibilities. Although such technologies may be included in planning applications, in addition to a renewable energy proposal, the development must be properly described as it will involve factors to be considered in its own right.
- 1.25. In assessing any potential safety aspects of the proposed development, including for energy storage proposals, it is important for decision-takers to consult with all relevant and appropriate statutory and advisory bodies such as: the Northern Ireland Fire and Rescue Service; the Health and Safety Executive for Northern Ireland and the Northern Ireland Environment Agency (NIEA), or appropriate authorities.

- 1.26. For all development, applicants, operators, planning authorities and statutory consultees will be bound by environmental legislation requirements such as The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 as amended and The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. Proposals for renewable and low carbon energy must, therefore, be rigorously assessed for their environmental impacts (covering installation, operation and decommissioning stages, as appropriate) and comply with relevant environmental legislation and policy. Active peatland, for example, is of particular importance to Northern Ireland for its biodiversity, water and carbon storage qualities. Degraded peatlands can also have natural heritage and carbon storage value and their protection and restoration potential can, therefore, be a material consideration in the determination of planning applications on a case by case basis⁶.
- 1.27. Some proposals for renewable and low carbon energy development may require a connection to the National Grid. The grant of planning permission does not guarantee grid connection. Connection to the grid falls within the remit of Northern Ireland Electricity (NIE) and therefore liaison with NIE at an early stage of development is paramount in relation to the viability of such a scheme. Where possible and appropriate, new power lines should be laid underground to reduce the visual impact, however it is accepted that consideration must take account of costs which may otherwise render a project unviable.
- 1.28. Applicants will be required to provide details on future decommissioning, including proposals for site restoration. Planning authorities must consider and make use of appropriate conditions (or a legal agreement, where appropriate) to ensure the decommissioning of developments and site restoration when they reach the end of their design life, taking into account any proposed after use of the site.

⁶ The Department for Agriculture, Environment, and Rural Affairs (DAERA) has developed a draft Northern Ireland Peatland Strategy **2021-2040** which will provide a framework for conserving intact semi-natural peatlands and restoring degraded semi-natural peatlands.

- 1.29. Development proposals in the marine environment are managed under a separate consenting regime within the framework of the UK Marine Policy Statement, as amended⁷. It is important for both terrestrial and marine planning authorities to work together, particularly regarding the assessment of offshore renewable energy proposals where it is necessary to provide a terrestrial connection point and associated supporting infrastructure on land. Great care should be taken to consider the appropriate location for such onshore development. Developers should seek to avoid designated landscapes and utilise industrial or previously developed land, where feasible.
- 1.30. For all renewable and low carbon development, developers should, as early as possible, proactively engage with the local community in the vicinity of their proposal with information on the development and technology being proposed. In preparing the planning application, and taking account of any views received, the developer should consider how to avoid or minimise any adverse impacts through the choice of location, siting, scale and design being proposed. Any voluntary community benefits offered by the developer will not be material considerations in decision-taking.

⁷ Added a guidance note on how references to EU law in the UK Marine Policy Statement should be interpreted from 1 January 2021 following the UK's withdrawal from the EU.

Consultation Questions

- Q1: Do you agree, that overall, the revised policy will help to ensure that the planning system can play its part in supporting wider efforts of government in addressing climate change and decarbonising the energy sector? If not, please explain how the draft policy can be improved.**
- Q2: Do you agree that the new provisions for a spatial approach through LDPs will assist in providing certainty and clarity to planning authorities, communities and developers alike by providing a presumption in favour of development in areas identified in LDPs? If not, please explain how the draft policy can be improved.**
- Q3: Do you agree with the draft revised policy approach to provide a presumption in favour of re-powering, extending and expanding solar and wind farm developments, where appropriate? If not, please explain how the draft policy can be improved.**
- Q4: Do you consider that the draft revised policy provides an appropriate regional strategic planning policy framework for plan-making and decision-taking for all forms of renewable and low carbon energy development? If not, please explain how the draft policy can be improved.**

Where possible, your comments should include supporting evidence. Please note that all comments should relate to planning policy matters only.

Ards and North Down Borough Council - consultation response – June 2023

**Revised Strategic Planning Policy (SPPS) 'Renewable and Low Carbon Energy'
Public Consultation Draft (DFI April 2023)**

Q1: Do you agree, that overall, the revised policy will help to ensure that the planning system can play its part in supporting wider efforts of government in addressing climate change and decarbonising the energy sector? If not, please explain how the draft policy can be improved.

Ards and North Down Borough Council welcomes the opportunity that a revised policy offers to support proposals to reduce and move to decarbonise energy in support of addressing climate change. The Council declared a climate emergency in 2019 and to that end, recognises the importance of up to date and supportive planning policies that are fit for purpose.

The three additional regional strategic objectives for renewable and low carbon energy are noted as are new inclusions of the references to energy mix, offshore, solar, repowering and co-location, and emerging technologies and associated infrastructure.

The Council wishes to express concern regarding the approach set out for Councils' new Local Development Plans. The new requirement in the draft for each council to identify those areas most suitable for renewable energy developments sits at odds with approaches taken. The response provided by Ards and North Down Borough Council to the Emerging Issues Paper consultation raised questions regarding the DFI approach and spatial evidence and highlighted this particular area of concern.

It is noted that there is an omission in this draft policy of a clear regional direction on the weighting to be applied to the 'wider environmental, economic and social benefits of a specific development proposal' and would question this approach.

The Council also notes the removal of wording in the draft in relation to the presumption against any renewable energy development on active peatland. Council questions this omission/ new approach by DFI when it is clear that peatland acts as a carbon store.

Q2: Do you agree that the new provisions for a spatial approach through LDPs will assist in providing certainty and clarity to planning authorities, communities and developers alike by providing a presumption in favour of development in areas identified in LDPs? If not, please explain how the draft policy can be improved.

The Council generally agrees with the need for a spatial approach through LDPs to assist in providing clarity to authorities and those with an interest in the planning system.

The Council, however, strongly disagrees with the move away from the current SPPS position and disagrees with the requirement for each council to identify the ‘most appropriate areas for renewable energy development’ within their area is the best way to achieve that. A requirement such as that which involves spatially identifying such areas would require further additional costs for councils. The Council contends that the proposed draft SPPS spatial policy approach is not appropriate.

The Council requests clarification from DFI on what ‘an assessment of the area’s full potential’ would encompass. This point assumes that councils have taken an assessment of their area’s full potential relating to renewable energy generation – some eight years post transfer.

Whilst it is understood that some councils have conducted a wind energy capacity study, no council has carried out and published a full assessment of renewable energy generation. The assumption is then extended in requiring that councils identify the most appropriate areas for renewable energy development in their area – it may be the case that there is no appropriate areas where renewable energy will be acceptable in principle. This matter is not appropriately considered in this draft.

How does DFI envisage that a council can meaningfully address without knowing the full detail on feasibility/viability and suitability for the various types of renewable energy developments and for that matter any emerging technologies? There are a range of factors would need to be taken into consideration as to whether or not a renewable energy proposal could be acceptable in principle, not limited to landscape sensitivity, habitats for nature conservation interests, historic environment public health and safety etc.

This Council does not hold evidence that would support this spatial approach in the Borough – similar to neighbouring councils. The landscape character areas, the landscape designations (Area of Outstanding Natural Beauty) and the nature of the coastal, and small-scale drumlin landscape, do not lend themselves to the absorption of wind energy in any scale that would lend itself to being mapped as appropriate in principle.

With emerging technologies – the Council would also suggest that solutions to accommodate such proposals may come forward in other potentially sustainable locations and perhaps more urban in nature.

The Council considers this level of detailed assessment is most appropriate at the Development Management stage when the exact nature of a development proposal is known.

The Council respectfully suggests that DFI has not considered the unintended consequences of the approach set out in the draft and should be aware of approaches taken to date to protect highly sensitive and valuable landscape areas. DFI has had opportunity to grasp this policy at a regional level and is best placed with resources to co-ordinate and ultimately develop a strategic spatial approach to renewables and low carbon energy proposals on a regional scale to meet the ambitious targets for Northern Ireland.

Q3: Do you agree with the draft revised policy approach to provide a presumption in favour of re-powering, extending and expanding solar and wind farm developments, where appropriate? If not, please explain how the draft policy can be improved.

Yes, the Council agrees with a favourable approach to this policy, however there are issues with the term of 'in perpetuity'. (1.19).

While a location may remain appropriate there are issues that may arise that were not originally presented and may need addressed e.g. emerging problems during the lifetime.

How does DFI also seek to address the decommissioning and restoration of sites as possible/desirable if the use is granted in perpetuity, is there conflict here in what the draft sets out?

Q4: Do you consider that the draft revised policy provides an appropriate regional strategic planning policy framework for plan-making and decision-taking for all forms of renewable and low carbon energy development? If not, please explain how the draft policy can be improved.

The draft revised policy gives regional direction; however, the Council questions how the DFI will consider setting out for users of the planning system how any revised and final form policy sits with councils' local development plan policies on this subject matter in the Plan-led system.

As stated in the previous responses - there is a question on the removal of some of the previous, more detailed, element of policy, giving regional direction to the weight to be applied to the wider environmental, social and economic benefits of an individual renewable energy proposal, which is now less clear and shall have potential to cause uncertainty and inconsistency when assessing planning applications for individual renewable and low carbon energy development proposals.

Additional suggestions for improving the proposed policy wording:

- Ref para 1.17. 'Planning authorities should encourage and support the use of previously developed land (of low ecological value) for solar farms in countryside locations. Solar farms which are well planned and well screened can have an acceptable visual impact if located sensitively in the local landscape. Poorly designed schemes which will have a negative impact on the landscape should not be supported. Favourable consideration should be given to large scale rooftop solar power where there are no unacceptable impacts, including glint and glare'.

Comment - Previously developed land of such a scale suitable for solar farms in countryside locations seems very unlikely. Will there be an ecological test of some kind to apply to land that has not been previously developed to determine suitability? Solar farms should be easily reverted to agricultural land once the structures have been

removed.

- re-use of suitable redundant or underutilised sites *within settlements* for renewable energy developments should be addressed.
- Consider Paragraph 1.23 on ETSU and shadow flicker. Shadow Flicker is an additional consideration which is unrelated to noise or ETSU.
- Ref para 1.25 *“Planning authorities must support emerging technologies which will assist with maximising renewable energy potential such as green hydrogen production facilities, and battery energy storage systems...”*

Comment - The wording “must support” is considered strong in the context of documented safety concerns about some BESS systems. Para 1.25 then recommends consultation with a number of bodies in this regard, including NIFRS, HSENI and NIEA. However, there is policy test suggested to be balanced against the previous direction that Councils “must support” such development.

- Consider reorder of 1.26 and 1.27 on liaising with consultees.
- Ref para 1.28 *‘Applicants will be required to provide details on future decommissioning, including proposals for site restoration. Planning authorities must consider and make use of appropriate conditions (or a legal agreement, where appropriate) to ensure the decommissioning of developments and site restoration when they reach the end of their design life, taking into account any proposed after use of the site’.*

Comment – again, does this point conflict with the direction that windfarms should be considered acceptable in their use in perpetuity?

ITEM 11**Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	22 June 2023
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	13 June 2023
File Reference	
Legislation	
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input checked="" type="checkbox"/> If other, please add comment below: n/a
Subject	Update on NIW Coastal Fence
Attachments	N/A

Purpose of Report

1. The purpose of this report is to update Members in respect of the fencing erected by Northern Ireland Water (NIW) around the Wastewater Pumping Station (WwPS) at Seacourt, on the North Down Coastal Path, sometime during 2019.

Background

2. Members were advised at the Planning Committee meeting on 04 April 2023 of the submission of two separate Certificates of Lawfulness, one for a Certificate of Lawfulness of Existing Use of Development (CLEUD) and Certificate of Lawfulness of Proposed Use or Development (CLOPUD) for consideration by the Planning Service in respect of both the existing fence and gate as erected (subject of the refused planning application) and for an increase in height of fencing to the Seacourt WwPS (Report to April Planning Committee – Item [6] available on Decision Time).

3. This was following the submission of an appeal by NIW against the refusal of planning permission on 16 November 2022 – PAC reference 2022/A0145. The PAC was advised of the submission of the information and advised a date for any hearing would be provided in due course.
4. Since the date of the last Committee meeting, officers have considered the submitted information for the applications alongside legal advice from its Planning lawyers. The purpose of this paper is to advise the Committee of findings.

Certificates of Lawful Use or Development

5. The purpose of the submission in respect of the Certificate of Lawfulness of Existing Use of Development (CLEUD) is to confirm that the fence as erected meets the requirements of permitted development and, in respect of the Certificate of Lawfulness of Proposed Use or Development (CLOPUD), to confirm that the proposed increase in height of the fence also meets the requirements set out in permitted development.

Permitted Development Rights

6. Members are advised of The Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 (“the GPDO”) which lists development that can be undertaken (under permitted development (PD) rights) without the need to seek express planning consent and that any such proposal in the first instance must be assessed in accordance with Article 3(8) of the above Order, as to whether or not the proposal amounts to EIA development (in accordance with The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 to consider the likely environmental impacts of any development before acting upon such PD Rights.
7. Subject to a negative EIA screening, it is a condition of the PD Rights under Article 3(1) of the GPDO that one attains confirmation prior to commencement of development that the proposal will not adversely affect the integrity of any designated site under The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(a). Confirmation of such is normally via consultation by the Council with the Shared Environmental Service for confirmation of any findings in this respect, through the Certificate of Lawfulness application process, referred to above.
8. At the time of investigation of the fence, it was considered that the fence as erected fell under Part 3 (Minor Operations) Class A relating to ‘*The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*’. It is a condition of that particular Class that development is not permitted if ‘*The height of any other gate, fence, wall or means of enclosure erected or constructed exceeds 2 metres above ground level*’ and as such, the Planning Service considered that PD rights could not apply.

9. Members are advised that any planning advice given by officers, either verbally or in writing in the course of their duties, is offered in good faith and is based on the information and evidence provided. At that time NIW did not challenge this position and submitted the planning application, which was subsequently assessed and refused by Council.

Consideration

10. Officers have assessed NIW's supporting information for the applications of the Certificates of Lawfulness detailing how the works were permitted development as the works should have been assessed against the rights available under the GDPO Part 14 – 'Development by Statutory and Other Undertakers', Class H – 'Water and sewerage undertakings' part (h) – 'Development by water or sewerage undertakers consisting any other development in, on, over or under operational land, other than the provision of a building but including the extension or alteration of a building'.
11. The Council sought clarification from the applicant in relation to 'operational land'. Article 2 of the Planning (General Development) Northern Ireland Order 2015 sets out the definitions relied on within the legislation. It comprises a definition of operational land which is different to that relied on in the Planning Act.
12. The applicant clarified that it (the land) is used for the purpose of carrying on its undertakings and the entire red line site is used for a sewage pumping station and that this area of land used for this purpose has not been extended or altered. It stated that it was an above ground structure erected on it to enclose it for safety purposes. The applicant also confirmed that the land was acquired by the Department on 01 October 1973 and placed in perpetuity for that use by successor companies i.e., NI Water Ltd. Subject to this clarification the Council is content that the existing fence is on land deemed as 'operational land'.
13. Article 3(1) of the GPDO and Regulations 55 and 56 of the Habitats Regulations is applicable to the consideration of applications due to the site being located within the Outer Ards Special Protection Area and Outer Ards Ramsar designations. Regulation 56(1) states: *"Where it is intended to carry out development in reliance upon a permission granted by a general development order, application may be made in writing to the council for its approval for the commencement of the development."*
14. During the processing of the retrospective planning application, the Shared Environmental Service ("SES") confirmed there was no likelihood of a significant effect on a European designated site as a result of the existing fence. In the interests of best practice, SES was further consulted under the CLOPUD application given the proposal is to replace the existing fence with a new fence which is 0.1m higher than the fence in situ.

15. Information submitted for consideration in support of the CLEUD, the agent acting on behalf of NIW, stated that under Regulation 56, it is not mandatory to seek approval from the Council, due to the use of the word 'may' and also stated in its supporting statement that '*The Prohibition on commencing development under Regulations 55(1) only bites for development which is likely to have a significant effect on a European site*'.
16. The Council sought clarification from legal representatives on these points and it was confirmed that the agent's opinion was correct and as such when there is no such effect on a European site, no consent is required before work commences, and it is not mandatory to seek approval from the Council.
17. In response to the CLOPUD, SES stated that '*Taking into account the nature and scale of the proposed fence (0.1m higher than previously assessed) and the proposed sequence of works, it is considered the proposal would have no conceivable effect on the selection features or conservation objectives of the adjacent European sites.*'
18. As both the CLOPUD and CLEUD satisfy the requirements of the GPDO and Regulations 55 and 56 of the Habitats Regulations and the aforementioned criteria set out in the Planning (General Permitted Development) Order (Northern Ireland) 2015 - specifically that of Part 14: Class H (h), both applications have been certified to that effect.
19. Given the aforementioned certification, the Council has contacted the Planning Appeals Commission in respect of the lodged appeals advising of the Council's determinations.

RECOMMENDATION

It is recommended that Council notes this report.