

ARDS AND NORTH DOWN BOROUGH COUNCIL

26 July 2022

Dear Sir/Madam

You are hereby invited to attend a virtual Special Meeting of the Planning Committee of the Ards and North Down Borough Council on **Tuesday 02 August** which will be held via Zoom 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 05 July 2022
4. Planning Applications

4.1	LA06/2021/1214/O	Replacement dwelling 40m north of 23 Ardview Road, Killinchy
4.2	LA06/2022/0346/O	Infill site for 2 No. dwellings with domestic garages Between 32 and 34 Castle Espie Road, Comber <u>Persons speaking in support of the application:</u> Mr David Burgess
4.3	LA06/2021/0895/F	Rear balcony with external staircase (part retrospective) and retrospective alterations to rear elevation including new windows and raised eaves 4 Rhanbuoy Road, Holywood <u>Persons speaking in support of the application:</u> Mr Phu Tran (applicant) Mr David Mountstephen (agent)

4.4	LA06/2020/0940/F	Greenway from Belvedere Road, Newtownards turning NE following the former railway track in the most part to the Somme Heritage Centre Belvedere Road, Newtownards to the Somme Heritage Centre, Bangor Road, Newtownards
4.5	LA06/2021/1498/F	6 No. sculptural artworks, footpath and access to coastal path and associated works Lands at Ulster Transport Museum, Bangor Road, Holywood <u>Persons speaking in support of the application:</u> Mr John Bronte (agent) Ms Sheila Murphy (agent)
4.6	LA06/2020/0935/F	5 dwellings - 4 terraced and 1 detached Lamont Avenue - to the rear of Nos. 13-23 Portaferry Road, Newtownards <u>Persons speaking in support of the application:</u> Mr Keith Robson
4.7	LA06/2022/0167/F	Installation of A3 plaque Wall at the entrance to Ards Hospital, Church Street Newtownards

5. Update on Planning Appeals (report attached)
6. Report on Notice of Motion relating to Tree Preservation Orders (report to follow)
7. Local Development Plan – Elected Member Workshops (report attached)

MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)

Alderman Gibson (Chair)	Councillor McAlpine
Alderman Keery	Councillor McClean
Alderman McIlveen	Councillor McKee
Councillor Adair	Councillor McRandal (Vice Chair)
Councillor Brooks	Councillor Moore
Councillor Cathcart	Councillor P Smith
Councillor Cooper	Councillor Thompson
Councillor Kennedy	Councillor Walker

ARDS AND NORTH DOWN BOROUGH COUNCIL

A meeting of the Planning Committee was held virtually on Tuesday, 5 July 2022 at 7.00 pm via Zoom.

PRESENT:

In the Chair: Alderman Gibson

Aldermen: Keery
McIlveen

Councillors:	Adair	McKee
	Brooks	McRandal
	Cathcart	Moore
	McAlpine	Thompson
	McClellan	Walker

Officers: Director of Regeneration, Development and Planning (S McCullough), Head of Planning (A McCullough) Principal Professional and Technical Officer (G Kerr) and Democratic Services Officers (H Loebnau and S McCrea)

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE MEETINGS HELD ON 19 MAY 2022 AND 7 JUNE 2022

PREVIOUSLY CIRCULATED:- Minutes of the Meetings.

RECOMMENDED that the minutes be noted.

AGREED, on the proposal of Councillor Cathcart, seconded by Councillor Thompson, that the minutes be noted.

4. PLANNING APPLICATIONS

4.1 LA06/2019/1007/F - Retention of a fence and gate surrounding an existing pumping station (Retrospective) Seacourt WWPS

(Appendix I & II)

PREVIOUSLY CIRCULATED: Report and Addendum outlining the planning application.

DEA: Bangor

Committee Interest: It was a Local development application attracting six or more separate individual objections which were contrary to the officer's recommendation.

Proposal: Retention of a fence and gate surrounding an existing pumping station (Retrospective)

Site Location: Seacourt WWPS, Lands 20m North of 1 Seacourt Lane, Bangor

Recommendation: Approval

The application was deferred from 5 April 2022 Planning Committee Meeting to seek legal advice. Queries related to liability if planning permission was refused, if health and safety was a material consideration and, appropriate planning grounds if minded to refuse due to the adverse effects fence and gate could cause to visual amenity, quality and character of the area, particularly due to its sensitive location 51 objections originally received with a further 6 objections received since amended drawings were submitted (5 of the 6 previously objecting to original proposal).

RECOMMENDED that the Committee considers the report and makes a proposal on the application accordingly.

The Head of Planning began by suggesting that Members would be familiar with the application since it had been before the committee a number of times. This was to review the application at Seacourt Waste Water Treatment Works Pumping Station since the development application had attracted six or more separate individual objections which were contrary to the officers' recommendation.

Members understood that at April's Planning Committee the decision was deferred to allow officers to obtain legal advice on three explicit points as follows:

- i. Would the Council be held liable in terms of health and safety if the application were refused;
- ii. Was health and safety a material planning consideration; and
- iii. What planning grounds would be appropriate to base any proposed refusal on.

The responses to those were set out in the Addendum before Members and she drew attention specifically to paragraph 5 in terms of a refusal taking account of the above which she read out.

Members, when taking account of the SPPS, should consider whether the adverse visual impact caused by the proposal caused demonstrable harm to interests of acknowledged importance namely the designations contained in the draft BMAP i.e. the Belfast Metropolitan Area Coastal Area and Wilson's Point LLPA and it was to those material considerations that Members could afford to give weight given the harm Members felt was caused in terms of visual and amenity of the area.

She referred to the revised recommendation within the Addendum which requested Members to consider the detail outlined in it, including the answers to those specific points on which they received the legal advice and to make a proposal on the application accordingly.

Proposed by Councillor McClean, seconded by Councillor Cathcart, that the recommendation be adopted and that planning permission be refused.

Councillor McClean believed that the committee was now in a position to take a proposal to refuse under the headings that were listed in the legal advice specifically COU4 under draft BMAP and ENV3 of draft BMAP. Under COU4 none of the conditions had been met and neither had they been under ENV3 of draft BMAP relating to the three areas of specific importance namely the Wilson's Point Local Landscape Policy Area and the Belfast Metropolitan Area Coastal Area.

The Member went on to suggest that the legal advice was welcome and when it came to planning policy it was not expected always to be in accordance with common sense but in this instance it clearly was. The planning advice was separated in to three areas and one was on liability and it seemed there was a comfort that there was no liability on the Council for this and the Planning Committee was simply considering the application under planning reasons only. He pointed out that the legal advice had not strayed into the interesting question of whether or not a potential claim could cause the Committee to vote in a way that it might not otherwise have voted under the planning guidance.

The fence was intended to 'fix' a problem that had existed for a long time prior to its erection and even that, he considered, went too far because the degree of danger was also contested. While it was fine that the Committee pay heed to health and safety undue weight should not be attached to it. The Councillor understood the position that NI Water had taken in respect of liability but thought health and safety was being taken far too seriously within the application. He pointed out that there were other areas on the coastal path that were more or less dangerous and it would not be acceptable to have the coastal path completely shuttered off from the sea in order to keep people safe and avoid potential liability.

He considered that it was the role of the Planning Service to be concerned about the visual amenity of areas in which people lived and played.

Councillor Cathcart stated that he was happy to support that recommendation to refuse planning permission. It had been acknowledged in the planning officer's report that there was a visual impact, and everyone would agree on that the question was how much weight should be given to that. He reminded Members that when NI Water had been invited to the Committee to discuss the health and safety concerns it was unable to provide real evidence. The pumping station had been there for some considerable time, and it was odd that NI Water had gone ahead without seeking advice on whether or not the application needed planning permission. The organisation had also told the Council that it took a zero-risk policy when it came to health and safety and showed no balance of risk against visual impact. The visual impact was currently extensive not just from the path itself but from as far away as

Eisenhower Pier and onwards. The sheer number of objections showed the public importance of the site and the harm that the fence would do in relation to it. Since it was already built it was obvious to people the impact that it was having. He encouraged Members to back this proposal and reject the application.

The Head of Planning asked for clarification on the planning policy the Members were proposing to reject the application and Councillor McClean stated that it was contrary to Policy COU4 and ENV3 of draft BMAP in that the proposal was not of such national or regional importance to outweigh any potential detriment and it could not be demonstrated that the proposal improved the quality of the coastal landscape. It also caused detrimental harm to Wilson's Point LLPA and was recognised to adversely affect the enjoyment of the North Down Coastal Path in respect of environmental quality, integrity and character.

RESOLVED, on the proposal of Councillor McClean, seconded by Councillor Cathcart, that the recommendation be adopted and that planning permission be refused.

4.2 LA06/2019/0371/F - Replacement of wind turbine approved under LA06/2020/0384/F with a Vestas V52 model with 50m hub height and 26m blade span (Lisbane)
(Appendix III)

PREVIOUSLY CIRCULATED: - Report outlining the planning application.

DEA: Comber

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

Proposal: Replacement of wind turbine approved under LA06/2020/0384/F with a Vestas V52 model with 50m hub height and 26m blade span

Site Location: Land approximately 150m SE of 32a Lisbarnet Road, Lisbane

Recommendation: Approval

The original permission for the turbine was granted on 11 March 2013 under X/2011/0617/F with a hub height of 37m. A subsequent application was submitted under LA06/2020/0384/F (Retention of wind turbine with a 30m hub and 26m rotor diameter with an output of 250KW (changed from 37m hub and 27m rotor diameter – previously approved under application X/2011/0617/F) approved 15/09/21. Constructed on site.

The proposal at the time of writing sought to replace the existing turbine on the site granted 15 September 2021. There was a presumption in favour of renewable energy development provided the proposal did not cause demonstrable harm to interests of acknowledged importance.

SPPS stated wider environmental, economic and social benefits of all renewable energy proposals where material considerations that would be given appropriate weight in determining whether planning permission was to be granted. There were 19 objections from 10 separate addresses and one letter of support.

All material issues raised were addressed in the case officer's report.

RECOMMENDED that the Council approve the recommendation and agree planning permission.

The Principal Professional and Technical Officer explained that this was for the replacement of a wind turbine approved under LA06/2020/0384/F with a Vestas V52 model with 50m hub height and 26m blade span at lands approximately 150m SE of 32a Lisbarnet Road, Lisbane, within Comber DEA.

The application was before Members as there were six or more objections associated with the proposal with there being 19 objections from 10 addresses as detailed on the covering page of the case officer report which superseded the reference to 18 objections on page 17 of the Case Officer's Report.

Members should note that the planning history associated with the site was relevant as there was already a turbine on the site granted planning permission on 15 September 2021 under planning reference LA06/2020/0384/F - with a 30m hub and 26m rotor diameter.

All consultees were content with the proposal and the recommendation was to grant planning permission.

Members should note that there was a representative present at the meeting in support of the proposal should any matters require additional clarification.

The site was located within the countryside with a surrounding landscape of rolling drumlins. The site was located approximately 366m from the roadside in an agricultural field adjacent to the outbuildings/dwellings associated with 32 Lisbarnet Road. The land rose in a south-easterly direction, with the turbine located on the side of a drumlin peak.

To provide further context of the site and area the officer took Members through slides showing photographs of the area.

The main critical viewpoints of the proposal would be from the Manor Road, Lisbarnet Road and Killinchy Road. When travelling north along the Killinchy Road, the existing turbine was visible from a distance of 700m. Continuing north towards Lisbane, the blades remained visible with the tubular tower largely screened by the mature trees which were planted between the site and the Killinchy Road. Those trees would also help to restrict views of the replacement turbine. Given the separation distance and intervening vegetation, it was considered that the landscape had the capacity to absorb the replacement turbine when viewed from vantage points along the Killinchy Road.

There were glimpses of the existing turbine from the Ballybunden Road at a distance however views were limited due to the distance of the turbine from the road, the topography of the land and intervening vegetation.

From the Ballybunden Road there were limited views of the existing turbine due to the intervening drumlins and vegetation. A larger turbine would become more visible however that vantage point was a considerable distance from the site. From this vantage point the electricity poles would remain a feature of the landscape occupying drumlin tops. The SPG recognised that proximity to existing man-made structures could be beneficial in the siting of turbines as the landscape often had a greater ability to accommodate such development.

When travelling along the Lisbarnet Road from Kilmood, medium to longer range views of the existing turbine were visible from around 44 Lisbarnet Road. A larger turbine would be visible from further afield however the views would be at a distance which would reduce the overall visual impact.

From the junction of the Lisbarnet Road and Manor Road driving towards Lisbane, the existing turbine, whilst visible, did not appear out of scale with the existing landform due to the distance from the road and its position off the peak of the drumlin. It was considered that the replacement turbine, whilst taller, would be a similar feature to the existing turbine and would not be overly obtrusive or dominant in the landscape.

On leaving Lisbane, on the Lisbarnet Road, the blades of the existing turbine were firstly visible for a short distance behind the trees to the rear of Lisbane Surgery. Due to the intervening roadside vegetation, buildings and drumlin topography it was considered that views of the replacement turbine from Lisbane would be limited to the upper portion of turbine hub and blade tips.

HED was consulted on the proposal due to the presence of some listed buildings in the wider area and it offered no objections with regards to the potential impact, one of which was being the Church of Ireland Church located on Kilmood Church Road. Taken from various vantage points although the increase in scale would be apparent, the turbine was located a considerable distance from the surrounding road network with the closest main vantage point on the Lisbarnet Road approximately 380m distance from the site. Undoubtedly the replacement turbine would be visually evident in the landscape, however the Best Practice Guide (BPG) to PPS18 acknowledged that it would normally be unrealistic to conceal a wind turbine. Rather it was an assessment of the capacity of the landscape to absorb the development with appropriate weight applied to the wider benefits of the renewable energy development.

Planning Policy Statement 18: Renewable Energy (PPS 18)

PPS 18 was relevant and was supported by a Best Practice Guide (BPG) and by Supplementary Planning Guidance entitled "The Northern Ireland Regional Landscape Character Assessment" (SPG).

The aim of PPS 18, set out in Paragraph 3.1, was to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's (NI) renewable energy targets of 40% of electricity being provided by renewable sources by 2020.

The overall thrust of the document was supportive of renewable energy developments with the headnote of RE1 making it clear that development that generated energy from renewable resources would be permitted provided the proposal would not result in an unacceptable adverse impact on a number of specific criteria. Therefore, there was a presumption in favour of renewable energy development provided the proposal did not cause demonstrable harm to interests of acknowledged importance.

The supporting information submitted with the application highlighted that the proposal to amend the turbine dimensions and model was to facilitate a more efficient generation of renewable energy on the site. The supporting document further outlined that the proposed V52 model would enable the efficient harnessing of wind, and a greater windswept area would generate a higher yield of renewable energy in the interests of wider socio-economic and environmental benefits.

The applicant asserted that the wider environmental, economic and social benefits associated with the replacement turbine included a 300% increase in energy production, the provision of power to an additional 203 homes and the potential reduction in CO2 emissions.

Regarding the wind turbine it comprised of a tubular tower with three rotor blades, finished white/grey in colour and had an overall height of 76m to blade tip. The existing utility boxes located on the south-western boundary of the field were not to be amended as part of this planning proposal.

The proposed turbine had a hub height 50m which was 20m higher than the hub height of the existing turbine. The blades would double in length from 26m to 52m rotor diameter. The overall height to tip would be 76m.

The site was not located in a designated landscape and would not have an unacceptable adverse impact on historic or built heritage sites. The replacement turbine was a larger structure to the existing turbine on the site; however, the new turbine would be similar in appearance to the established physical feature in that landscape. Whilst the scale of the turbine was large, it was not so excessive as to be comparable to modern wind farm developments in either tower height, blade length or overall height. The undulating nature of the surrounding landscape, meandering nature of the road network and intervening vegetation would reduce the impact of the replacement turbine on visual amenity and landscape character.

Objections to the proposal included the visual impact of the proposed turbine, noise of the existing turbine, shadow flicker lasting up to 20 minutes at a time (to be fitted with a sensor to stop turbine), impact on wildlife (bat survey submitted), *Risk to health and wellbeing and reference to a report in the Telegraph by Ian Johnston*, no specific clinical evidence had been submitted by any third party to support an objection based on potential health impacts. The report referred to was not planning policy and therefore little weight could be attached to it.

The Environmental Health Department considered an Acoustic Report prepared by Grainger Acoustics. The noise predictions indicated that the predicted noise levels at any receptor did not exceed either day or night-time limits when assessed as per

the ETSU-R- 97 guidance. There were no other turbines in close proximity to the site which would result in a cumulative impact in relation to sound. Noise conditions would be attached to any potential approval of the application to protect the noise amenity of nearby noise sensitive receptors. Environmental Health offered no objection in regards the potential noise impact on the neighbouring dwellings.

Shadow flicker

The greatest impacts were predicted to be at two dwellings which were identified as financially involved in the proposal. The report stated that results had been assessed as a '**worst-case**' scenario. No dwelling lay within the excess of 30 minutes shadow flicker which was considered to be in excess in guidance of what was considered to be unacceptable. A mechanism was to be fitted to the turbine which would cease its functioning when shadow flicker occurred which would mitigate effects on any affected receptors. That would be a condition on any approval given.

In summary, it was acknowledged that wind turbines were a prominent feature and could not be hidden as it were within a landscape. Given the presence of an existing turbine on site, taking into account the relevant policy and no objections from any consultees the recommendation was to grant planning permission.

Proposed by Alderman Keery, seconded by Councillor McKee, that the officer's recommendation be adopted and that planning permission be granted.

RESOLVED, on the proposal of Alderman Keery, seconded by Councillor McKee, that the recommendation be adopted and that planning permission be granted.

4.3 LA06/2022/0021/F - Change of use (temporary for 3 years) of parking spaces to parklet (consisting of planters and area for public seating (Frances St, Ards) (Appendix IV)

PREVIOUSLY CIRCULATED: -

DEA: Newtownards

Committee Interest An application made by the Council

Proposal: Change of use of car parking spaces to parklet (consisting of planters and area for public seating)

Site Location: To the front of 22 Frances Street, Newtownards

Recommendation: Approval

The parklet is 11m long and 2m wide. DFI Roads provided no objection in terms of road and pedestrian safety. One objection has been received. Matters raised relate to the loss of car parking and impact on amenity. All material issues considered in COR Condition recommended to ensure parklet is removed and land restored to its former condition within three years.

RECOMMENDED that Council approves.

The Principal Professional and Technical Officer presented slides to Members, explaining that the following three items were regarding the use parking spaces as parklets for a temporary period of three years which would consist of planters and an area of public seating.

Item 4.3's application was before the Planning Committee as it was a Council application. Members should note that a reference had been made to High Street within the COR at page two. The recommendation was to grant planning permission. One letter of objection had been received. The main areas of concern were in relation to parking and potential anti-social behaviour. Matters that were raised had been addressed in the case officer's report.

The site was to occupy a location on Frances Street in the town centre and prime retail core within a commercial area with residential in proximity. No objections had been received from Environmental Health.

Of one slide presented, the proposed footprint of the parklet was shown with an 11x2 metre area that was approximate to two car parking spaces. The scale would not detract from adjacent buildings and would not be a dominant feature of the street. Overall, it was not considered the proposal would detract from the surrounding character of the area, in particular the Town Hall which was a Listed Building.

The impact on road safety and parking had been considered in the case officer's report. The proposal would result in the loss of two existing car parking spaces, however, given the temporary nature of the development and proximity of the site to alternative parking provision (consisting of both on-street and carpark) on balance it was considered that the loss of two parking spaces would not be of such significance as to warrant refusal. DFI Roads had been consulted and did not consider the proposal to prejudice the safety of road users and pedestrians (subject to several conditions.) The parklet was proposed for a temporary period and a condition could be added to ensure it removed and land restored to its former condition within three years.

RESOLVED, on the proposal of Councillor McClean, seconded by Councillor McKee that the recommendation be adopted and planning permission be granted.

4.4 LA06/2022/0022/F - Change of use (temporary for 3 years) of parking spaces to parklet (consisting of planters and area for public seating (Regent St, Ards)
(Appendix V)

PREVIOUSLY CIRCULATED: -

DEA: Newtownards

Committee Interest An application made by the Council

Proposal: Change of use of car parking spaces to parklet (consisting of planters and area for public seating)

Site Location: 5-7 Regent Street, Newtownards

Recommendation: Approval

The parklet was 11m long and 2m wide. DFI Roads provided no objection in terms of road and pedestrian safety. No objections were received from members of the public. Condition recommended to ensure parklet was removed and land restored to its former condition within three years.

The Principal Professional and Technical Officer presented slides to Members, explaining that this was an application for change of use of land to a parklet for a temporary period of three years which would consist of planters and an area for public seating. The site was due to be located at 5-7 Regent Street, Newtownards and was before the Planning Committee as it was a Council application. There had been no objections to the proposal and the recommendation had been to approve planning permission. Members were asked to note that there was a reference to High Street within the COR at page two which should have read Regent Street. The parking spaces were located on Regent Street which was lined on both sides by mainly independent shops, some offices and on-street carparking. The site was adjacent to the public footpath and outside a café and a small office building. It was an exclusively commercial area with no residential properties nearby.

The proposed parklet was 11x2 metres and located within the town centre and prime retail core. Environmental Health raised no objections. The impact on road safety and parking had been fully considered in the case officer's report. The proposal would result in the loss of approximately three existing parking spaces and, given the temporary nature of the development and proximity to alternative parking provisions (both on-street and in carparks) on balance, it was considered that the loss of parking spaces was not of such significance as to warrant refusal of the application. DFI Roads had been consulted and did not consider the proposal to prejudice safety of road users and pedestrians (subject to a number of conditions.)

The parklet was proposed for a temporary period and a condition could be added to ensure its removal and land restored to its former condition within three years. Having considered all material planning matters, it was recommended that the application should be approved.

Proposed by Alderman McIlveen, seconded by Councillor McRandal, that the recommendation be adopted and planning permission be approved

Alderman McIlveen advised that the parklets had been part of the vision of the Newtownards Chamber of Commerce to try and improve the town. The concept itself was born through Covid-19 safety measures and it had been disappointing that it had taken so long for such proposals to make their way through the system, however, it should be noted that such was not the fault of the Planning Team, but instead an issue of how the Department for Infrastructure approached such matters. Such delays would appear to provide a complete lack of support to the restaurant and hospitality trade who, at some stages throughout the pandemic, were unable to sell their wares without provision of outdoor areas. However, he was pleased to see some movement had finally occurred and believed it could provide much needed assistance in the event of any dangerous Coronavirus spikes in the future.

RESOLVED, on the proposal of Alderman McIlveen, seconded by Councillor McRandal, that the recommendation be adopted and planning permission be approved.

4.5 LA06/2021/1367/F - Change of use (temporary for 3 years) of parking spaces to parklet (consisting of planters and area for public seating (High St, Ards)
(Appendix VI)

PREVIOUSLY CIRCULATED: -

DEA: Newtownards

Committee Interest An application made by the Council

Proposal: Change of use of car parking spaces to parklet (consisting of planters and area for public seating)

Site Location: To front of 44a-46 High Street, Newtownards

Recommendation: Approval

The parklet was 11m long and 2m wide. DFI Roads provided no objection in terms of road and pedestrian safety. No objections were received from members of the public. Condition recommended to ensure parklet was removed and land restored to its former condition within three years.

In presenting slides to Members, the Principal Professional and Technical Officer outlined the change of land use to a parklet for a temporary period of three years; one that would consist of planters and an area of public seating being located to the front of 44a-46 High Street, Newtownards. The application was before the Planning Committee as it was a Council application. No objections had been received in relation to the proposal and the recommendation was to grant planning permission. At the time of writing, the site consisted of a couple of on-street carparking spaces in the town centre and Primary Retail Core of Newtownards. The parking spaces were located on the High Street which was lined on both sides by mainly independent commercial premises and on-street parking. The site was adjacent to the public footpath and outside a café and estate agents. The area was also exclusively commercial with no residential properties nearby.

As with the previous outlined parklets, the proposal was to use a footprint of 11x2m which would approximate to the area of three car parking spaces. Environmental Health had been consulted and no objections were raised.

The parklet was proposed for a temporary period and a condition could be added to ensure it was removed and land restored to its former condition within three years. Having considered all material planning matters, it was recommended that the application was approved.

Proposed by Alderman McIlveen, seconded by Councillor McRandal, that the recommendation be adopted, and that planning permission be approved.

Alderman McIlveen referred to his comments on the previous application being just as relevant to this parklet.

RESOLVED, on the proposal of Alderman McIlveen, seconded by Councillor McRandal that the recommendation be adopted and planning permission be approved.

5. UPDATE ON PLANNING APPEALS

(Appendix VII)

PREVIOUSLY CIRCULATED: - Report from the Head of Planning detailing that the following appeal was dismissed on 24 May 2022.

Appeal reference:	2021/A0040
Application Reference:	LA06/2015/0490/F
Appeal by:	Mr David Bryce
Subject of Appeal:	Installation of a 150kw wind turbine on a tubular tower with a hub height of 24m and blades with a rotor diameter of 24m and associated site works and equipment.
Location:	Lands 151m North of 24 Lisbane Road, Comber

The Council refused this application on the 13 April 2021 for the following reasons:

- The proposal would, if permitted, be contrary to the Strategic Planning Policy Statement (6.224) and Policy RE1 of PPS 18: Renewable Energy in that it had not been demonstrated that the development would not have an unacceptable impact on visual amenity and landscape character through the scale, size and siting of the turbine.
- The proposal would, if permitted, be contrary to Policy NH6 of Planning Policy Statement 2 in that its siting and scale failed to be sympathetic to the special character of the Area of Outstanding Natural Beauty in general, and of the particular locality, and would not respect or conserve features of importance to the character, appearance or heritage of the landscape.

The main issues raised by this appeal related to the impact of the proposal on tourism, residential amenity, visual amenity, and landscape character, including the special landscape character of the Strangford and Lecale Area of Outstanding Natural Beauty (AONB).

The Commissioner concluded that the turbine would appear as an unduly prominent and discordant element within the surrounding landscape and would have an unacceptable adverse impact on visual amenity and the landscape character of that part of the AONB.

It was accepted that Strangford Lough was a feature of intrinsic interest to tourists. However, the evidence presented did not persuade the Commissioner that the proposed turbine would have an impact so great as to significantly compromise the tourism value of an asset the size of Strangford Lough. Objections on tourism

grounds were not sustained.

The wider environmental, economic, and social benefits of all proposals for renewable energy projects were acknowledged, but in this case the appropriate weight they attracted was outweighed by the unacceptable adverse impact the proposal would have on visual amenity, landscape character and the AONB and would fail to comply with criterion (b) of Policy RE1 of PPS 18 and criterion (a) of Policy NH 6 of PPS 2.

Both the Council's reasons for refusal and the related upheld objections of third parties were sustained.

The decision was attached to this report.

New Appeals Lodged

1. No new appeals have been lodged since the date of the previous report.

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

RECOMMENDED that the Council notes this report.

The Head of Planning reminded Members that one appeal had been dismissed since the last report for a wind turbine and explained the difference between that and Item 4.1 being that the proposed site was to be located one kilometre inland from Strangford lough and fell within an area of outstanding beauty. The Commissioner had sustained the Council's reasoning for refusal.

AGREED TO RECOMMEND, on the proposal of Councillor McClean, seconded by Alderman McIlveen, that the recommendation be adopted and report noted.

6. QUARTER 4 PERFORMANCE REPORT (Appendix)

PREVIOUSLY CIRCULATED: - Report from the Head of Planning detailing that Members would be aware that the Council was required, under the Local Government Act 2014, to have in place arrangements to secure continuous improvement in the exercise of its functions. To fulfil that requirement Council approved the Performance Management Policy and Handbook in October 2015. The Performance Management Handbook outlined 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 2021)
- Service Plan – developed annually (approved April/May 2021)

The Council's Service Plans outlined how each respective Service would contribute to the achievement of the Corporate objectives including, but not limited to, any relevant actions identified in the PIP. The report for Quarter 4 2021-22 was attached.

Key points to note: See table below for cumulative year.

Year	Quarter	Majors			Locals				Enforcement		
		Applications received	Decided	Average Processing Time (wks)	Applications received	Decided	Average Processing Time (wks)	% cases processed <= 15 wks	Cases Opened	Cases Concluded	Target 70% in 39 wks
2021/22	1	1	3	158.8	314	289	19.1	39.9%	105	118	31.1%
	2	1	1	110.8	263	218	20.2	28.9%	87	84	42.9%
	3	2	1	98.4	251	279	24.4	31.7%	84	82	42.7%
	4	2	1	30.2	250	228	25.9	24.8%	98	131	45.8%
TOTAL		6	6	104.6	1078	1014	22.4	31.9%	374	415	41.0%

A number of factors had affected performance over the past year, as follows:

- Unavailability of the Planning Portal for a number of weeks pre-Christmas 2021 and into the new year.
- Dealing with number of older cases in parallel with new cases.
- Ineffectiveness and resourcing of statutory consultees.
- NIW infrastructure issues.
- Continued and repeated objections to proposals.
- Ensuring robustness of EIA screening.
- Social distancing measures affecting numbers of staff in office; and
- Delegated list issuing on a Tuesday (reverting to Mondays from July).

Whilst cognisant of the above, and of ongoing performance improvement measures being considered in the light of the NI Audit Report and Public Accounts Committee Report, further staff training was taking place to ensure that consultations on applications were necessary, review of whether the Good Practice Guide with its Application Checklists was effective in trying to encourage appropriate frontloading, and continued review of proportionality of case officer reports. Additionally, in the light of recent revised government guidance, officers would be physically present in the office on a more regular basis which would assist the administrative team in relation to relevant processing associated with cases. Ongoing recruitment was underway to address vacancies and associated knock-on impacts from resignations and other absences.

RECOMMENDED that Council notes this report.

The Head of Planning expressed disappointment at the figures within the report, citing how some targets had been affected by Covid-19 and reallocation of staff for planning applications. A list of factors had been produced which identified several serious issues such as staff absences in the administration team as well as professional and technical areas. Resignations, long term sickness, interchange opportunities and backfilling had all fed into difficulties felt by the Department. External influences also affected productivities such as the Department for Infrastructure, DAERA and NIEA whilst NI Water had been increasing recommendations for refusal regarding combined sewers and all the while, pressures increased on the Planning Officers.

Working from home had not been completely successful as social distancing measures had meant teams were separated with individuals only able to attend the office for some tasks and in limited numbers; an operating style that had led to delays.

There were also concerns with the timing, implementation and rollout of new IT systems for the Planning Portal. Some staff would be upskilled as trainers to deliver training amongst staff however no alpha or beta testing models had been supplied to allow staff to test software. In addition, concerns existed with the backlog of work that would accumulate due to staff inability to process work during the first number of weeks of the system being implemented.

In response to Councillor Cathcart's question of managing to keep planning applications going through within the target of eight weeks, the Head of Planning explained that the North Down area received many objections and that the job itself was quite repetitive which required swapping staff (a year's tenure). When a new staff member took charge of the job, they would have to clear a back log of existing cases then manage the new allocations. There were not enough staff to have a dedicated worker and with a mix of part-time (three days per week), it had been difficult to manage throughput. Councillor Cathcart believed it would be necessary to add those issues to a general planning committee review. The Head of Planning agreed, especially whilst considering recommendations of the level of delegation in planning and overturns in the report. An example was given of items being placed on the delegated list in the week prior to a planning meeting which would have to await the following month's meeting; something that would add five weeks onto the waiting time with potentials of them being deferred. It may also be wise to look at the scheme of delegations. With consideration given to the number of objections received from the public and how they were managed, a workshop with Members may too be beneficial. Councillor Cathcart wished the Council to do everything within its power, citing that effective planning could help with speeding up the local economy.

Councillor Moore asked if there was a benchmark that could be used against other councils in the difficulties they experienced and in addition, queried if some of the operational issues might be down to lack of talent, difficulties with partnerships and strategies that could be used to assist. The Head of Planning cautioned against using the quarterly report's published statistics as a benchmark against other councils as it did not state how many members of staff were assigned departmentally, monies available to those departments or the level and difficulty of applications. For example, Mid & East Antrim received many straightforward, low level planning applications that could be dealt with expediently. Some of the ANDBC council officers had been trying to address issues through monthly meetings with statutory consultees. In regard to the latter question over talent acquisition, the Head of Planning suggested trying alternative avenues such as UU or Queens University. From previous experience at the DOE, she recalled summer students being used to alleviate pressures; something the council did not do. Some staff members had also been lost to private planning consultancy agencies, seemingly due to the incentivisation offered, and it may be that the Council needed to investigate its own incentives to ensure the appropriate, qualified staff were sourced.

At this stage, it was noted that Councillor Cathcart would propose to adopt the report, seconded by Alderman McIlveen.

Alderman McIlveen was aware of the difficulties associated with the Department for Infrastructure's departments and recalled the Head of Planning speaking of EIA who he explained still did not have appropriate guidance in place. He believed if the Department took care to enforce powers under legislation, it would assist as so too would their monitoring for compliance. Regarding the Planning Portal, Alderman McIlveen felt it bizarre that no contingency planning or soft launch was available given it had been planned for years and wondered whether Mid Ulster's choice to independently work upon its own technology would have been the better option. He asked what the rationale behind the sudden precipice from one technology to another had been. The Head of Planning highlighted that a three-week system outage had occurred when the current system had been put in place at April 2015 with a significant backlog. It was a known issue and one that was hoped could be alleviated somewhat in being part of the second wave of Councils to go live with the programme whereby this Council could learn from the issues experienced by those that went live with the first wave. The company in charge of setting it up was met with several issues with the original, minimal viable product, made that much more difficult by an underestimate by the Department of Infrastructure as to how much data would require transfer by Councils. Additionally, OSNI raised issues at a late stage over the royalties due from maps which had led the Department for Infrastructure to begin work on emergency legislation for map fees. Other issues included DAERA's systems having difficulties communicating with the new system despite having been aware of the issue from 2015 and having nothing in place. The current system used by the Council was quite outdated and failed daily. Its provider gave a final extension to the contract to the end of December 2022 at significant cost.

If the Council did not have systems up and running, a contingency may be the requirement to return to pen and paper. Pressures had continued to grow on the Planning Department with a number of processes now running parallel instead of dependently with training and user acceptance placing further strains of the Administration Officers. Regarding Alderman McIlveen's comment of Mid Ulster's independent approach, the Head of Planning advised that the system it had put in place was not up to the same standards expected of the new Portal, with no intuitive validation checklists and submission of revised plans being required on paper.

AGREED TO RECOMMEND, on the proposal of Councillor Cathcart, seconded by Alderman McIlveen, that the recommendation be agreed, and the report noted.

7. METROPOLITAN WORKING GROUP FOR LOCAL DEVELOPMENT (LDP)
(Appendix VIII)

PREVIOUSLY CIRCULATED: - Report from the Head of Planning detailing that the Department for Infrastructure (DfI) guidance suggested that collaboration between councils in plan-making was important to the soundness of each LDP, which was

assessed through the independent examination procedure. The soundness assessment methodology included a 'consistency test' that explored whether the LDP had given due regard to other relevant plans, policies and strategies relating to any adjoining council's district.

Metropolitan Spatial Working Group (MASWG)

A working group across councils in the Metropolitan area to support the ongoing LDP process (Belfast City Council, Antrim and Newtownabbey Borough Council, Lisburn and Castlereagh City Council, and Ards and North Down Borough Council) was established in 2017 by Belfast City Council (BCC). It was envisaged to provide a mechanism to include the sharing of information and seek, as far as possible, to agree a common approach to LDP policies, objectives and proposals in an effort to minimise the potential for conflicts between individual LDPs. The Working Group included Members and officers and met quarterly.

The Council nominated Aldermen Gibson and McDowell to represent ANDBC on that working group. With the resignation of Alderman McDowell from the Planning Committee it was necessary to nominate another Member to attend.

The existing Terms of Reference for the Group were appended for the information of Members.

RECOMMENDED that the Council notes the content of the report including attached terms of reference and nominates a replacement member to serve on the working group.

The Head of Planning informed Members of Alderman McDowell's and Alderman Gibson's cooperation and assistance. The working group was set up to share information for future planning. Since Alderman McDowell was no longer part of the LDP group, a replacement member was to be sought.

AGREED TO RECOMMEND, on the proposal of Councillor McAlpine, seconded by Councillor Moore that the recommendation be adopted and that Councillor McRandal be the replacement member on the LDP team.

EXCLUSION OF PUBLIC/PRESS

AGREED, on the proposal of Alderman McIlveen, seconded by Councillor McClean, that the public/press be excluded during the discussion of the undernoted item of confidential business at 20:11.

8. NEW REGIONAL PLANNING IT SYSTEM (Appendix IX)

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

NOT FOR PUBLICATION

SCHEDULE 6 – INFORMATION RELATING TO THE FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON (INCLUDING THE COUNCIL HOLDING THAT INFORMATION)

RE-ADMITTANCE OF PUBLIC/PRESS

AGREED, on the proposal of Councillor Cathcart, seconded by Councillor McAlpine, that the public/press be re-admitted to the meeting at 20:31.

TERMINATION OF MEETING

The meeting terminated at 20.32.

ITEM 4.1

Ards and North Down Borough Council

Application Ref	LA06/2021/1214/O
Proposal	Replacement Dwelling
Location	40m North of 23 Ardview Road, Killinchy DEA: Comber
Committee Interest	<p>A Local development application 'called-in' to Planning Committee from the delegated list w/c 27 June by a member of that Committee - Called in by Ald McIlveen:</p> <p><i>To determine whether the building to be replaced exhibits the essential characteristics of a dwelling and if the committee would consider the external structural walls to be substantially intact as required under policy CTY3 of PPS21 and would therefore meet the criteria for one of the exceptions under CTY1 of PPS21.</i></p>
Validated	28/10/21
Summary	<ul style="list-style-type: none"> • Site located in countryside therefore PPS 21 applies • Site located in Strangford & Lecale Area of Outstanding Natural Beauty • Replacement dwellings considered under Policy CTY 3 of PPS 3 which requires the building to be replaced to exhibit the essential characteristics of a dwelling, and <u>as a minimum</u> (emphasis added) all external structural walls are substantially intact • Planning Service considers that as internal walls are not intact, it is difficult to determine if building exhibits characteristics of a dwelling • It is also considered that, in line with previous PAC decisions, the external structural walls cannot be described as being substantially intact • The application is, therefore, considered to fail to comply with Policy CTY 3 and, therefore, cannot comply with Policy CTY 1 as an exception to policy.
Recommendation	Refusal
Attachment	Item 4.1a – Case Officer Report

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2021/1214/O	DEA: Comber	
Proposal:	Replacement dwelling		
Location:	40m north of 23 Ardview Road, Killinchy		
Applicant:	Mr L Neill		
Date valid:	28/10/2021	EIA Screening Required:	Yes
Date last advertised:	11/11/2021	Date last neighbour notified:	11/05/2022
Letters of Support: 0		Letters of Objection: 0	Petitions: 0
Consultations – synopsis of responses:			
DFI Roads		No objection subj to condition	
NI Water		Advice and Guidance	
NIEA: WMU		Content subj to condition	
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Visual Amenity • Impact of the proposal on the character of the countryside • Impact on Biodiversity • Access & 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 Planning Portal https://epicpublic.planningni.gov.uk/publicaccess/			

1. Site and Surrounding Area

The application site is located 40m north of 23 Ardview Road, Killinchy. The application site consists of a stone structure within an existing field. The structure is small in scale and has remnants of stone walls as seen in the pictures below. There is no roof on the structure. It is overgrown with vegetation with a large tree situated within it.



The levels of the site drop to the south. The western boundary is defined by mature field hedgerows. The other boundaries remain undefined.

The site is located in the countryside as shown in the Ards & Down Area Plan 2015 and the surrounding area has a typical rural and agricultural character. The site is located within the Strangford and Lecale Area of outstanding Natural Beauty.

2. Site Location Plan



3. Relevant Planning History

There is no relevant planning history.

4. Planning Assessment

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

- Ards and Down Area Plan 2015 (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

ADAP currently acts as the LDP for this area. Under the provisions of the plan, the site described above is in the Area of Outstanding Natural Beauty and outside any settlement; a Design and Access Statement was submitted as per statutory obligation.

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 a replacement dwelling subject to complying with criteria listed in Policy CTY3. The relevant criteria will be considered in the assessment below.

With reference to the replacement dwellings, the SPPS allows for the replacement of existing dwellings where the building to be replaced exhibits the essential characteristics of a dwelling and, as a minimum all external structural walls are substantially intact. Replacement dwellings must be located within the curtilage of the original dwelling where practicable, or at an alternative position nearby where there are demonstrable benefits in doing so.

Policy CTY 3: Replacement Dwellings

The building is a stone structure with a footprint of 14.3m by 5.5m and is situated parallel the Ardview Road. As the application site is within an existing field, there is no clear curtilage defined around the structure. The structure has no roof and only parts of the stone walls remain intact, with one gable end built almost up to the apex. There is evidence of a chimney and fireplace at one end of the structure, and evidence of two door openings to the front and rear elevation. A significant portion of the walls around these door openings is missing. Upon site inspection, it was not evident where the window openings would have been on this former building. The structure was overgrown with vegetation and had a large tree growing within it.

Within a supporting statement it was stated that *'the subject building was plainly a dwelling. It has three small rooms, and windows and doors which are indicative of domestic use.'* It is difficult to ascertain whether there were three rooms within the structure given the amount of fallen stonework and overgrowth within the building. The Griffith Valuation listing of 1864 indicates that an unoccupied house was present on the site. Given the evidence of a chimney and two door openings, the structure does exhibit some characteristics of a dwelling. However, as previously stated, the internal walls are not substantially intact therefore, I would not be fully convinced the structure exhibits the essential characteristics of a dwelling under the policy.

The agent provided a survey of the remaining walls of the structure and calculated that about 87% of the original walls remain intact. Please see figure 1 below showing how this was calculated.

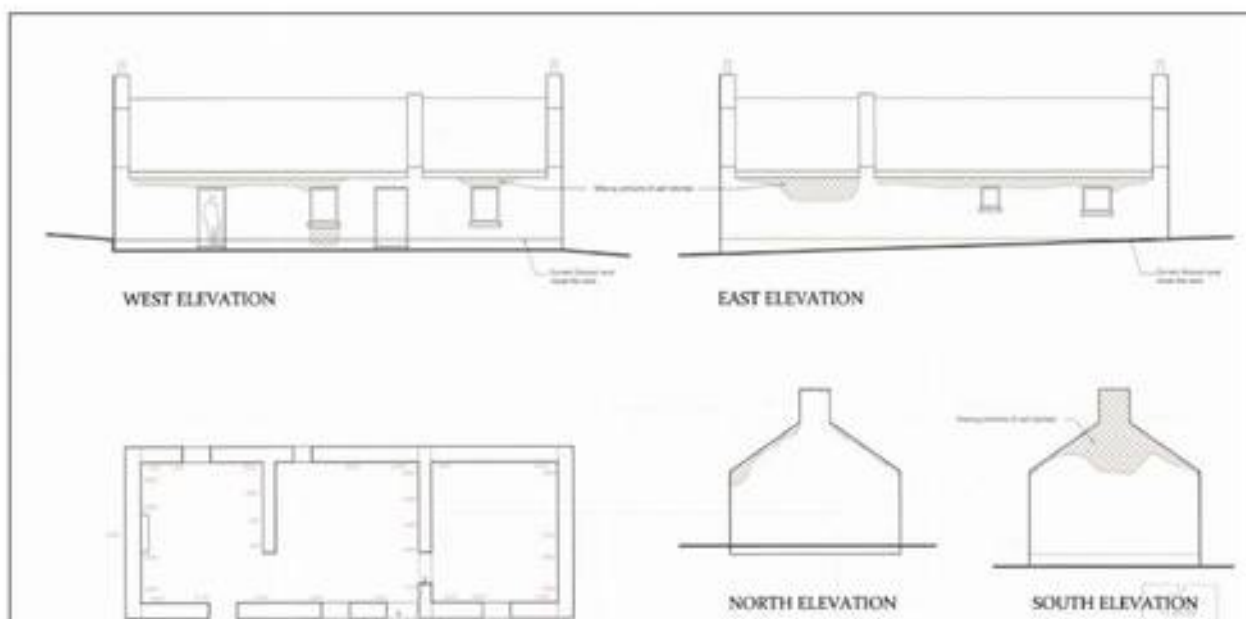


Figure 1: Calculations provided by agent of walls intact

When comparing the above survey of the building with the actual structure on site, I am not of the opinion that the survey is correct given there is no evidence of window openings as shown on these drawings. Whilst one gable wall may be almost intact, I do not consider the other external walls can be described as being substantially intact. The building therefore does not satisfy one of the essential requirements of CTY3 and does not represent a replacement opportunity.

There is no evidence to suggest that the proposal falls into any of the other types of development that are listed as acceptable in principle in the countryside under Policy CTY1 of PPS21. Policy CTY1 indicates that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No overriding reasons have been put forward by the applicant. The proposed dwelling is therefore unacceptable in principle in the countryside.

Integration and Impact on Rural Character

A dwelling on the site could be integrated into the landscape without causing an unacceptable adverse impact on the visual amenity and character of the surrounding rural area. As this is an outline application details of the design and external finishes have not been provided. It is not expected there will be any detrimental impacts as a result of a dwelling being constructed on the site, provided they are designed in accordance with the supplementary planning guidance 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside' and the existing building demolished to avoid suburban style build up. I would consider that a suitably designed dwelling would not be unduly prominent in the landscape. If the application went forward as an approval, a condition restricting the ridge height to 6m would likely be included given the surrounding dwellings are single-storey in nature.

The hedging along the eastern boundary would help with integration and screening. Additional planting and new boundaries defined by post wire and hedging would be required if the application were to go forward as an approval. It would be my intention

that a condition requiring submission of a landscaping plan be submitted with any Reserved Matters application.

The proposal respects the traditional pattern of development and does not add to or create ribbon development, with a condition to demolish the existing building being required if the first policy test was met. The plot size is in-keeping with that of the local area. As this is an outline application the exact design details of the ancillary works have not been provided so it is not possible to ascertain if the impact of ancillary works would damage rural character.

The site is located within Strangford and Lecale AONB. Policy NH6 of PPS 2 states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. A Design and Access Statement was submitted as part of the statement. As this is an outline application the exact design details of the development have not been provided so it is not possible to ascertain if there is an appropriate design, size and scale for the locality.

Sewerage Disposal

The plans show that a septic tank would be used and that the surrounding land is within the control of the applicant. I am satisfied that the sewerage system would be a sufficient distance from third party dwellings and will not result in adverse pollution.

Residential Amenity

As this is an outline application, design details have not been provided therefore residential amenity issues such as overlooking, or loss of light cannot be assessed. If care was taken with the design of the proposed dwelling, with window placement and ridge heights, a dwelling could be placed in this position without causing any unacceptable impact to residential amenity.

Access and Roads Safety

The proposed will involve the creation of a new access off Ardview Road, which is not a protected route. DFI Roads offered no objection in principle but requested a scale plan and accurate survey at 1:500 (minimum) shall be submitted as part of any reserved matters application.

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. The checklist highlighted that the proposed development would involve the loss of some roadside hedgerow in order to provide sight lines and new access for the site. In addition, the existing derelict building would be demolished to allow for a replacement dwelling if the application went forward as an approval. A preliminary ecological appraisal was carried out on the site by a qualified ecologist. The following was concluded and recommended within the report:

- The development plans indicate that a section of the roadside boundary (Boundary B1) will be removed to provide sight lines. Where loss of vegetation

is unavoidable, this should be reinstated and enhanced with compensatory / like-for-like replacement planting. The location of new / replacement hedgerow vegetation should be provided in the development plans for the site.

- The loss of roadside hedgerow is unlikely to have a significant impact on foraging and commuting bats. None of the mature or semi-mature trees contained within the hedgerows or surrounding the existing building were assessed as being suitable for roosting bats. The existing derelict building was assessed as having 'Negligible' bat roosting potential. Therefore, the potential impact of the development on roosting bats was assessed as 'Low' and no further detailed assessments of bat activity are recommended prior to vegetation clearance and / or the demolition of the building.
- The hedgerow vegetation within the site would offer potential for nesting birds. The derelict building is unlikely to offer nesting potential for birds since the bramble and nettle scrub has been cleared immediately surrounding and from within the building. In order to avoid potential offences through killing/injury of nesting birds and/or their young and/or the destruction/damage of their active nests, any necessary clearance of vegetation or works to the building should be undertaken outside the bird nesting season, which runs from 1st March to 31st August inclusive.
- No signs of badger activity were noted within the survey area. Therefore, the potential impact of the development on these mammals was assessed as 'Low'.

Following NIEA's advice through their 'Assessment Flow Chart' I am satisfied that no consultation was necessary given the ecologist had stated that no further surveys were required. If the application went forward as an approval a condition would be included to ensure no site clearance works would be undertaken within the bird nesting season.

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).

5. Representations

No representations were received.

6. Recommendation

Refuse Planning Permission

7. Refusal Reasons

1. The proposal is contrary to Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling and all the external structural walls are not substantially intact.

2. The proposal is contrary to 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.

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:**

ITEM 4.2

Ards and North Down Borough Council

Application Ref	LA06/2022/0346/O
Proposal	Infill site for 2 No. dwellings with domestic garages
Location	Between 32 and 34 Castle Espie Road, Comber DEA: Comber
Committee Interest	<p>A Local development application 'called-in' to Planning Committee from the delegated list w/c 20 June by a member of that Committee - Called in by Ald McIlveen:</p> <p><i>I would ask that this application is called in for consideration by the planning committee to determine whether this application meets the criteria under CTY8 of PPS21, one of the exceptions stipulated under CTY1 of PPS21, as representing a gap site in an otherwise substantial and continuously built up frontage that respects the existing development pattern.</i></p>
Validated	05/04/2022
Summary	<ul style="list-style-type: none"> • Site located in the countryside • Proposal is for outline planning permission therefore it is the principle of development which is being considered • CTY8 of PPS 21 deals with proposals for infill dwellings • Consultees have no objection • No 3rd party representations
Recommendation	Refusal
Attachment	Item 4.2a – Case Officer Report

Development Management Case Officer Report			 Ards and North Down Borough Council		
Reference:	LA06/2022/0346/O	DEA: Comber			
Proposal:	Infill site for 2 No. dwellings with domestic garages	Location:	Between 32 and 34 Castle Espie Road, Comber.		
Applicant:	Richard Topping				
Date valid:	05.04.2022	EIA Screening Required:	No		
Date last advertised:	28.04.2022	Date last neighbour notified:	08.04.2022		
Consultations – synopsis of responses:					
DFI Roads		No objection subj to condition			
NIEA		No objection			
NI Water		No objection			
NI Water		No objection			
Letters of Support 0 Letters of Objection 0 Petitions 0					
Summary of main issues considered:					
<ul style="list-style-type: none"> • Principle of development • Design 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 https://epicpublic.planningni.gov.uk/publicaccess/					

1. Site and Surrounding Area

The proposed site is located on the northern side of a narrow laneway which leads off in an easterly direction from the Castle Espie Road. The site is part of an agricultural field which lies between the rear of no.32 and the side of no.34

The site slopes down slightly from south to north about halfway, when it slopes steeply towards to the northern boundary of the field. The western boundary of the field is made up of mature trees which appear to be within the curtilage of no.32. As the site is only part of the field, the northern boundary is undefined. The eastern boundary is made up of a mature hedgerow which separates the field from no.34. The southern boundary is made up of a sparse hedgerow, post and wire fencing and agricultural gate.

The site is located within the countryside as designated within the Ards and Down Area Plan 2015.

2. Site Location Plan



3. Relevant Planning History

There is no relevant planning history for this site or any in the immediate area.

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

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

ADAP currently acts as the LDP for this area. 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.

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.

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.

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 headnote of the policy states "*an exception will be permitted for the development of a small gap site sufficient only to accommodate up*

to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. 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”.

The photo below shows the site with the proposed block plan laid over for consideration of how the proposal will sit within the local area.



The road on which the site is located is a narrow rural lane which branches off the Castle Espie Road to the south-east. On entrance to the lane there is a dwelling and garage (no.32) on the left-hand side of the lane. These two buildings face west on to Castle Espie Road. No.32 makes up a line of dwellings and ancillary buildings, running north to south, which share frontage to the west. The curtilage of no.32 extends to the east and a mature boundary hedgerow separates it from the site. The site is part of a larger agricultural field. The east boundary of the site is another mature boundary which separates the site to no.34. Within the curtilage of no.34 which faces south, there are three other ancillary buildings. No.36 is to the east of no.34 and while the building is orientated to face west the gable wall of the building is on the roadside.

It is my planning judgment no.32 does not share similar road frontage with nos.34 and 36 and so the gap site is not located within a substantial and built-up frontage which includes a line of 3 or more buildings along a road frontage.

CTY8 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. The amplification text goes on to state that, for the purposes of the policy, the 'gap' is between buildings.

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. In addition, 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.

As discussed, the three buildings, I presume, the agent seeks to use as the substantially built-up frontage are nos. 32, 34 and 36 Castle Espie Road.



The buildings I presume the agent wishes to include within the substantially built-up frontage are –

1. No.32 Castle Espie Road
2. No.34 Castle Espie Road
3. No.36 Castle Espie Road

The gap that exists between the relevant buildings (at Nos 32 and 34) measures 130m. The guidance in BOT indicates that when the gap is more than twice the length of the average plot width, it is often unsuitable for infill with two new plots. This guidance is explanatory to the policy. It doesn't necessarily follow that if the gap is less than twice the length of the average plot width, it is therefore suitable for infill. Whether or not a gap site is suitable for infill development in accordance with the policy is a matter of planning judgement taking into account what one ascertains on the ground. It is not merely a mathematical exercise.

I have calculated the average plot width of the site (measured through the middle of the plot) at 37.5m and the average plot frontage of the adjacent dwellings. While I dispute that no.32 shares frontage with nos.34 and 36, for arguments sake, I have calculated the average plot frontage using the plots southern boundary to the lane. No.34 has a frontage to the lane of 31m, no.36 has a frontage of 25.6m and the southern boundary of no.32 has "frontage" to the lane of 52.5m. this gives an average frontage of 36.3m. The average size of the proposed plots is 37.5m, based on the site divided equally into two. The width of the gap at 130m would therefore be able to accommodate more than two dwellings and so fails to meet the 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 and meets other planning and environmental requirements.

The plots either side of the proposed site all consist of a dwelling and ancillary building(s) and are all different in size, shape and layout.

No.32 is approximately 1,820sqm, is a square shape with a two-storey dwelling in a centre location, the dwelling and garage face west and the garage sits forward from the building line of the dwelling. No.32 is accessed to the front with gardens to the front, side and rear.

No.34 is approximately 1920sqm, is an irregular square shape with the dwelling located to the front and almost abutting the lane, with ancillary buildings to its north and along the west boundary. No.34 faces south and vehicle access to the site is in the south-west corner.

No.36 is approximately 975sqm and is a rectangular shape, with the dwelling abutting the lane and facing west. There are no detached buildings ancillary to this dwelling and it has gardens to the north.

The proposed sites are to be approximately 1648sqm, as the application is outline there are no details of the dwellings, however a drawing included shows outlines for dwellings and garages. I would presume that if the dwellings are to share frontage with the dwellings to the east, nos.34 & 36, that the proposed dwellings would front the lane and would face south. The garages proposed are to the north and the access is to cut through part of the remainder of the larger field the site is apart of and an adjacent field to the north so as to gain access to the Castle Espie Road which runs north to south.

It would be my planning judgment that the proposed sites do not respect the existing development pattern along the frontage in terms of size, siting and plot size and the means of access to these sites is contrary to that which the well-established sites utilise. The dwellings within the immediate area are all accessed through individual entrances to the front of the plots. The proposal is for a shared access laneway to the rear of the site.

After assessment of the proposal for two dwellings within this site, it is my planning judgment that the site does not represent a substantially built up frontage, the site is not small and would accommodate more than a minimum of two dwellings and the proposed sites do not respect the existing pattern of development along the lane.

The site will create a ribbon of development as assessed within this report and the dwellings would create a suburban style build-up of development when viewed with existing buildings.

Integration and Impact on Rural Character

The proposed dwellings will not visually integrate into the surrounding landscape and will be a prominent feature when viewed on approach travelling south along the

Castle Espie Road. The site is elevated from the nearby road and as the northern portion of the field, the site is within, falls away steeply to the northern boundary, views are open from the north. It would be my planning judgment that two dwellings on this site would be a prominent feature in the landscape. The existing development, sharing frontage with Castel Espie Road, can be seen in the photo below to the right-hand side of the site outlined in red. The dwellings would not only extend the existing development in an easterly direction but would also break the existing line of the horizon when travelling south. The visual impact of the two dwellings in my planning opinion will therefore be detrimental to the rural character of the area and will create a suburban style build-up of development. I have also discussed how the proposal will create a ribbon of development.



View from the north along Castle Espie Road

While the proposed application is for outline permission, the site outlined in red indicates that the dwellings will be accessed between the agricultural gate and the existing dwelling in the photo above. This means of access to the two dwellings is at odds with the existing pattern of development in the local area. The existing dwellings in the area are all on small plots and accessed to the front of their respective sites. The proposed site will, if granted permission, create a long access lane through the field in the foreground of the photo above, through a hedgerow and into the field in which the site is located. This will give access to the rear of the dwellings proposed and will not give direct access to the dwellings from the road onto which they will share frontage with. This is not in keeping with the character of the local area and does not respect the existing pattern of development within this local area. With the access to be an ancillary aspect of the development, not including the sight splays, it is my planning judgment that it would damage rural character for the reasons above.

It is therefore considered that the proposal does not comply with policy CTY 13 in that the proposal will be a prominent feature in the landscape and the ancillary works will not integrate with their surroundings. With policy CTY14 in that the proposal will be unduly prominent in the landscape, it will result in a suburban style build-up of development when viewed with existing and approved buildings, it does not respect the traditional pattern of settlement exhibited in that area, it will create a ribbon of

development and the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

Residential Amenity

The application proposed is for outline permission and the details of the dwellings have not been submitted. This assessment can therefore not be accurately considered.

Access and Roads Safety

The proposal will create a new access onto Castle Espie Road as per the block plan drawings. DfI Roads were consulted and offer no objections, with conditions to be included in any permission granted. There will be adequate parking space retained within the site.

It is, therefore considered that the proposal complies with policies AMP 2, AMP 3 and AMP 7 of PPS 3 and will not prejudice road safety or significantly inconvenience the flow of traffic.

Designated Sites and Natural Heritage

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

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.

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. 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 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 CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal does not represent a gap site in an otherwise substantial and continuously built up frontage that respects the existing development pattern, and would, if permitted, result in the ribbon development along Castle Espie Road.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

- the proposed buildings are a prominent feature in the landscape;
- the proposed buildings fail to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; and therefore would not integrate into this area of the countryside.
- ancillary works do not integrate with their surroundings

4. The proposal is contrary to Policy CTY14 of, Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings 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;
- not respect the traditional pattern of settlement exhibited in that area;
- Creates a ribbon of development
- the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

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:	
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ITEM 4.3

Ards and North Down Borough Council

Application Ref	LA06/2021/0895/F
Proposal	Rear balcony with external staircase (part retrospective) and retrospective alterations to rear elevation including new windows and raised eaves
Location	4 Rhanbuoy Road, Holywood DEA: Holywood & Clandeboye
Committee Interest	A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation
Validated	20/07/2021
Summary	<ul style="list-style-type: none"> • Application is part retrospective • Application submitted following enforcement investigation • Several amendments submitted during processing of application to address concerns re overlooking/loss of privacy • There are a number of other balconies in area • No environmental, architectural, or archaeological designations affecting the site • All consultees content • Number of objections (including from persons not residing in area) submitted triggering referral to Committee • All objections fully considered within the COR • A number of conditions are proposed to mitigate concerns raised
Recommendation	Approval
Attachment	Item 4.3a – Case Officer report

Development Management Case Officer Report			 Ards and North Down Borough Council
Reference:	LA06/2021/0895/F	DEA: Hollywood & Clandeboye	
Proposal:	Rear balcony with external staircase (part retrospective) and retrospective alterations to rear elevation including new windows and raised eaves.		
Location:	4 Rhanbuoy Road, Hollywood		
Applicant:	Mr Phu Tan		
Date valid:	20.07.2021	EIA Screening Required:	No
Date last advertised:	30.06.2022	Date last neighbour notified:	01.06.2022
Letters of Support: 0	Letters of Objection: 13 (from 7 addresses)	Non-committal: 0	
Consultees	None		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Scale, design and appearance; • Impact on amenity of neighbouring dwellings; • Impact on character and appearance of the character ; 			
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

This site consists of a detached dwelling and associated curtilage in Seahill, Holywood

The dwelling is split level on account of the sloping nature of the land: single-storey to front and two-storey to the rear. The dwelling is at a considerably lower level in relation to the road and is not readily visible at street level.

The property has in-curtilage parking to the front and an enclosed garden area to the rear. A balcony, erected on four columns, has been constructed to the rear. The balcony is accessed from both the first-floor and an external spiral staircase. The staircase has been erected at a corner away from the rear wall and adjacent to the boundary with No.2 Rhanbuoy Road. The platform had no balustrades at the time of my inspection.

The area is exclusively residential in character and is defined by detached properties on modest plots. Adjacent dwellings are similar width to the plot resulting in the gable walls being close to one another.

2. Site Location Plan



3. Relevant Planning History

As described above, a balcony – along with other elevational changes to the rear – has been constructed at the rear. The works do not benefit from planning permission; the Planning Department's Enforcement section inspected the property and requested the works be regularised (LA06/2020/0170/CA).

Material to the current application is W/2005/0796/F – Extension and alteration to No.2 Rhanbuoy Road (adjacent to the subject dwelling). The extension was granted permission only after amendments to a proposed balcony were received. The balcony was designed to project beyond the rear wall and only 4m from the party boundary with No.4 (the subject dwelling). The applicant of the extension still resides at the property and has objected to the proposal. Following the granting of permission for the extension, the then Planning Authority received another application, but this time to replace the dwelling at No.2 (W/2007/0183/F). A replacement dwelling was approved with a balcony which does not project beyond the rear return. The balcony approved with 1.8m close-boarded screen to side.

There is a large balcony associated with the dwelling to the other side of the site (to the north). Approval was granted at No. 80 Seahill Road for 'Demolition of existing balcony and undercroft and erection of new larger balcony' (W/2004/0450/F)

4. Planning Assessments

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

- North Down and Ards Area Plan 1984-1995 (NDAAP)
- Draft Belfast Metropolitan Area Plan 2015 (dBMAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 7 Addendum: Residential Extensions and Alterations

Principle of Development

Despite its end date, NDAAP currently acts as the LDP for this area with dBMAP remaining a material consideration where applicable. The site is within the settlement limit of Seahill and is outside any area noted for its built heritage. No environmental, architectural, or archaeological designations affecting the site. The Plan offers no specific policies in relation to this type of development.

The SPPS states that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In relation to householder development, PPS7 Addendum is retained and is the main policy context to assess the proposal. PPS 7 provides broad support for householder development subject to the impact on the character of the area, on neighbours, and other environmental considerations.

Impact on Existing Dwelling and Character of Area

Permission was sought to retain the existing balcony (with alterations/additions discussed below). Whilst the balcony will be visible to adjacent properties, it cannot be seen from the public road and does not have any significant visual presence in the surrounding area. The platform is 4m x 4.5m and in terms of scale I do not consider it to detrimentally harm the appearance of the dwelling or of the character of the area. The design is functional and is essentially a square platform on 4 columns projecting from the rear of the house.

The fenestration at the rear of the property has been altered and there has been an increase in the eaves height associated with the return at the rear of the house. The ridge height of the house has not been affected by the proposal. These works have not materially affected the scale and massing of the property, and have negligible impact on the character of the locality.

Impact on Privacy and Amenity of Neighbouring Residents

The Council considers it important that the amenity of all residents is protected from 'unneighbourly' extensions which may cause problems through overshadowing/loss of

light, dominance and loss of privacy. The SPPS also makes good neighbourliness a yardstick with which to judge proposed developments.

The Addendum to PPS7 states that proposals must not unduly affect the amenity of neighbouring residents. I do not consider the balcony to have a dominant effect, or to have any significant impact in terms of loss of light. However, clearly a balcony has potential to cause a loss or privacy from overlooking. With reference to privacy, the policy recognises that except in the most isolated rural locations, few households can claim not to be overlooked to some degree. The protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment.

Following my site inspection, and consideration of the objection from the next-door neighbour at No.2, I raised some concerns with the agent with reference to the impact on residential amenity. The balcony (and the external staircase) provided short-distance, clear and direct views looking back towards first-floor rooms (including the main living room) at No.2. The two properties are slightly angled which only serves to exacerbate the issue. While at a greater separation distance, I also considered the angled views towards the rear of No.80 to be unacceptable.

Amended drawings were submitted showing a number of mitigation measures: the staircase to be moved to the other side of the balcony and adjacent to the rear wall of the house; a balustrade to be erected 1m back from the platform edge (essentially reducing the scale of the useable area; and, erection of a 1.8m screen to the side facing the boundary with No.2.

Following internal discussions and a further objection from No.2, I met with the architect and applicant on site, and also with the objector next door. The applicant considered the mitigation measures sufficient; the objector considered them to fall short.

I did not consider the amendments to fully mitigate against an unacceptable loss of amenity, and further changes were sought. New plans were forthcoming and show the depth of the balcony that can be used as a platform now reduced to 2m. In the interests of clarity, the structure is to remain in situ (apart from the stairwell which is to be relocated), but only the first half will be available to be used as a balcony. This will require a condition to ensure the outer half of the platform is not used.

It is my professional planning judgement that the latest alterations will reduce the loss of amenity to the point that residential amenity would not be a determining factor.

The removal of the staircase and the 1.8m screen will protect the occupants in No.2 from the unacceptable loss of privacy that has been experienced since erection of the structure.

There is a greater separation distance (11m) from the balcony to the platform associated with the dwelling on the other side at No.80. The shallow nature of the balcony will now mean that views towards the rear of No.80 will now look towards the side of their balcony (which happens to be screened) instead of the angled views back towards the centre of the balcony as is the case if one were to stand on the platform

today. Given the relationship between the two properties, I do not consider a screen to be necessary at this side.

As referred to earlier, balconies are a common feature in this area. Mitigation measures appear to have been engaged for other such structures, whether through scale, location or screens. The balcony now under consideration has had to be similarly adapted in the interests of the protection of the amenity of others. Whilst there will be views towards the rear gardens of other houses, there is at present a degree of overlooking of such areas and I do not consider the increase from the proposal to be significantly worse. The mitigation I have sought will ensure any overlooking is not significantly excessive beyond what may reasonably be expected in an urban area (particularly where land slopes as in this case).



Floorplan as originally submitted (left); first amendment; current proposal (right)



Balcony as originally submitted (left); first amendment; current proposal (right)

Impact on Trees/Landscape Features

No landscape features will be affected by the proposal. Site not associated with a Tree Preservation Order.

Impact on Amenity Space and Parking

Parking and access will not be affected. Private amenity space will remain unaffected.

Impact on Designated Sites/Natural Heritage Interests

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. The closest designated site is approximately 300m to the north at the coastline; development is in an urban area with no waterways in proximity. With no hydrological link to any environmentally sensitive areas, it is considered there is negligible risk of run-off and contamination of same. Furthermore,

the works relate to a balcony structure which would not ordinarily require extensive trenches and foundations. Therefore, the potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

In terms of protected and priority species, Part 2 of the Checklist was referred to and did not identify a scenario where survey information may reasonably be required. No demolition or conversion. The site is not within any of proscribed distances from woodland and waterways. No removal of hedgerows/trees. It is considered the impact on any such species to be negligible.

5. Representations

There are several objections to consider. A total of 13 objections have been received from 7 separate addresses.

A number of objections were submitted in September 2021 following receipt of the application. A further 6 were received following the first amendment. One further objection has been received since neighbours were notified of the latest amendments.

Given the application has been altered quite significantly, there is little merit in rehearsing all points raised at the start. Suffice to say, objections related primarily on the impact of the balcony on residential amenity. Other points were raised including the quality of the design and the impact on the local character. Several of the objections were from persons who don't reside in the area; three stated they were visitors to one of the neighbouring properties. A local planning agent submitted an objection following instruction from an unnamed person.

Objection was received from No2, Rhanbuoy Road. The aforementioned property is the closest to – and most affected by – the proposal. The objection highlighted the policy context for this kind of development. It was stated that the balcony is only 4m from his boundary and the staircase only 3m. The objector considered this to be below the 15m separation distance suggested in policy. A photograph from first-floor living room was included to illustrate the adverse impact on outlook from the objector's first-floor. General noise and disturbance were also referenced as something that would diminish amenity. As can be understood from above, these are matters which I have given significant weight, and which were the reason for seeking amendments.

With conditions, the scale of the useable balcony will be of a scale that would not encourage large groups and the noise/nuisance that may be associated with same. The staircase has been relocated away from the boundary with No.2 and the 1.8m screen will ensure privacy is protected. Concerns were raised that the applicant would still be able to use the area beyond the balustrade and that any restrictive condition would be impossible to enforce. However, such conditions are common and are enforced by the Council, and I see no reason why this application should be any different. Inconsistency in

approach was also referenced in the correspondence. The objector considered it unfair that the Council would permit such a balcony when he was not permitted to construct a balcony projecting 1.4m (these comments were made before the latest amendments were made). However, the balcony that was eventually approved was a similar distance from the adjacent property on the other side (No.9 Rhanbuoy Road) as the proposal is from his boundary. As I mentioned earlier, there are a number of balconies in the area all of which differ in terms of scale and mitigation. The additional changes since this latest objection further reduce the depth of the area that can be used by the applicant to 2m.

The objector raised concerns about the design, massing and irrational nature of having part of the deck unused. Whilst perhaps incongruous, I do not consider this to be determining. The structure, in terms of scale, would be similar to a standard one-room rear extension. Views of the balcony are restricted to the neighbouring properties and I do not consider the local character of the area to be threatened.

One objection has been submitted in response to the latest amendments. The objection was submitted by a local planning agent (presumably on behalf of a local resident although this was not made explicit). The objection welcomed the reduction in the balcony area but contested the structure remains 'intrusive, ugly, out of keeping with the property'. The letter suggested if the Council were assessing the structure as a proposal – as opposed to its retention – that the Council would likely Refuse permission. The objection also questioned the ability of the Council to enforce such a proposal. As referred to earlier, the structure is essentially a platform on a number of columns. The structure is therefore 'open' on three sides and not reliant on solid walls. The massing is therefore likely to be 'lighter' than a standard extension. It is my professional opinion that the scale, massing and design will not detrimentally harm the appearance of the host dwelling. The Council is tasked with determining the proposal as it is presented today, and I am unable to give significant weight to questions of conjecture. The question of enforcement was discussed with our Enforcement team and at our Development Management Group meeting. It was considered the condition used to ensure flat-roofed structures cannot be used as a platform/balcony has been enforced in the past and there would be no reason why it could not be enforced in relation to the current application.

6. Recommendation

Grant Planning Permission

7. Conditions

1. The development hereby permitted (including the screen, balustrade and stairs), shall be completed, and retained in perpetuity, thereafter, as shown on

Drawing Nos.02B & 08 bearing the date stamp 26th May 2022 before the expiration of 4 months from the date of this permission.

Reason: The development is part retrospective.

2. The area shaded green on Drawing Nos.02B & 08 bearing the date stamp 26th May 2022, shall not be used as a balcony, roof terrace, roof garden or similar amenity area at any time, and shall remain clear of any garden furniture, plants, vegetation etc.

Reason: To protect the residential amenity of No.2 Rhanbuoy Road and No.80 Seahill Road.

3. The 1.8m privacy screen, as shaded blue on Drawing Nos.02B & 08 bearing the date stamp 26th May 2022 shall be erected before the expiration of 4 months from the date of this permission. The screen shall be 'fixed' and shall not be retractable or hinged. The screen shall consist of obscure glass and shall be retained as such in perpetuity.

Reason: To protect the residential amenity of No.2 Rhanbuoy Road.

4. The 1m-balustrade, as shown on Drawing Nos.02B & 08 bearing the date stamp 26th May 2022 shall be erected before the expiration of 4 months from the date of this permission. The balustrade shall be 'fixed' and shall not be retractable or hinged and shall be retained as such in perpetuity.

Reason: To protect the residential amenity of No.2 Rhanbuoy Road and No.80 Seahill Road.

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.

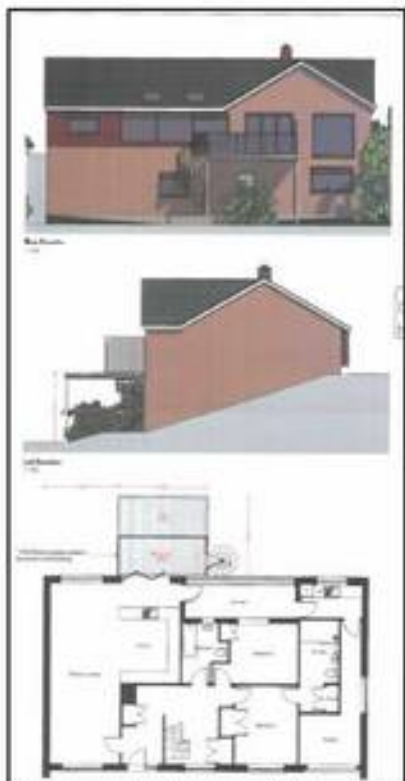
Annex



Site Location



Proposed Block Plan



Proposed plan and elevations




Rear of dwelling

ITEM 4.4

Ards and North Down Borough Council

Application Ref	LA06/2020/0940/F
Proposal	Greenway for approximately 3km along a traffic-free route from Belvedere Road, Newtownards, turning NE following the former railway track in the most part to the Somme Heritage Centre. A section of the former railway track between Victoria Road and Belvedere Road is also included. Widening of existing footways, new 3m wide paths, pedestrian crossings, fencing, ancillary car parking, a shared-use bridge and associated site, access and other ancillary works
Location	Belvedere Road, Newtownards to the Somme Heritage Centre, Bangor Road, Newtownards DEA: Newtownards
Committee Interest	Council Application
Validated	15/10/2020
Summary	<ul style="list-style-type: none"> • Scheme is first phase of the overall greenway network connecting Newtownards and Bangor • Ease of access to open space and contact with nature for everyone is recognised within the Regional Development Strategy 2035 • Route affected by several designations including Site of Local Nature Conservation Importance (SLNCI), route through an area of land zoned for housing under NS 21 (24.7ha at lands to the east of Beverley Heights), an area of existing recreation and open space and within a Local Landscape Policy Area (LLPA) – LLPA Whitespots, Lead Mines, Golden Glen and associated lands • Proposal has been comprehensively assessed against the policy and found compliant • Number of objections and letters of support submitted • All objections fully considered in the case officer report • Road safety, designated sites and natural heritage, archaeology and built heritage, open space, flood risk and contaminated lands all considered within the Case Officer Report
Recommendation	Approval
Attachment	Item 4.4a – Case Officer Report

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2020/0940/F	DEA: Newtownards	
Proposal:	Greenway for approximately 3km along a traffic-free route from Belvedere Road, Newtownards turning NE following the former railway track in the most part to the Somme Heritage Centre. A section of the former railway track between Victoria Road and Belvedere Road is also included. Widening of existing footways, new 3m wide paths, pedestrian crossings, fencing, ancillary car parking, a shared-use bridge and associated site, access and other ancillary works.		
Location:	Belvedere Road, Newtownards to the Somme Heritage Centre, Bangor Road, Newtownards		
Applicant:	Ards and North Down Borough Council		
Date valid:	15.10.2020	EIA Screening Required:	Yes
Date last advertised:	19.08.2021	Date last neighbour notified:	19.10.2021
Letters of Support: 3 from 3 separate addresses	Letters of Objection: 6 from 6 separate addresses	Petitions: 0	
Consultations – synopsis of responses:			
DFI Roads	No objections.		
DFI Rivers	No objections.		
DAERA Water Management Unit and Inland Fisheries	No objections.		
DAERA Regulation Unit	No objections.		
DAERA Natural Environment Division	No objections.		
Environmental Health	No objections.		
NI Water	No objections.		
HED Historic Monuments	No objections.		
Belfast City Airport	No objections.		
SES	No objections.		
Ulster Flying Club	No response. Numerous attempts were made to contact the Ulster Flying Club however no replies were received. The Ulster Flying is not considered to be a statutory consultee and in the interests of progressing the proposal the Council is content to determine without their input.		

Summary of main issues considered:

- Principle of development
- Impact on residential amenity
- Road safety
- Impact on nature conservation
- Impact on built heritage
- Flood risk and drainage

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

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

1. Site and Surrounding Area

The scheme is the first phase of the overall greenway connecting Newtownards and Bangor. The initial proposal was to begin at Georges Street in Newtownards at the north west corner of Londonderry Park, however following consultation with DfI Roads, it considered this section to be unsuitable to be designated as a greenway due to the high volume of traffic and the number of traffic junctions and roundabouts, it was agreed to shorten the route and begin the greenway from behind the South Eastern Regional College on Victoria Avenue in Newtownards.

The following report will be based on the shortened route beginning on a section of the former Belfast and County Down railway line running from the rear of the South Eastern Regional College on Victoria Avenue and behind Victoria Road which will be upgraded as part of the proposal, and will then join the existing footpath between Belvedere Road and Victoria Road. It will continue north on the Bangor Road for approximately 420m before heading north-east following the path of the former Newtownards to Conlig section of the Belfast and County Down railway line to the rear of Rosevale, Hollymount and Beverley residential developments. The route then continues north for approximately 2km before heading west for approximately 300m to join the Bangor Road (A21). A car parking area is proposed adjacent to the south of properties at 237 and 284 Bangor Road and a shared-use bridge crossing the dual carriageway to facilitate access to the Somme Heritage Centre and Whitespots Country Park.

2. Site Location Plan



Figure 1 Site location plan

3. Relevant Planning History

Due to the extensive reach of the site there is a significant amount of planning history in and around the site, however the majority of it is not material to this application.

4. Planning Assessment

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

- Ards and Down Area Plan 2015 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Planning Policy Statement 8: Open Space, Sport & Outdoor Recreation
- Planning Policy Statement 15: Planning and Flood Risk
- Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Guidance:

None applicable.

Ards and Down Area Plan 2015

The first part of the route is located within the settlement limit for Newtownards and the second part ends outside the settlement limit in the open countryside. The route follows the A21 Bangor Road which is a protected route. The former railway line is shown in the Area Plan as a Disused Rail Track Bed and includes a section which is designated as a Local Nature Conservation Importance (SLNCI). The route then continues through an area of land designated for housing under NS 21 – 24.7ha at lands to the east of Beverley Heights. The route then continues into the countryside ending at the Somme Heritage Centre which is within an area of existing recreation and open space and within a Local Landscape Policy Area (LLPA) – LLPA Whitespots, Lead Mines, Golden Glen and associated lands. The site is within an area designated as an Airport Restriction Zone. Due to the nature of the proposed development, it is considered that it will not have any adverse impact upon these designations.

Until the Council adopts its new Local Development Plan then, planning applications will continue to be assessed against the provisions of the Department of the Environment's Developments Plans and Planning Policy Statements (PPSs) which contains the main operational planning policies for the consideration of development proposals. Within the SPPS it states that 'a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted'. During the transitional period planning authorities will apply existing policy together with the SPPS. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. However,

where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policy this should not be judged to lessen the weight afforded to the retained policy.

No policy conflict exists between the SPPS and Planning Policy Statements relevant to the subject proposal, namely PPS 2: Natural Heritage, PPS 3: Access, Movement and Parking, PPS 3 (Clarification), PPS 6: Planning, Archaeology and the Built Heritage, PPS 8: Open Space, Sport and Outdoor Recreation, PPS 15: Planning and Flood Risk and PPS 21: Development in the Countryside.

Strategic Planning Policy Statement for Northern Ireland (SPPS)

The SPPS document sets out the guiding principle 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. Within paragraphs 6.199 – 6.213, it is acknowledged that open space, sport and outdoor recreation has an important societal role to play, supporting many cultural, economic, health and environmental benefits. Ease of access to open space and contact with nature for everyone is recognised within the Regional Development Strategy 2035 alongside a commitment to safeguard and enhance existing outdoor recreational space within the countryside in keeping with the principles of environmental conservation and the protection of biodiversity. In direct response to this, the planning system has a contributing role to play in securing high quality and sustainable development schemes which do not damage the environmental features and qualities which are of acknowledged public importance and local amenity.

The area is a mix of residential and open countryside. Most of the nearby properties do not directly abut the application site due to intervening ground such as footways or land adjacent to the former railway track. The dwellings at 237 and 284 Bangor Road directly abut the application site where the proposed car parking area is to be positioned. The car parking provision will be on both sides of the minor Bangor Road – see Figure 2 below. It is considered that there will be no loss of amenity to any adjacent residents. The existing dividing boundaries between the adjacent dwellings and the area where the car park will be constructed, will remain as existing. The car parking is necessary to allow visitors to access the greenway without having to cross the dual carriageway to use the existing car park at the Somme Centre. The new car park will also assist the nearby Ark Farm at their busiest times and avoid on-street parking outside adjacent dwellings. Any approval of this scheme will include a condition to ensure the car park is closed at night to deter any potential anti-social behaviour. As such it is considered that the proposal is consistent with the SPPS.

proposal and on this basis, it is considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic and is in line with Policy AMP 2 of PPS 3. The minor Bangor Road is not a protected route and therefore Policy AMP 3 of PPS 3 is not applicable in this case.

Policy AMP 5 of PPS 3 - Disused Transport Routes states that planning permission will not be granted for development that would prejudice the future re-use of a disused transport route identified in a Development Plan for transport or recreational purpose. The proposed greenway is re-using a former railway line which is shown in the Area Plan as a Disused Rail Track Bed. The proposed greenway will be used for leisure, recreation and tourism as a new pedestrian route and cycle network and on this basis the proposed greenway is in line with this policy.

In terms of parking provision, Policy AMP 7 of PPS 3 - Car parking and Servicing Arrangement is the appropriate policy. In this case the proposal includes a car parking area providing a total number of 60 car parking spaces. The Parking Standards document advises that for public open space, 4 spaces are required per hectare. The application site is measured to be 0.99ha. The proposed parking is therefore in excess of the published standards however it is considered that it can be justified for the following reasons. At peak times many cars are parked along the minor Bangor Road due to the use of the nearby Ark Open Farm. The proposed car parking will help to mitigate against this and alleviate parking outside of local residential properties. Evidence also shows that where a number of car parks are located along greenways, they assist in users (including tourists) from wider afield benefiting from the leisure opportunity the greenways offer. If there was not sufficient parking provided at this location, there may be a risk of on-street parking in addition to the already on-going on-street parking from the visitors to the Ark Farm and given the close proximity to the busy dual carriageway which is a protected route, it is considered that an 'overflow' amount of parking in this location for this facility, can be justified.

Policy AMP 9 of PPS 3 - Design of Car Parking states that a high standard of design, layout and landscaping is expected. It is considered that the proposed car parking area will respect the local landscape as it will be read with the busy dual carriageway and the large entrance to the adjacent landscape supplies business. It will also be visually linked with the row of dwellings and buildings associated with the Ark Open Farm along the minor Bangor Road and will be read as a natural end to the row of built development on the minor Bangor Road, preventing it from adversely affecting the visual amenity of the area. In terms of security, it is considered appropriate to include a condition on any approval for the car park to be closed at night to deter any possible anti-social behavior. DfI Roads has been consulted and has no objections to the access and movement of pedestrians and cyclists within the site. A condition will be included on any approval to ensure the landscaping details will be submitted and approved by the Council prior to any development commencing on the site.

Designated Sites and Natural Heritage

The application site is hydrologically connected to Strangford Lough Part 1 Area of Special Scientific Interest (ASSI)/ Strangford Lough Special Protection Area (SPA)/Special Area of Conservation (SAC)/Ramsar (hereafter referred to as designated sites) which are of international and national importance and are protected

by Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002.

The following information has been submitted as part of the application: a Biodiversity Checklist, an Ecological Statement (and Technical Note), an Outline Construction Environmental Management Plan, a Badger and Otter Survey Report and Badger Mitigation Plan and Technical Note, and an Invasive Species Management Plan, each produced by AECOM.

NED have reviewed the information submitted and considers that, due to the nature of the development and the distance to the designated sites, there will be no likely significant impact on the designated sites. The proposed route of Phase 1 of the greenway ends close to, but does not include any part of Whitespots ASSI; therefore NED are content that there are no potential impacts on the Earth Science features of this site. Provided the appropriate pollution prevention measures listed within the Environmental Management Plan are implemented during the construction and operational phases of the development, NED has stated that the proposal is unlikely to have a significant impact on the designated sites.

The Council in its role as the competent authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by AECOM dated May 2022. This found that following implementation of mitigation measures, it is considered that the proposed greenway will have no adverse impact on the integrity of any European sites, either alone or in-combination with other plans or projects.

Bats are a European Protected Species under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and are subject to a strict level of protection. NED are content with the ecologist's assessment that "Trees along the route are largely immature and no features for roosting bats were noted. In addition, no trees are to be felled as part of these works". Care should be taking in any lopping works and should any roosting bats be discovered, NIEA should be contacted immediately. NED acknowledge that "There is suitable habitat for foraging and commuting bats along sections of the route, however no lighting is proposed" and "Lighting will be kept to a minimum during construction (if used at all) and will not be used during operation". Although no evidence of otter was found, the ecologist has assessed that "The Watercourse was suitable for otter commuting through the area". Otters are a European protected species under the Habitats Regulations and must be considered in the development of this site.

Bats are nocturnal species and are highly sensitive to artificial lighting in their environments. Otters are also highly sensitive to artificial lighting in their environments. As such, NED recommend that lighting is avoided during the construction of the greenway.

Badgers and their places of refuge are protected at all times under the terms of the Wildlife (Northern Ireland) Order 1985 (as amended), which includes inactive setts. Given the presence of badger setts in close proximity to the proposed construction works, NED required mitigation to ensure the development proposal complies with legislation and planning policy.

NED acknowledge receipt of the Badger Mitigation Plan (BMP) but note that some of the proposed measures are "Dependant on the exact nature of the works immediately adjacent to the setts" and the plan is therefore not finalised. As such, a condition will be included on any permission for a final Badger Mitigation Plan (BMP) to be submitted to and approved in writing by the Council before development work commences.

Smooth newts are protected under the Wildlife (Northern Ireland) Order 1985 (as amended). NED requested a revised site plan which clearly indicated a minimum 5m buffer from all construction works round the three identified ponds/areas of standing water. This has not necessarily been provided however, in reviewing Sheet 2 of Figure 1 in the Technical Note, NED note the scale drawing with the location of the ponds marked and a buffer of retained broadleaved woodland, with an ecologist's note stating that "they will be at closest 8.5m away from the greenway", and therefore NED is content in this instance.

NED is content that all trees are proposed for retention and that the ecologist has assessed that "There are no other priority habitats on site". In this instance NED do not need to consider a landscaping plan but all trees should be retained and protected on site.

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

Archaeology and Built Heritage

HED Historic Monuments has assessed the application and is content that the proposal is satisfactory to both the SPPS and PPS 6 archaeological requirements.

Open Space Policy

As part of the site is zoned as existing amenity open space and recreation, Policy OS 1 of PPS 8 applies. It states that development will not be permitted that would result in the loss of existing open space or land zoned for the provision of open space. As the proposal is for an open space use in the form of a greenway, the proposal complies with this policy.

Flood risk

Policy FLD1 Development in Fluvial and Coastal Flood Plains in PPS 15 Planning and Flood Risk (revised), is applicable as the Flood Hazard Map (NI) indicates that portions of the site lie within the 1 in 100 year fluvial flood plain. Policy FLD 1 states that where the principle of development is accepted by the Council through meeting the 'Exceptions Test', as set out in the policy under the Exceptions heading, the applicant is required to submit a Flood Risk Assessment. It is considered that the proposal does fall within an exception, namely part (f) which states: 'The use of land for sport and outdoor recreation, amenity open space or for nature conservation purposes, including ancillary buildings. This exception does not include playgrounds for children'. A Flood Risk Assessment was subsequently submitted. DfI Rivers reviewed the initial Flood Risk Assessment and required additional information. The additional information was submitted and following re-consultation with DfI Rivers, it accepts the logic of the Flood

Risk Assessment and has no reason to disagree with its conclusions. Policy FLD 1 is satisfied.

Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure in PPS15 is applicable. A drainage assessment was submitted which states "The proposed path follows the track of the abandoned railway line; there is sufficient clearance between the path and the existing watercourse so provide a working strip". The provided layout drawings back up this statement. As such Dfl Rivers is content that Policy FLD 2 is satisfied.

Policy FLD3 - Development and Surface Water is applicable. Dfl Rivers has reviewed the drainage assessment, and comments as follows: The intention is for the paths to shed water onto adjacent lands and for drainage to occur via infiltration into the soil strata – this is outside the remit of Dfl Rivers area of knowledge and expertise.

Policy FLD4 - Artificial Modification of watercourses – Artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons and will also be subject to approval from Dfl Rivers under Schedule 6 of the Drainage Order 1973.

Policy FLD5 - Development in Proximity to Reservoirs is not applicable to this site.

Contaminated Lands

A Preliminary Risk Assessment (PRA) has been provided AECOM Infrastructure & Environment UK Limited (AECOM) in support of this application. They identify no unacceptable risk to environmental receptors. The Land and Groundwater Team within the Regulation Unit (RU) have no objection to the proposed development, provided conditions are placed on any planning permission granted.

5. Representations

Six objections and three letters of support have been received to date.

I have read the correspondence in full and the main points are as follows:

Objections

- a) Proposed bridge only caters for cyclists and does not offer pedestrians a solution to crossing the carriageway from the nearby bus stops. Traffic lights and a speed restriction to 40mph would be a more cost-effective solution.

The proposed bridge can accommodate both pedestrians and cyclists. It is acknowledged that the proposed bridge is not located right at the nearby bus stops and this scheme is not designed to be a resolution to the ongoing concerns regarding pedestrian safety at the bus stops. However, whilst not being a resolution it will be of some improvement as it will provide a safe means to cross the carriageway for a wide range of users including pedestrians, cyclists, push chairs, wheel chairs and all persons with a disability that may wish to cross the road at their leisure. A traffic light facility and a restricted speed limit of 40mph is not part of this proposal and therefore the

Council Planning Team can only comment on the proposal made before it. DfI Roads has considered the proposal as submitted and has no objections.

- b) Proposed car parking appears to be excessive as parking is already available at the Somme Centre. The proposed parking will replace green space with unnecessary car parking.

The proposed parking has been discussed in the main report. It is acknowledged that the proposed parking is in excess of the published guidance however in this case, taking into consideration the on-street parking that occurs at peak times from visitors to the nearby Ark Farm, the proposed parking will act as an overflow parking facility and help to prevent on-street parking. This is particularly important to prevent any on-street parking close to the dual carriageway which is a fast, busy protected route. The existing green space which will be replaced by the parking area, is Council owned land and at present does not have any specific use. The proposed parking area will serve a better use of this area for the reasons given above and also to serve the proposed greenway.

- c) Residents of 237 Bangor Road (adjacent to the proposed car parking area) have concerns that the proposed parking area will have a direct impact on the access to the front of their property and the added cycle lanes will result in the road being much narrower making 2 way traffic impossible.

The proposed parking area will not have an impact on the access to their property as there are no greenway lanes running along the minor Bangor Road in front of their property – it stops at the car parking area and then crosses the bridge.

- d) There is an added risk for anti-social behaviour.

The Council met with residents prior to submitting this planning application. The Council advised the residents that the car park has the ability to be managed including being closed at night to avoid any anti social behaviour if it was to become an issue. The existing Somme car park would also have the ability to be closed at night to mitigate existing antisocial behaviour, again if it was to become an issue. Note the existing Somme Car Park is not currently closed at night and we are not aware of reported anti-social behaviour.

- e) Residents of Beverley Walk have concerns that pedestrians using the greenway will have access to their garden which therefore poses a security risk. Could a high security fence be erected.

It is the responsibility of property owners to make their property safe and any other third party such as the Council. It therefore falls to the property owners to erect a fence if it is deemed necessary to secure their own property.

- f) Privacy will be impacted upon as the proposed greenway will encourage people to play football along the course of the railway. There are other more deserving projects that would benefit from the available money.

The proposed greenway is to be used for leisure and recreational purposes which may or may not include informal football activity. If any nearby resident feels there is an issue of anti-social behaviour it should be reported to the relevant department.

Support

- g) Future plans to extend to Donaghadee and also to connect with Dundonald and Comber should be considered.

The Council has plans to extend the greenway and there is already permission granted for a greenway from the Comber Road to Newtownards.

- h) Any additional facilities such as public toilets.

No additional facilities such as public toilets are included in this application.

- i) Is there adequate lighting for security along all the proposed route for the greenway.

There is no lighting proposed in this application.

- j) Excellent proposal which will allow people to commute safely between the towns, reducing pollution and CO2 emissions.

6. Recommendation

Grant Planning Permission

7. Conditions

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

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

2. Prior to the commencement of construction, a full Construction Environmental Management plan shall be submitted and agreed with the Council with noise/vibration and air quality mitigation / control measures specifically agreed with the Environmental Health Department.

Reason: To ensure nearby residents are not adversely affected by noise and /or dust impacts.

3. Once a contractor has been appointed, a full Construction Environmental Management Plan (CEMP) should be submitted to the Council for consideration by NIEA Water Management Unit, at least 8 weeks prior to the commencement of construction on the site to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment.

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

4. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP should identify the perceived risks to the aquatic environment, potential pollution pathways and mitigation measures to negate such risks. It should include:

- a. Construction Method Statement(s) - including details of construction and excavation;
 - b. Pollution Prevention Plan; including details of a suitable buffer between the location of all construction works, storage of excavated spoil and construction materials/machinery, any refuelling, storage of oil/fuel, concrete mixing and washing areas and the watercourses/ponds within or adjacent to the site;
 - c. Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
 - d. Environmental Emergency Plan; including details of emergency spill procedures and regular inspections of machinery onsite.
- This list is not exhaustive but should merely be used as a starting point for considerations to be made.

Reason: To protect the site features of Strangford Lough ASSI/SAC/SPA and aquatic environment

5. No development activity, including ground preparation or vegetation clearance, shall commence until the *Invasive Species management Plan – Newtownards to Somme Heritage Centre Greenway*, produced by AECOM, dated the 19th February 2021, has been approved in writing by the Council. The ISMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved ISMP, unless otherwise approved in writing by the Council.

Reason: To prevent the spread of an invasive plant species listed on Schedule 9 of the Wildlife (Northern Ireland) Order 1985 (as amended) and to minimise the impact of the proposal on the biodiversity of the site.

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

- a. Provision of 25m buffers from all development activity to all retained Badger setts (clearly shown on plans);
- b. Details of any proposed sett closures;

- c. Details of wildlife corridors to allow movement of Badgers to and from setts and/or foraging areas;
- d. Details of appropriate fencing to protect Badgers and their setts/wildlife corridors;
- e. Details of appropriate measures to avoid illumination of Badger setts and the retention of dark corridors;
- f. Details of appropriate measures to protect Badgers from harm during the construction phase;
- g. Details of the appointment of a competent ecologist to oversee the implementation of Badger mitigation measures during the construction phase, including their roles, responsibilities and timing of visits.

Reason: To protect Badgers and their setts.

- 7. No vegetation clearance/arboricultural works shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Council within 6 weeks of works commencing.

Reason: To protect breeding birds.

- 8. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Council. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*.

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

- 9. Essential lighting during construction shall be positioned to ensure illumination/light spill of less than 1 LUX onto the adjacent watercourses, ponds, badgers setts, trees and scrub.

Reason: To protect bats, otters and badgers.

- 10. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

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

11. After completing all remediation works under Condition 10 and prior to operation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

12. Toucan crossing & footway widening. No other development hereby permitted shall be commenced operational until the road works indicated on Drawing No 17 bearing the date stamp 11/09/2020 have been fully completed in accordance with the approved plans.

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

13. Bridge. No other development hereby permitted shall be commenced operational until the road works indicated on Drawing No 27 bearing the date stamp 11/09/2020 have been fully completed in accordance with the approved plans.

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

14. No development activity, including ground preparation or vegetation clearance, shall take place until details have been submitted to and approved in writing by the Council for consideration by DfI Roads, to demonstrate that all structures which fall within the scope of the current version of CG300 of Design Manual for Roads and Bridges have Technical Approval. The Technical Approval shall be implemented in accordance with the approved details and all roadworks on site shall conform to the approval, unless otherwise approved in writing by the Council.

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

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

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

16. A Road Safety audit shall be submitted to and approved in writing by the Council before the development hereby permitted commences. The Road Safety Audit shall include details of any necessary out-workings and timeframe for implementation. The out-workings of the Audit shall take place in accordance with the approved details and timeframe.

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

17. The gates for the car parking areas shall be closed every night at 2200hrs.

Reason: To safeguard the living conditions of residents in nearby properties.

18. A landscape management plan for the development, including long term design objectives, performance indicators, management responsibilities and maintenance schedules for all landscaped areas, in addition to a plan showing all landscaping details, shall be submitted to and approved by the Council in writing prior to the use of any part of the development hereby permitted. The landscape management plan and landscape details shall be carried out as approved in perpetuity.

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

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:	
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Photos



Photo 1
Proposed location for car parking on Bangor Road that will have car parking areas to both LHS and RHS of the road.



Photo 2
Proposed location for the bridge over the dual carrageway.



Photo 3
Proposed location for car parking on RHS side of Bangor Road.

ITEM 4.5

Ards and North Down Borough Council

Application Ref	LA06/2021/1498/F
Proposal	6 No. sculptural artworks, footpath and access to coastal path and associated works
Location	Lands at Ulster Transport Museum, Bangor Road, Holywood DEA: Holywood & Clandeboye
Committee Interest	A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation
Validated	29/12/2021
Summary	<ul style="list-style-type: none"> • Sculptures represent the solar system and have been designed by Oliver Jeffers a local artist and children's author • Proposal is related to 'Our Place in Space' – a unique sculpture trail 'to intrigue and inspire' across Northern Ireland and Cambridge • The site is located within the museum grounds at the Transport Museum area towards the coastal path - area designated as an area of existing open space • In the interest of residential amenity, lighting associated with the sculptures will turn off at dusk • Protective measures in place to protect trees – none of the foundations of sculptures to be dug within root protection zone • Number of objections received which triggered referral to Planning Committee • All objections fully considered in case officer report • Final conditions regarding natural heritage awaited from NIEA
Recommendation	Approval
Attachment	Item 4.5a – Case Officer Report Item 4.5b – Addendum to COR LA06/2021/1498/F

Item 4.5b

Addendum to COR LA06/2021/1498/F

Since the preparation of the COR for application ref. LA06/2021/1498/F, NIEA: Natural Environment Division have reviewed further ecological and tree information and have recommended approval subject to conditions. The following points were stated in the response:

- **Bats:** It must be noted that there are no buildings within the area of the proposed development. NED requested further information with regard to those trees with Moderate Bat Roost Potential (BRP). As noted in the previous response, NED recommended the retention of Ivy on those trees with Moderate (or above) BRP. The following was stated by NED in its final response:

'NED notes that the proposed trail has been altered to avoid those trees noted to have Bat Roost Potential, i.e. Tree T120 (noted to have Low BRP) and Trees T117 and T124 (noted to have Moderate BRP), and a letter from the agent submitted with the application (Letter - RPS response to DAERA NIEA) uploaded to the NI Planning Portal on 22nd June 2022, notes that Trees T117, 120 and T124 are no longer subject to any works. NED notes that the revised Site Plan also refers to the protection and further survey of these trees. NED thus recommend that a condition is appended to any planning approval that the trees noted to have Bat Roost Potential are not subject to any arboricultural works as noted within the submitted letter.'

In addition to the Tree Survey submitted, further information on proposed lighting was submitted, detailing the sculpture lighting layout with lux level contours. NED stated that the proposal is unlikely to have a significant impact on the local bat population, or other wildlife, provided that lighting is implemented in accordance with the submitted details, and all retained trees are protected during construction as indicated.

- **Other Protected/Priority Species:** NED have reviewed the submitted ecological information and considered that the proposed development is unlikely to have any significant impacts on other protected/priority species including otter, badger and pine marten, however the applicant is advised of the relevant informatives with regard to these species.
- **Wild Birds:** The area of the application will require removal of vegetation. NED highlighted that all wild birds and their nests are protected under the Wildlife (Northern Ireland) Order 1985 (as amended). NED advised that any removal of vegetation should be undertaken outside the bird breeding season, i.e. outside of 1st March to 31st August, or checked by a suitably qualified ecologist with suitable protective measures undertaken should any active nest be found.

In conclusion, upon consideration of the proposal, NED is content that the application is unlikely to have a significant impact on designated sites, protected and/or priority species and habitats, subject to the following conditions:

1. There shall be no direct discharge of untreated surface water run-off during the construction and operational phases into the adjacent designated sites.

Reason: To protect the site features of the designated sites

2. A suitable buffer of at least 10 metres must be maintained between the location of soakaways, all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil and the designated sites.

Reason: To protect the site features of the designated sites

3. All external lighting shall be implemented in accordance with the drawings and specifications as noted in Drawing Number 12 (DAR22010/001) – Sculpture Lighting Layout with lux level contours, date stamped 17th June 2022 by Ards and North Down Borough Council.

Reason: To minimise the impact of the proposal on bats and other wildlife


4. Prior to works commencing on site, all existing trees shall be retained and protected in accordance with BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations and as indicated on submitted Drawing Number 11A (038_Site 4 – 003 Rev B) – Transport Museum Masterplan – Proposed Site Plan Rev B, date stamped 17th June 2022 by Ards and North Down Borough Council. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree, other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

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

5. Trees T117, T120 and T124 shall be retained and protected, and shall not be subject to arboricultural works, as indicated in the letter from the agent (Letter - Response to matters raised by DAERA NIEA), uploaded to the NI Planning Portal on 22nd June 2022, without the written approval of the Planning Authority.

Reason: To minimise the impact of the proposal on protected species and maintain biodiversity within the site.

The above conditions will be included on the decision notice if planning committee are minded to approve the application.

Development Management Case Officer Report			 Ards and North Down Borough Council	
Reference:	LA06/2021/1498/F	DEA: Holywood & Clandeboye		
Proposal:	6 No. sculptural artworks, footpath and access to coastal path and associated works			
Location:	Lands at Ulster Transport Museum, Bangor Road, Holywood			
Applicant:	National Museums NI			
Date valid:	29/12/2021	EIA Screening Required:	No	
Date last advertised:	03/02/2022	Date last neighbour notified:	20/06/2022	
Letters of Support: 0	Letters of Objection: 6 objections (6 addresses) and 1 non-committal		Petitions: 0	
Consultations – synopsis of responses:				
Environmental Health		No objection		
NIEA		Advice and Guidance		
Summary of main issues considered:				
<ul style="list-style-type: none"> • Principle of development • Parking and Access • Impact on Residential Amenity • Visual impact • Impact on Biodiversity • Impact on ATC 				
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/				

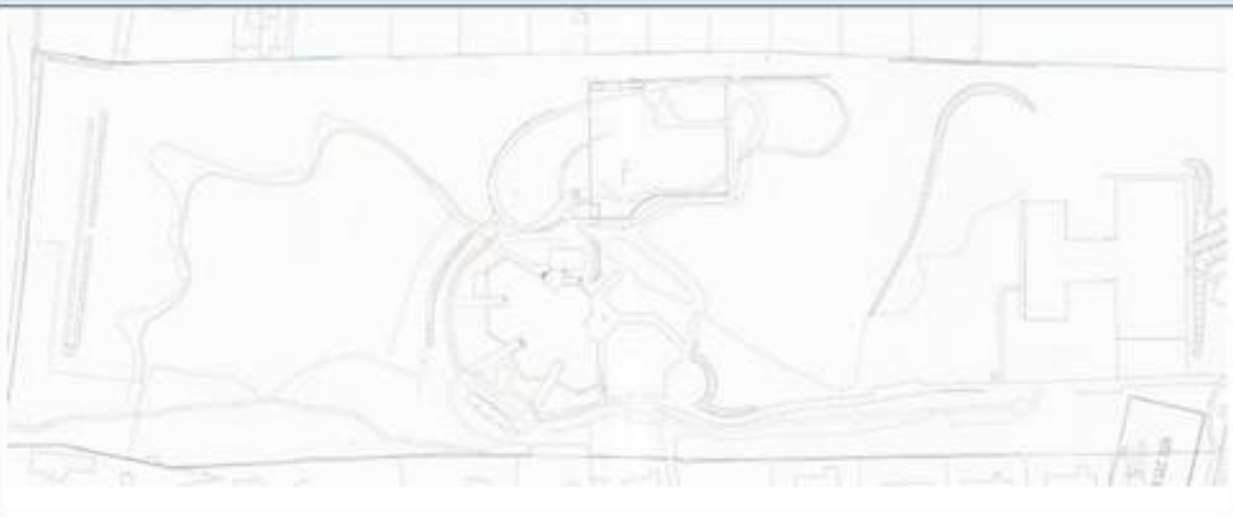
1. Site and Surrounding Area

The site is located within the grounds of the existing Ulster Transport Museum in Holywood. The area within the red line consists of areas of grass and shrubbery along with existing hardstanding.



The site is bounded by mature trees and shrubbery and therefore there are restricted public views into the site. The topography of the site falls towards the north-western boundary. The public coastal path is located just beyond the rear boundary of the site.

2. Site Location Plan





3. Relevant Planning History

LA06/2022/0448/F: Lands at Ulster Transport Museum, Bangor Road, Holywood, BT18 0EU; 4no. multi-bike bike racks, lock of self-contained bio toilets, 5 outdoor drinking water points, short/low-level bollard lighting to outdoor pathways, uplighter LED lights to outdoor boat, walled garden walls; 5no. lights to illuminate select trees inside and just outside walled garden area, location of 3-6 food trucks and banked bench style seating to circular bank surround, and tensile pavilion structure within the walled garden; Live application

4. Planning Assessment

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

- North Down and Ards Area Plan 1984-1995 (NDAAP)
- Draft Belfast Metropolitan Area Plan 2015 (dBMAP)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 6 Addendum: Areas of Townscape Character
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 16: Tourism

Principle of Development

NDAAP currently acts as the LDP for this area, despite its end date, with dBMAP remaining a material consideration.

The application site lies within the settlement development limit of Hollywood as identified within draft BMAP and the NDAAP. The site falls within the proposed Area of Townscape Character: Marino, Cultra, Craigavad, Hollywood. The site also lies in the Folk Park/Creighton Local Landscape Policy Area, Site of Local Nature Conservation Importance and it is also within an area zoned for existing recreation and open space.

Policy ENV 3 of dBMAP relates to development proposals within LLPAs stating that planning permission will not be granted for development that would be liable to adversely affect those features, or combination of features, that contribute to environmental quality, integrity, or character. The application site lies within the museum grounds and the proposal is for 6 sculptures related to the tourism use on site. As shown in figure 1 the existing trees, open areas of grass and areas of shrubbery will be retained on site, with new areas of planting provided along the new pathways. Overall I am satisfied that the proposed sculptures will not have any detrimental impact upon the features of the LLPA.

The proposal involves the placement of 6 sculptures within the grounds of the existing museum, along with new pathways and a new access onto the coastal path. The sculptures represent the solar system and have been designed by a famous artist and children's author. The proposed site plan below shows the proposed new trails and each location of the 6 sculptures.



Figure 1: Proposed Site Plan

Sculpture 1 represents the sun and is a large spherical sculpture measuring approximately 3.2m in height and has a diameter of 2.4m. This sculpture consists of a translucent fiber glass sphere, internal steel substructure and flexible silicone flares. It will be located near the southern end of the site, close to the entrance.

Sculpture 5 represents the Earth and is also a spherical sculpture measuring approximately 2.6m in height and has a diameter of 2.4m. Alike sculpture 1, it will consist of a hand painted fibre glass exterior and will have an internal steel substructure. Please note that all plans of the sculptures are included at the end of the report.

The other sculptures represent planets including Mercury, Venus, Earth (and Moon) and Mars and these can be described as painted steel arches which vary between 3.6m and 4.2m in height. All of the sculptures feature LED lighting on timer switches. More information has been provided on the lighting in respect of the potential impact on biodiversity, which will be detailed in a latter section within this report. The agent confirmed that the sculptures are not lit at night and there are timers built in which will automatically switch off at dusk.

A new permeable paving system will be used for a new footpath within the grounds of the museum, with small sections of existing grass areas to be removed to allow for the new path. The plans show that additional planting will be provided along the path edge, which will allow the new pathways to integrate within the existing green areas within the museum grounds. In addition to the pathways, a new metal access gate will be situated along the north-eastern boundary allowing access onto the coastal path. This gate will match the existing green fencing located along this boundary. An information panel will be located just outside the gate with native coastal plants planted around this new entrance.

The aim of the SPPS in relation to tourism development is to manage the provision of sustainable and high-quality tourism developments in appropriate locations within the built and natural environment. Para. 6.251 of the SPPS states that *'tourism makes a vital contribution to the Northern Ireland economy in terms of the revenues it generates, the employment opportunities it provides, and the potential it creates for economic growth.'* The proposed sculptures will allow for a better visitor experience, with potential for additional revenue, thus helping to sustain this existing regional tourism attraction. Given the sculptures are linked with the cultural and learning experience associated with the existing museum, I am satisfied that the principle of development is acceptable.

TSM 7 of PPS 16 states that *'development involving public art, where it is linked to a tourism development, needs to be of high quality, to complement the design of associated buildings and to respect the surrounding site context.'* This project named 'Our Place in Space' has been featured in several locations across Northern Ireland this year and has been developed by an arts organisation and the sculptures have been designed by a famous artist and children's author. I am satisfied that the sculptures can be considered to be of a high quality however, the appearance of the sculptures due to their bright colours and modern appearance, do not necessarily tie in with the existing buildings at the museum. Nevertheless, weighing up the overall positive impact this project will have in regard to tourism, I do not believe this visual test to be significant enough to warrant a refusal.

Impact on Character of Area

In terms of assessing the overall visual impact; as stated previously, the site is well enclosed due to the mature boundary treatments consisting of trees and shrubs. Given the bright colours and LED lighting, the sculptures are not considered to be particularly in-keeping or sympathetic with the buildings within the local vicinity. However, as stated previously above, given the sculptures are within the grounds of the existing museum I do not believe that there will be a significant impact on the overall visual amenity of the surrounding area.

Although no design guide has been produced for the proposed ATC, it is still important to assess the impact the proposal will have in relation to the surrounding area. As stated previously, I do not believe the sculptures are in-keeping with the character or appearance of the surrounding area. However, the sculptures are reasonably small-scale in nature and are sufficiently removed in key views due to the mature site boundaries. I am satisfied that any impact upon the proposed ATC is not significant enough to warrant a refusal.

Impact on Privacy and Amenity of Neighbouring Residents

There are a number of properties in Dalchoolin which are located just outside the south-western boundary of the museum site. The sculptures will be located over 20m from these properties; therefore, I am satisfied that there will be no impacts in terms of dominance and overshadowing. The existing trees and shrubs, and proposed planting, will help screen the sculptures from any public views. Environmental Health were consulted on the proposal and asked to consider the objections received from local residents. Environmental Health offered no objections to the proposal and did not request any further information.

As mentioned previously, the agent confirmed that the lighting associated with the sculptures will go off at dusk. In addition, the agent confirmed that there will be no alterations to the existing opening times of the museum which are currently Tuesday – Sunday: 10:00am – 4:00pm. In addition, I asked the agent to confirm if the sculptures will create any noise or have any interactive features that may cause general disturbance. The agent confirmed the sculptures will not create any noise and the only interactive feature would be a phone app which would create an augmented-reality walk through of a virtual solar system. I am therefore satisfied that no neighbouring properties/residents would be adversely affected by way of noise or other disturbance.

Impact on Area of Open Space

The site is located within the museum grounds which is designated as an area of existing open space. Although the sculptures cannot be described as modest in scale, they will add to the overall museum experience and the new pathways will allow for visitors to walk around the site with no obstructions. It is not considered that there will be any adverse impact on the provision of open space. The proposal adds to the cultural element of the museum, and therefore can be considered to be a complimentary addition for the public's enjoyment.

Impact on Trees

There are no TPOs on the site. A Tree Survey and Report, alongside a site plan showing protective measures, were submitted alongside the application and identified that none of the foundations of the sculptures were to be dug within the root protection zone of any existing tree in the museum grounds.

Access and Road Safety and Parking

The proposal does not involve any modification to the existing access and parking areas of the museum. The P1 form indicates that there is no expected increase in the number of vehicles per day to the site. The museum has a large car park which adequately serves both visitors and staff attending the site. I am therefore content that sufficient parking is available to service the needs of this proposal.

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. The biodiversity checklist highlighted that minor works including the erection of pathways, a new gate and the sculptures would be located within 100m of the protected coastline.

NIEA: Marine and Fisheries was consulted on the proposal Marine Conservation and on the basis of the information supplied was content that there should be no adverse impacts on marine conservation, provided standing advice for development that may have an effect on the water environment (including groundwater and fisheries) is adhered to. In addition, NIEA: NED stated the following:

'The applicant intends to build up rather than dig down for the construction of the development and use materials such as cellular geotextile confinement systems, this approach will help avoid mobilising sediment and reduce impact on the trees which may provide foraging and commuting space. NED are content that due to the nature of the development it is unlikely there will be significant impact on the designated sites/qualifying features, provided mitigation measures are implemented to prevent pollution during construction'

The following conditions will therefore be included on any decision notice:

1. A suitable buffer of at least 10m must be maintained between the location of the soakaway and the designated sites.
2. There shall be no direct discharge of untreated surface water run-off during the construction and operational phases into the designated sites.
3. A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and 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).

In terms of protected and priority species, Part 2 of the Checklist was referred to and identified that further site surveys may be required. A Preliminary Ecological Appraisal, Bat Roost Potential Survey and a Lighting Survey was submitted. NIEA: NED were consulted and asked for the following information to be submitted:

- A revised Site Layout Plan which clearly indicates those trees to be felled/lopped to facilitate the development, including proposed removal of Ivy, and their Bat Roost Potential (BRP), in accordance with Bat Conservation Trust (BCT) Guidelines, 3rd edition and NIEA specifications.

- Otter survey in accordance with NIEA specifications
- Survey of the area for Pine Marten dens.
- NED request clarification that a Badger survey has been undertaken to NIEA specifications, and which considers the area of the proposed application as submitted.
- NED request further information with regard to proposed lighting on the site. As noted in the comments above, NED recommends the use of bat friendly lighting where lighting is to be installed.
- Details of appropriate mitigation for any impacts on priority species. Details of the impacts of the proposal on any NI Priority Habitat and details of appropriate mitigation and/or compensation for any impacts/loss of any priority habitat or other natural heritage feature worthy of protection in accordance with Planning Policy Statement 2: NH4 and NH5
- A Site Plan which clearly indicates retention and protection of existing trees during construction, including root protection zones and protective fencing at least as far as the crown spread, on all hedgerows and trees to be retained in accordance with BS 5837:2012 Trees in relation to design, demolition and construction.

The above information has been submitted and NIEA: NED are to assess and provide relevant conditions if required.

4. Representations

In total, 6 objections were received from residents located along Dalchoolin and Seafront Road. One non-committal letter was received asking for additional information. Those material planning matters raised in submitted representations are summarised below:

- **Coastal Path:** Several neighbours have objected to the new access gate being provided onto the coastal path. It was stated that the proposed access is next to an existing bottleneck adjacent to 33 Seafront Road which is only single-file traffic and any increase in traffic will create more safety issues. As the coastal path is located outside the red-line boundary of the application, the Council cannot provide comments to any existing issues with pedestrian traffic safety. The proposed entrance will emerge onto an existing area of the coastal pathway which is only accessible by foot. Therefore, the new entrance should not result in any issues with pedestrian safety given this location along the path.
- **Traffic:** A neighbour commented that anybody wishing to use the access to the Museum from Seafront Road or Glen Road is likely to park on those roads, neither of which have traffic management in place. The formal entrance to the Museum grounds is the main access off the Bangor Road. There is no access along Glen Road into the museum grounds. The proposed access onto the coastal path is to allow visitors to view a series of temporary sculptures that will be in place for 28 days along the coastal path. It would be considered that most visitors will use the museum parking provided and only local residents/visitors wanting to walk along the coastal path will park in the surrounding residential area. The Council would not ask for any traffic impact

assessment given the proposal involves the placement of 6 sculptures within the grounds of an existing museum.

- **Loss of Privacy:** A number of neighbours have stated that the removal of trees close to the boundary will result in loss of privacy and quiet enjoyment of their existing private amenity space. It was stated that the proposed pathway will bring pedestrians closer to the shared boundary with Dalchoolin and therefore encourage people to congregate in close proximity. These matters have been addressed in detail under section 'Impact on Privacy and Amenity of Neighbouring Residents' above. As shown in the proposed site plan, a mature boundary will be retained with additional planting provided around the pathways and sculptures. The sculptures are located over 20m from the dwellings along Dachoolin therefore I am not of the opinion that there will be any loss of privacy.
- **Impact on biodiversity:** A number of neighbours stated that the proposal could have negative impacts on wildlife and biodiversity e.g. pine martens and other species are disturbed by bringing higher levels of footfall into closer proximity to their habitats. These matters have been addressed in detail under Section 'Designated Sites and Natural Heritage' above.
- **Opening hours and access:** It was stated by an objector that whilst the current exhibits are contained within buildings and access to which is controlled by set opening hours, the site itself is not subject to these restrictions. A neighbour highlighted that there is pedestrian access 24/7 onto the site from the Cultra Train Halt and Bangor Road, as well as the proposed new access onto the Coastal Path. In addition, it was asked what measures the museum will be implementing to ensure that, when the new external exhibits are installed, risks are mitigated with respect to antisocial behaviour. It must be noted that the museum's opening hours are from Tuesday-Sunday 10:00am – 4:00pm. Given these opening hours the gate onto the Coastal pathway will be closed upon closing time. There is a security hut located by the main entrance of the site along Bangor Road/Cultra train halt. If there is currently public access to the site beyond opening hours, this is an existing issue which would need to be dealt with by the museum's management. It was also mentioned by a neighbour that there is an existing right of way from Dalchoolin onto the museum grounds. This right of way was not identified on any GIS map and is therefore likely only used by residents of the local area.
- **Future upkeep:** An objector asked how planners view the future upkeep and maintenance of a development of this size after approval e.g. infrastructure, personnel and financial resources allocated for security, crowd control, antisocial behaviour, litter and general upkeep. These are not material planning considerations and would be dealt with by the museum's management.

Other matters raised, such as the issues with the existing famine wall along the south-western boundary are not material planning matters that can be considered in respect of this proposal.

5. Recommendation

Grant Planning Permission

6. 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. A suitable buffer of at least 10m must be maintained between the location of the soakaway and the designated sites.

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

3. There shall be no direct discharge of untreated surface water run-off during the construction and operational phases into the designated sites.

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

4. A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and designated sites.

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

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:	
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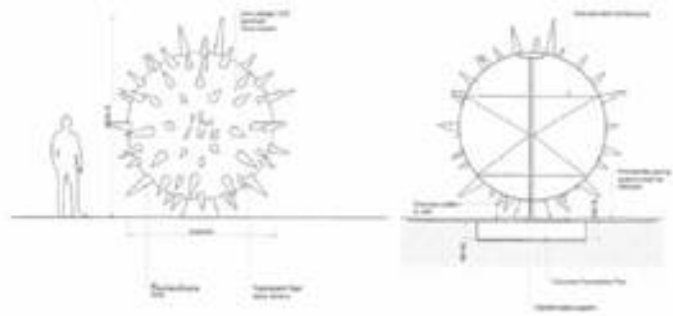
Site Location Plan



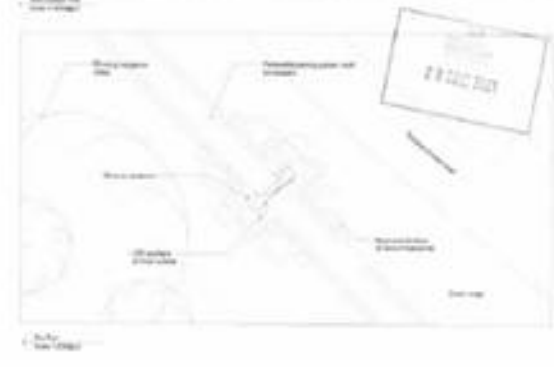
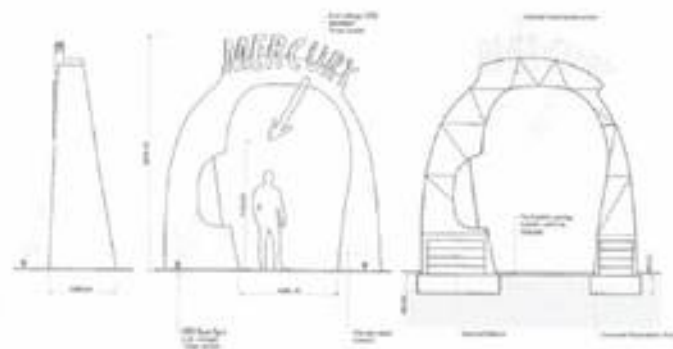
Proposed Site Plan



Details of Proposed Sculptures and Pathways



Project Title:
 Sculpture 1: A large, circular sculpture made of metal and wood, with a human figure for scale. It is located on Main Street, near the intersection of Downtown and City Center.

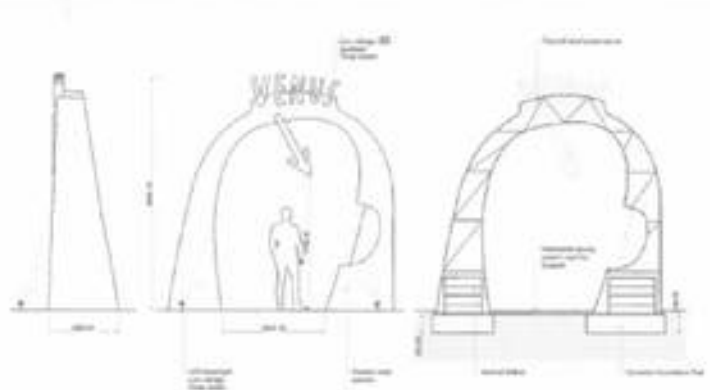


Project Title:
 Sculpture 2: A large, archway sculpture made of metal and wood, with a human figure for scale. It is located on Main Street, near the intersection of Downtown and City Center.





LA06/2021/1498



Architectural drawing

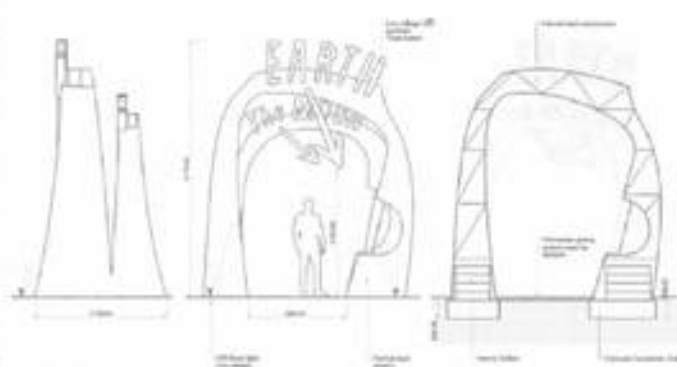
Section 1 - Venus
 The Venus is a monument to the planet Venus. It is a large, archway structure that is 10 feet high and 10 feet wide. It is made of metal and is painted blue. It is located on the campus of the University of North Carolina at Chapel Hill. The monument is a symbol of the planet Venus and is a popular landmark on campus.



LA06/2021/1498



LA06/2021/1498



Architectural drawing

Section 2 - Earth
 The Earth is a monument to the planet Earth. It is a large, archway structure that is 10 feet high and 10 feet wide. It is made of metal and is painted blue. It is located on the campus of the University of North Carolina at Chapel Hill. The monument is a symbol of the planet Earth and is a popular landmark on campus.

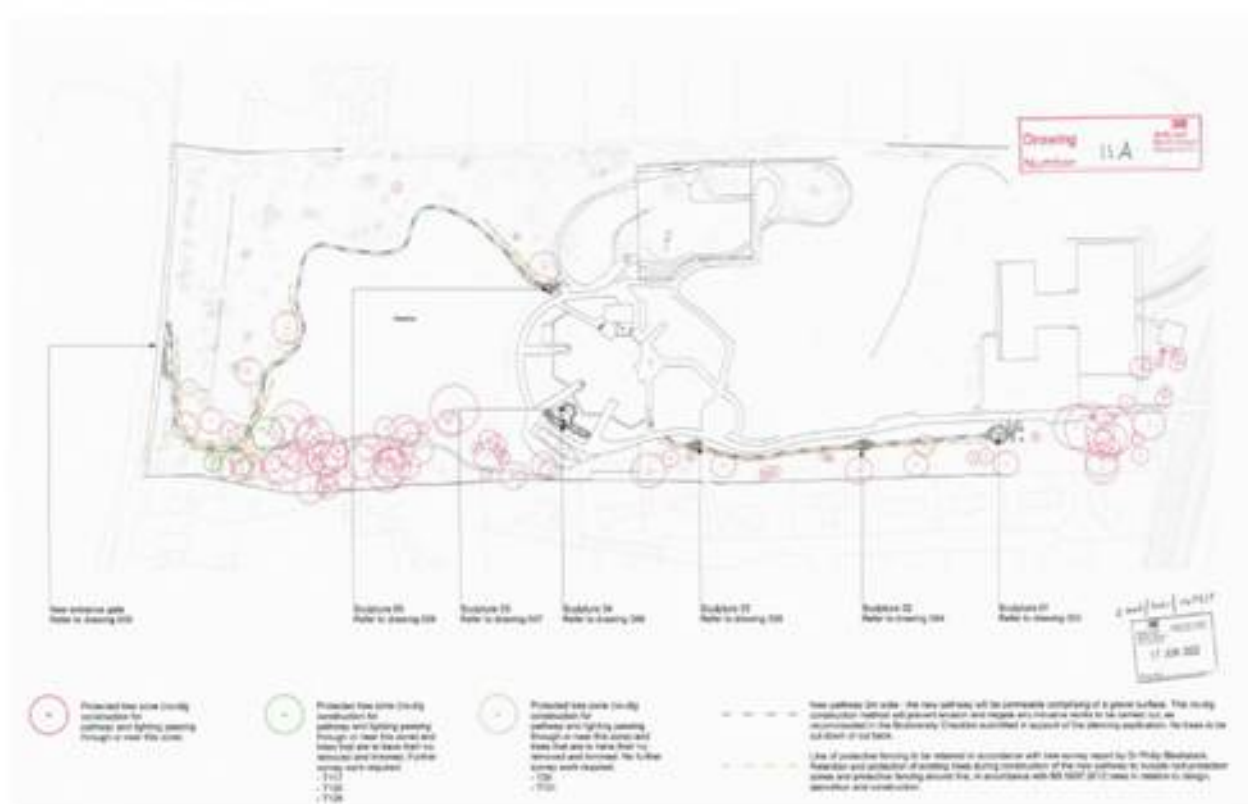


LA06/2021/1498

Details of Proposed Coastal Path Entrance



Proposed Site Plan with Tree Protective measures shown



Proposed Lighting Details

The image shows a detailed site plan for a landscape lighting project. The plan includes various symbols for trees, paths, and buildings. A north arrow is located in the upper right corner. On the right side, there is a legend and a table of lighting specifications. Below the table is a photograph of a light fixture, which is a modern, cylindrical outdoor light with a warm glow. The table lists the following specifications:

Item	Quantity	Manufacturer	Model	Notes
1	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
2	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
3	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
4	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
5	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
6	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
7	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
8	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
9	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle
10	1	DAVID TRON	DT-1000	100W, 120V, 1000lm, 3000K, 120° beam angle

Below the table, there is a note: "All lighting fixtures shall be installed in accordance with the manufacturer's instructions and the National Electrical Code (NEC). All wiring shall be done in accordance with the NEC and local codes. All lighting fixtures shall be installed in a location that is accessible for maintenance. All lighting fixtures shall be installed in a location that is not subject to vandalism. All lighting fixtures shall be installed in a location that is not subject to weathering. All lighting fixtures shall be installed in a location that is not subject to theft. All lighting fixtures shall be installed in a location that is not subject to fire. All lighting fixtures shall be installed in a location that is not subject to lightning. All lighting fixtures shall be installed in a location that is not subject to other hazards." The plan also includes a scale bar and a north arrow.

Site Photos (Provided in order from Entrance to South-western boundary)



View from entrance (south-end) looking down into site



Existing area of green space with new pathway to be situated here



New path to be created along this area of grass



View of existing road when looking up towards site entrance



Existing road and museum building located at southern end of the site



Winding road leading to south end of site



Road curves at southern end of site to meet up with new path that will lead to coastal path




Existing area of green space at rear of site

ITEM 4.6

Ards and North Down Borough Council

Application Ref	LA06/2020/0935/F
Proposal	5 dwellings - 4 terraced and 1 detached
Location	Lamont Avenue - to the rear of Nos. 13-23 Portaferry Road, Newtownards DEA: Newtownards
Committee Interest	A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation
Validated	22/10/2020
Summary	<ul style="list-style-type: none"> • Housing proposed within development limit of Newtownards – presumption in favour of development • Previous approvals for residential development, including 8 apartments in 2 blocks, on the site now expired but material to assessment • Proposal located in sustainable position with public transport links and town centre close by • All consultees content • Number of objections received which triggered referral to Planning Committee • All objections considered within case officer report
Recommendation	Approval
Attachment	Item 4.6a – Case Officer Report

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2020/0935/F	DEA: Newtownards	
Proposal:	5 dwellings - 4 terrace and 1 detached.		
Location:	Lamont Avenue - to the rear of Nos. 13-23 Portaferry Road, Newtownards		
Applicant:	John Robson		
Date valid:	22/10/2020	EIA Screening Required:	No.
Date last advertised:	07/07/2022	Date last neighbour notified:	29/06/2022
Letters of Support: 0	Letters of Objection: 14 (from 7 separate addresses)	Petitions: 0	
Consultations – Synopsis of Responses:			
DFI Roads	No objection. Content subject to conditions. Informatives provided.		
DAERA Natural Environment Division (NED)	No objection.		
DAERA Regulation Unit (RU)	No objection. Content subject to conditions. Informatives provided.		
DAERA Water Management Unit (WMU)	No objection.		
DFI Rivers	No objection. Informative provided.		
NI Water (NIW)	No objection. Conditions and informatives provided.		
Environmental Health (EH)	No objection. Content subject to conditions.		
Historic Environment Division: Historic Monuments (HED:HM)	No objection.		

Summary of Main Issues Considered:

- Principle of development
- Planning history of the site and surrounding area
- Natural heritage
- Access and parking requirements
- Archaeological potential
- Impact on the character and appearance of the area
- Impact on residential amenity
- Flood Risk and Drainage

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

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

1. Site and Surrounding Area

The application site is located within the Development Limits of Newtownards as designated by the ADAP 2015. The site is located to the north-west of Lamont Avenue, which is a small privately owned cul-de-sac that is accessed from Portaferry Road.

The site consists of the access road, 2 No. existing buildings and an area of hardstanding. The main building is a single storey block and render construction with a mono-pitch corrugated roof. The building is currently operating as John Robson Motors. The area of hardstanding is used to store vehicles associated with the business. The second building sits adjacent to Lamont Avenue and is of similar construction but much smaller in floorspace and currently appears vacant. There is a small grass area within the site but there are no other landscape features.

The north-eastern boundary is formed by a row of single storey mono-pitched garages associated with the dwellings on Portaferry Road and a 2m high timber fence. The north-western boundary is formed by large commercial warehouse buildings. The south-eastern boundary consists of existing mature hedging between Lamont Avenue and No. 25 Portaferry Road; a single storey detached dwelling. The south-western boundary consists of a 2.5m high palisade fence that separates the site from a large area of hardstanding and a former factory building (1 Lamont Avenue). The topography of the site is flat. Beyond that boundary sits Nos. 13, 15, 17, 19, 21 and 23 Portaferry Road to the north-east.

The site is in an urban area which is mixed use (business and residential) and within walking distance of the Town Centre (north-west). There is an Archaeological Site and Monument zone in this area.

2. Site Location Plan



Figure 1 – Site Location

3. Relevant Planning History

Planning permission was previously granted for a residential development on the site:

X/2001/1332/O – John Robson Motors, Lamont Avenue, Newtownards – Proposed residential development & associated site works – Permission Granted: 23.05.2002

X/2004/1105/RM – Lamont Avenue, Newtownards – Development of 8 apartments housed in 2 similar 2 storey blocks with adequate parking provision – Permission Granted: 20.01.2005

There was no evidence that these permissions had commenced, therefore it is considered that they have expired.

4. Planning Assessment

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

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (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 7: Quality Residential Environments (PPS7)
- Planning Policy Statement 12: Housing in Settlements (PPS12)
- Planning Policy Statement 15: Planning and Flood Risk (PPS15)

Planning Guidance:

- DCAN 8: Housing in Settlements
- DCAN 15: Vehicular Access Standards
- Creating Places
- Living Places

Principle of Development

Development Plan

ADAP currently acts as the LDP for this area. There are no material provisions in the Plan that are pertinent to the proposal and therefore the determination will be based on other material considerations.

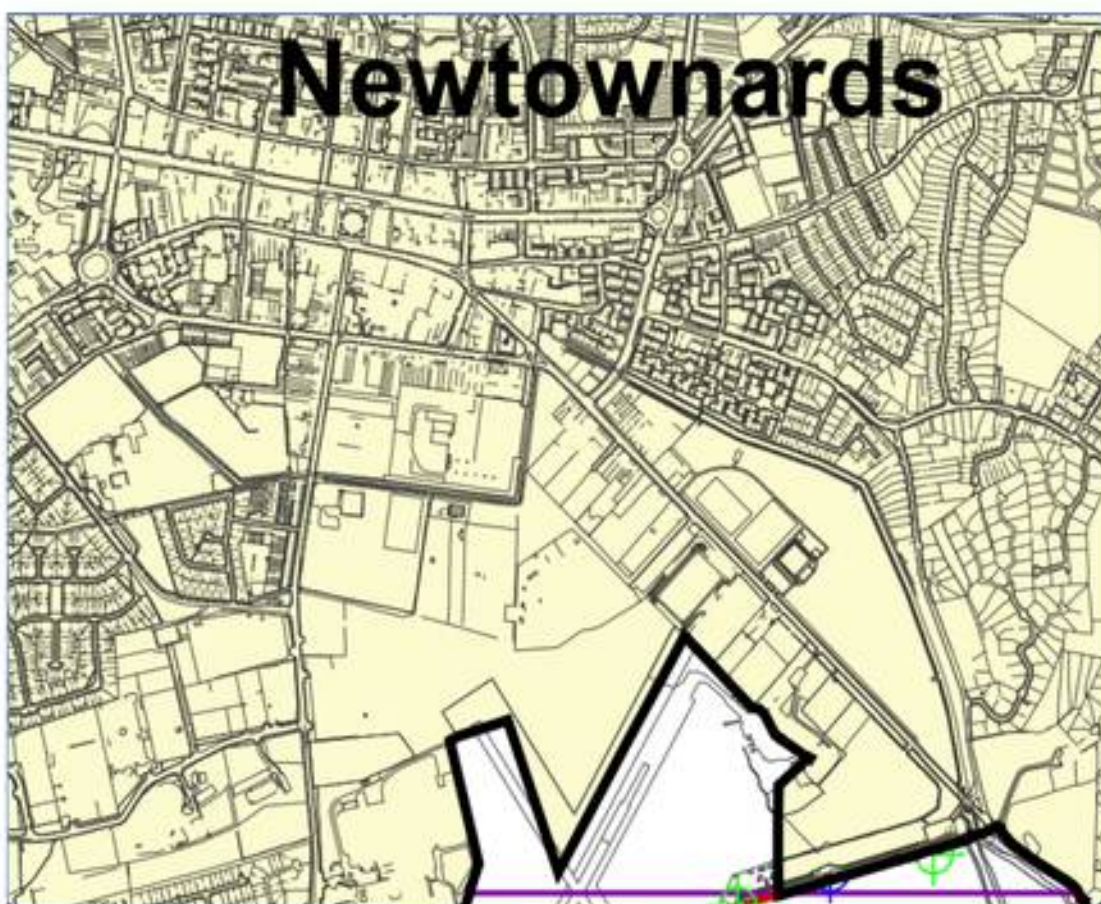


Figure 2 – Extract from Ards and Down Area Plan

The sites lies within the settlement limit of Newtownards therefore there is a presumption in favour of development subject to assessment under the relevant policies contained within PPS7 and PPS7 Addendum.

Policy QD1 of PPS7 '*Quality in New Residential Development*' 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. Policy LC1 of the Addendum to PPS7, '*Protecting Local Character, Environmental Quality and Residential amenity*' provides additional planning policy provisions on the protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements.

The SPPS promotes higher density developments in town centres and city centres and in other locations that benefit from high accessibility to public transport. Although not in the town centre, the site is within walking distance of it. Although a residential development has previously been approved under X/2001/1332/O and X/2004/1105/RM these are historic approvals that have expired.

The proposal is assessed below having regard to the criteria set out in both policies. Considerations that may be taken into account below in assessment where relevant:

Design and Impact on Character and Appearance of Area

The proposal is for the erection of 5 dwellings to include a terrace row of 4 no. units and 1 detached dwelling. The proposed layout is shown below.

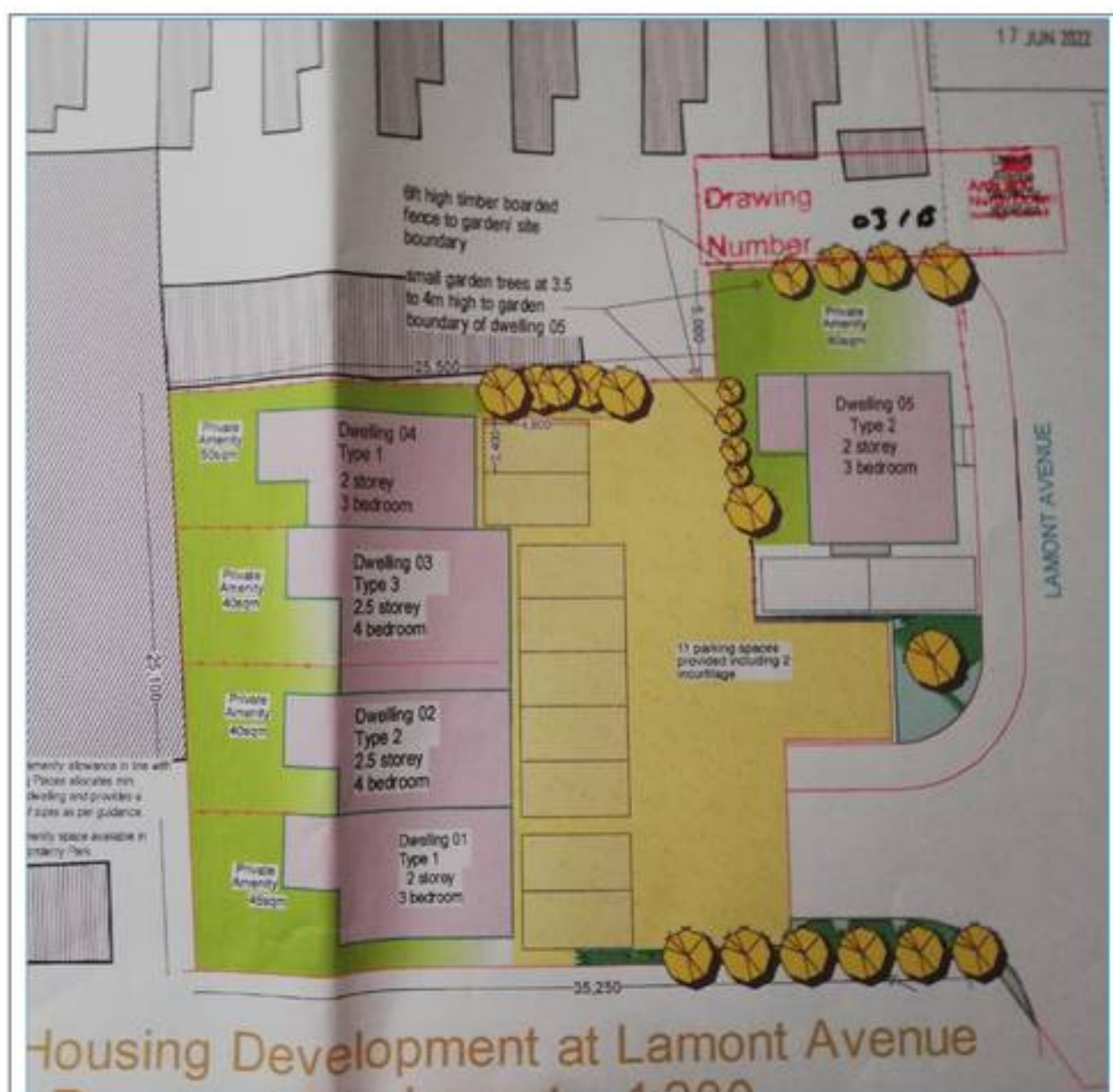


Figure 3 – Proposed Ste Layout Plan

The density of the proposed development equates to approx. 50 dwellings per hectare (5 units ÷ 0.1ha). Immediately adjacent to the site to the north-east the existing residential properties Nos. 13 to 23 have a density of approx. 60 (6 units ÷ 0.1ha). While much of the existing housing along Portaferry Road itself includes lower density in areas, there is evidence of higher density development in the area given the site location not far from the Town Centre (north-west). To the north-east in Upper Greenwell Street, Nos. 139 to 154 have a density of approx. 90 dwellings per hectare (9 units ÷ 0.1ha).

Taking account of the varied density of development within the immediate context of the site, I am satisfied that the proposed density will not be significantly higher than that found in the area.



Figure 4 – Site Location and Surroundings

The proposed development is located set back from the road behind the established building line adjacent and along Portaferry Road (north-east) meaning there will be no adverse impact from the proposal given its location.

The existing palisade and wooden fencing along the frontage of the site will be replaced by new hard and soft landscaping which will help to soften the impact of the development from Lamont Avenue itself, but much of the proposal will not be visible from Portaferry Road (north-east). The site is set back over 30m from the road and is screened by existing development in the area (including Nos.13 to 29 Portaferry Road). From Portaferry Road only the proposed detached dwelling will be visible and given its two-storey height it will be in keeping with existing residential properties in the area including Nos. 13 to 23 (north-east) which are the row of two storey terraced properties as well the two storey semi-detached properties Nos. 27 and 29 Portaferry Road (east).

The layout has been designed so that all dwellings provide a frontage to Lamont Avenue. The house types are a mix of two-storey and two and a half storey with pitched roofs and traditional simple linear forms which will respect the established built form within the area. Materials will include a mix of brick and painted render, dark grey roof tiles, black rainwater goods and coloured door and window frames. It is considered that all these materials are acceptable at this location. The proposed materials will add variety and interest to the development.

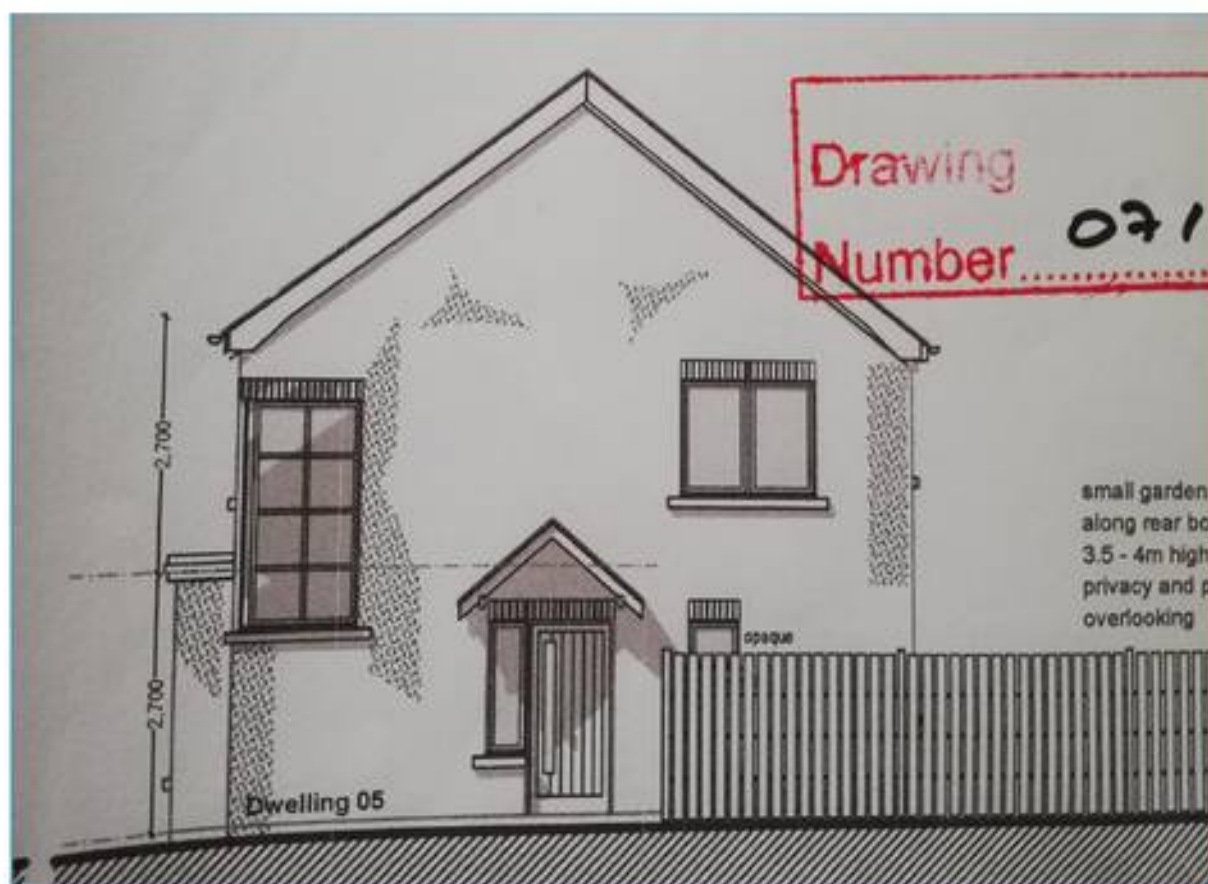


Figure 5 & 6 – Examples of Proposed House Types

The application site is flat as is the adjacent public road so the house at the front of the site will sit at the same level as the road while the dwellings to the rear will also sit upon the natural topography of the flat site. Given the location of the site and its topography I am satisfied that none of the dwellings will appear unduly prominent.

The existing dwellings at Nos. 13 to 23 are substantial terraces and already sit in a prominent position adjacent to the public road. Although No. 25 Portaferry Road is single storey, Nos. 27 and 29 are a pair of two-storey semis. It is not considered that the proposed dwellings will have a significantly greater visual impact by way of prominence given their location.



Figure 7 – Existing Properties Along Portaferry Road

Public Open Space/Private Amenity Space

PPS8 does not require public open space provision for a development of this size. In terms of private amenity space, each dwelling will have private amenity space to the rear ranging between 45sqm to 80sqm. There are 5 proposed dwellings in total. Dwelling nos. 01, 04 (Type 1) and 05 (Type 2) are 3-bedroom. Dwellings nos. 02 and 03 are 4-bedroom.

Creating Places recommends an average of around 70sqm for family homes while smaller areas will be more appropriate for houses located opposite or adjacent to public or communal open space. Creating Places also states that for an individual house an area less than 40sqm will be unacceptable meaning the proposal meets the minimum threshold. The site is within a 5-minute walk of Londonderry Park to the southeast and while 45sqm is on the lower end of the guidance recommendation it is similar to existing properties in the immediate area which is also within a 10-minute walk of the Town Centre.

Impact on Residential Amenity

I am satisfied that the proposal will have no unacceptable adverse impact on any existing or proposed adjacent residential properties. The layout proposed will provide for adequate separation distances between the existing and proposed dwellings in line with the recommendations set out in Creating Places for 'back-to-back' relationships.

As the plan below demonstrates, there are no residential properties to the rear of the proposed terraces (Dwelling Nos. 01 to 04) and Dwelling No. 04 has a side to rear relationship with the adjacent properties to the north-east. To the rear of the terraces there are large commercial warehouses belonging to Edwin Long Car Sales (Used Car Dealer). EH have been consulted and have raised no objection to the proposal.

There is a row of single-storey garages to the north of the application site and the distance between the side of Dwelling 04 and the rear wall of Nos. 15 and 17 Portaferry Road is approx. 12m to the rear returns of these properties. It is a further 8m to the rear walls. There are no windows on the side wall of Dwelling 04 meaning there will be no impact on these properties (there are also no windows on the rear returns of Nos. 15 and 17).

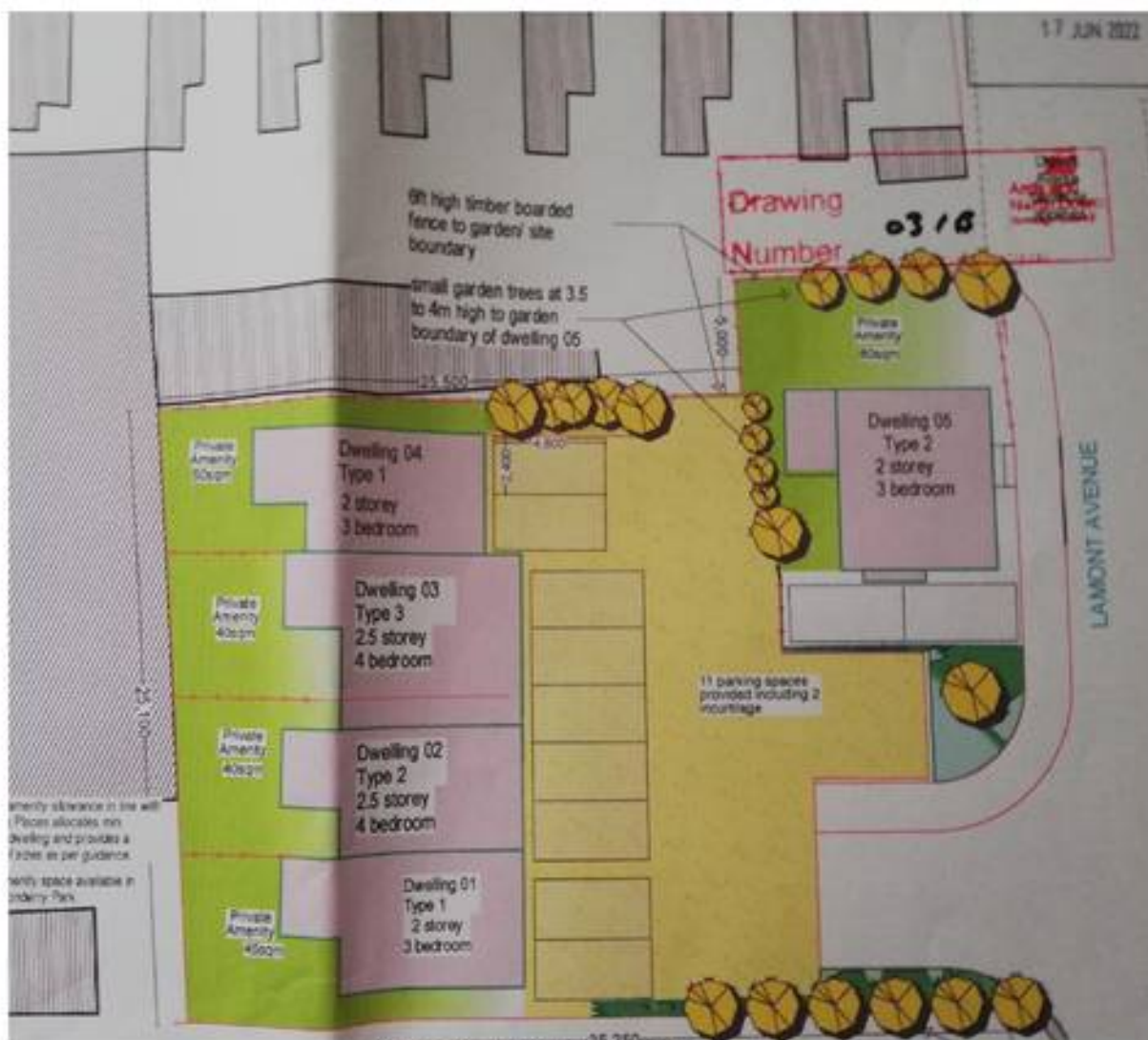


Figure 8 – Neighbouring Properties

Dwelling Nos. 01 to 04 face Lamont Avenue. There is a separation distance of approx. 15m between the front wall of Dwelling No. 04 and the rear wall of Dwelling No. 05. Dwelling No. 04 is two-storey and there are 2 no. bedroom windows on the first floor. Despite the flat site, this fails to meet the 20m separation distance recommended in Creating Places for 'back-to-back' relationships. In this case the relationship is 'front to back'.

Dwelling No. 05 has a bedroom window on the first floor and a kitchen/dining area on the ground floor meaning overlooking of these main rooms will occur from the bedroom windows of Dwelling 04. Overlooking does occur in urban areas and given that the rooms are bedrooms, there may be less of an opportunity for long standing views because although a bedroom is a main room, it is not a room that residents will spend most of their day in.

The developer was notified of these concerns and provided an amended plan (drawing No.03/B) to include some additional planting of trees 3.5m to 4m high along the rear boundary of Dwelling No. 05. The first-floor bedroom window to the north-west elevation will be obscure glazed as per drawing No.07/B to avoid any impact on privacy.

On the plan the developer has indicated that the private amenity space for Dwelling No.05 will be located to the northern side of the proposed dwelling so there will be no overlooking of the private rear. There are small garden trees (approx. 3.5m to 4m in height) along this boundary.

The distance between the side wall of Dwelling 05 and the rear wall of No. 23 Portaferry Road is approx. 18m. There is 1 first floor window on Dwelling 05 which is to be obscure glazed as per the amended plans. The private amenity space of Dwelling 05 has been designated to its northern side, but I consider 18m to be appropriate given the urban location. There are trees planted along the northern boundary meaning the rear garden will be enclosed and there is also a single storey garage between outside the site to the north.

The amended plans now mean that the bedroom window has been relocated to the southern elevation of the dwelling facing onto Lamont Avenue so there are no longer concerns regarding potential overlooking from the new dwelling towards the rear of the existing dwelling at 23 Portaferry Rd. There will now only be a bathroom window at first floor on the eastern elevation facing No. 23. This will be conditioned to have obscure glazing. The additional planting and location of the single storey garage between will ensure there is no unacceptable impact given the 18m distance.

Given the position and layout I am satisfied that the proposal will not result in any unacceptable loss of light or dominant impact. The proposed dwellings will sit on the same ground level as the surrounding properties so I am satisfied that the separation distances proposed will ensure that there will be no unacceptable impact with regard to loss of light or dominance.

Landscaping

The site is within an urban area and is entirely hardstanding so there are no existing trees or hedgerows. Landscaping details have been provided on Drawing no. 03/A and this proposed site layout shows new tree planting to the north-east and south-west boundaries along with new grassed gardens, and shrub planting to borders as well as

0.3m high fencing to define gardens. Any planning approval will be subject to a condition requiring the landscaping to be carried out within the first available planting season following the occupation of the first dwelling.

Access, Roads Safety and Car Parking

Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. Existing access to the site is gained via Lamont Avenue onto Portaferry Road to the north-east. This private lane also serves the rear of properties on Portaferry Road and the existing business on the subject site. Historically, it would have served the factory to the south of the subject site.

A new access point is proposed onto Lamont Avenue to serve all proposed dwellings. This is located to the south corner of the site along the frontage. DFI Roads has been consulted on the application and has raised no objections with regard to access or road safety, therefore I am content that the proposal meets the requirements of policy AMP2 of Planning Policy Statement 3: Access, Movement and Parking. A Private Streets Determination drawing has been submitted and approved by DFI Roads.

In terms of parking:

- Dwelling 01 is a 3-bedroom terraced unit which equates to 1.75 spaces for unassigned communal parking which is what is proposed at the terraces.
- Dwelling 02 is a 4-bedroom terraced unit. There is no standard given for unassigned communal parking for a 4-bed terrace however given 9 communal spaces are proposed overall for the terraces, this would leave 5.5 spaces shared between the two 4 bed terraces which should be more than enough.
- Dwelling 3 is a 4-bedroom terraced unit. Again, there is no standard for unassigned communal parking for a 4-bed terrace. 9 communal spaces are proposed overall for the terraces, this would leave 5.5 spaces shared between the two 4 bed terraces which should be more than enough.
- Dwelling 4 is a 3-bedroom terraced unit which equates to 1.75 spaces for unassigned communal parking which is what is proposed for the terraces.
- Dwelling 5 is a 3-bedroom detached unit with 2 no. proposed in-curtilage parking spaces. Based on Parking Standards, the provision should be 2.25 spaces. This is a deficit of 0.25 spaces. Although the surplus in the communal parking could accommodate this 0.25.

I consider that parking is acceptable based on above factors. Despite the shortfall, the site is within walking distance of the town centre. Development proposals will be required to provide adequate provision for car parking. 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. I am satisfied that adequate parking has been provided because the site is not within an area of parking restraint and there is room for on-street parking along Lamont Avenue.

Portaferry Road is not designated as a Protected Route, therefore there is no conflict with Policy AMP3.

Other Planning Matters

Archaeology and Built Heritage

The application site is within a Site and Monument zone and located on a former hosiery factory recorded in the Industrial Heritage Register. HED (HM) initially asked for conditions for the agreement and implementation of a developer-funded programme of archaeological works to identify and record any archaeological remains in advance of new construction (requested 01/12/2020). However, following re-consultation HED confirmed that because the area has previously been subject to ground disturbance, the site has limited archaeological potential and the conditions are no longer required (07/07/2021).

Security from Crime

I am satisfied that the development has been designed to provide a sense of security to future occupants. First floor windows overlook entrances and parking areas. Rear gardens of the proposed terraces will be enclosed.

Impact on Designated Sites/Other Natural Heritage Interests

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. The site is in an urban area, is hardstanding and has no landscape features.

Flooding and Drainage

There are no watercourses which are designated under terms of the Drainage (Northern Ireland) Order 1973 within the site. Flood Plain Maps (NI) indicates that the site lies within the defended floodplain of the 'Newtownards Canal' and 'Strangford Lough' and as such FLD 1 Defended Areas applies. DFI Rivers were consulted and confirmed that the flood defences present provide the minimum standard of 1 in 100 year fluvial or 1 in 200 year coastal protection.

The proposal is not for essential infrastructure, hazardous substances, bespoke accommodation for vulnerable groups or located close to flood defences so Rivers Agency invited the developer to undertake a Flood Risk Assessment (FRA) because the proposal involves site intensification. An FRA was submitted in February 2022 and after reconsulting Rivers confirmed that they accept its logic and has no reason to disagree with its conclusions.

A Drainage Assessment (DA) was not required due to the nature of the hardstanding site at present. Despite the site being located within a potential area of inundation emanating from Strangford Lough Wildfowlers Pond DFI Rivers have advised that the overall risk at this site is low and it is considered acceptable.

Consequently, DFI Rivers has raised no objections to the proposed development from a drainage or flood risk perspective.

Sewerage Disposal

The applicant has indicated on the submitted P1 form that surface water will be disposed of via storm drains. It is proposed to dispose of sewage via the Mains. NI Water has been consulted and has raised no objections.

Environmental Health (EH)

In their initial consultation response, EH indicated that the proposal has the potential for noise and contaminated land concerns.

Following the submission of a Contaminated Land Preliminary Risk Assessment (PRA), EH were reconsulted and confirmed that the conceptual site model has identified no complete human health pollutant linkages and it had been concluded that no further risk assessment is necessary. A condition regarding unexpected contamination was requested and is included in section 11 (Conditions). A Noise Impact Assessment was also submitted and EH requested planning conditions in relation to appropriate glazing and ventilation systems as well as acoustic fencing.

Regulation Unit (RU)

RU also reviewed the PRA and confirmed that they are content subject to conditions.

5. Representations

Those material planning matters raised in submitted representations are summarised below:

Property Value

- Impact on the value of adjacent residential properties.

This is not a material planning matter that can be considered in respect of this proposal.

Damage to Existing Residential Properties from Construction Works

- The ground is unsuitable for development - the area is reclaimed land meaning piling would be required for the foundations.
- If approved, the construction works will have a damaging impact on existing residential properties Nos. 13 to 25 Portaferry Road.
- The existing adjacent properties have previously been damaged by the construction of other approved developments in the area which has resulted in structural damage from building works including the use of heavy plant and machinery and piling for foundations which will be required on the land which is reclaimed.
- Heavy plant and machinery entering and exiting the site will have a detrimental impact on existing residential properties.
- Noise impact and disruption during construction.

The application site is located within the development limits of Newtownards close to the Town Centre. The site has previously been developed and it is mostly hardstanding with several buildings in situ. The site is flat and if approved a condition will be included to ensure that the depth of the underbuilding does not exceed 0.3m.

Given its location, the site is surrounded by existing development including businesses Edwin Long Car Sales to the north-west and Downey's Kia to the south-east as well as

retail units such as Habitat ReStore to the east and Martin Phillips Carpets to the west. This is a mixed-use area with a lot of existing residential development also.

All development works will 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.

The agent has confirmed that the foundation solution for the properties will be selected at design stage if approval is forthcoming. It has been advised that the lightly loaded nature of the properties there is the potential for a raft foundation. Whilst they have stated that piling may be an option, they are aware of the multiple piling methodologies and restrictions on piling works within vibration limits to avoid damage in accordance with codes of practice including the sections that relate to 'Neighbourhood Nuisance'.

The onus is on the developer to ensure that appropriate survey work regarding ground conditions is carried out prior to development and that no damage occurs to other properties during construction. If any damage does occur during construction this is a civil matter between the two parties outside of the planning process.

Access

- The existing access opening is small and Lamont Avenue too narrow.
- It is not substantial enough to allow heavy machinery or additional daily traffic.

This has been assessed in detail in the main body of the report in Section 7. The access opening is existing, and Lamont Avenue is in use. It currently serves John Robson Motors and is also used by local residents including the occupiers the residential properties adjacent to the site along Portaferry Road. DFI Roads have been consulted and has raised no objection subject to conditions.

Road Safety

- Lamont Avenue is dangerous to enter and exit due to heavy traffic congestion on the main Portaferry Road therefore the proposed access will be dangerous.
- A rise in traffic and congestion in the area has been caused by the new roundabout system and ring road meaning entering and exiting Lamont Avenue is hazardous and the proposal will result in additional traffic.
- Lamont Avenue has been an accident blackspot in the past. There have been multiple traffic accidents at the entrance to Lamont Avenue when motorists have been entering and exiting. The area cannot handle additional traffic from residents or construction traffic.
- The proposal will increase the road safety risk if more residential properties are built.

This has been assessed in detail in the main body of the report in Section 7. DFI Roads have been consulted and has raised no objection meaning the proposal is deemed to be acceptable from a road safety standpoint. Lamont Avenue is existing and in use by local residents, the existing car mechanics and its customers.

Parking

- The existing residents have limited parking which was further reduced by the altered flow of traffic to Bangor when the double yellow lines to the front along Portaferry Road were extended.
- The occupiers of Nos. 13-25 will lose parking access with no alternative parking area.
- Further development in the area will force residents to park on the opposite side of the road creating greater traffic congestion.

This has been assessed in detail in the main body of the report in Section 7. Parking has deemed to be acceptable. I have visited the site and the rear access to the adjacent properties is out with the application site meaning access will not be restricted.

Road Layout

- No account has been taken of the change in the road layout caused by the Castlebawn development which disrupted existing residents.

Consultation has been carried out with DFI Roads who has considered the proposal in relation to the current road layout and network. No objection has been raised.

Right of Way

- Impact on right of way to the rear of existing properties and garages which will be compromised.

This area is outside the red line of the application site and is unaffected by the proposal.

Impact on Character

- The proposal is not in keeping with the character of the existing residential properties along Portaferry Road (which are Victorian terraced)
- The proposal will have a detrimental impact on the character of this small neighbourhood.

This has been assessed in detail in the main body of the report in Section 7. The proposal has been deemed to be acceptable given its location within the development limits and close to the Town Centre. The proposed dwellings 01 to No. 04 are terraced meaning they are similar in design and appearance to the existing terraced properties along Portaferry Road.

Overdevelopment

- The proposal is too big for the site. This quiet terraced housing area will become overdeveloped.

This has been assessed in detail in the main body of the report in Section 7. The proposal has been deemed to be acceptable in terms of density.

Biodiversity

- Damage to the habitat of endangered native wildlife especially hedgehogs in the area.

The application site is hardstanding with only a small section of grass. It currently operates as a car mechanics and has no significant natural features.

Neighbour Amenity

- Impact on privacy of No. 14 Portaferry Road through overlooking of property including rear garden.
- Impact on privacy of No. 17 Portaferry Road.
- Proposed dwellings more than one storey in height will reduce the light to the existing properties including No. 17 Portaferry Road.

This has been assessed in detail in the main body of the report in Section 7. Given the position of existing properties and layout of the proposed dwellings there will be no impact on neighbour amenity.

Flooding

- Existing residents have been affected by flooding in recent years due to the new road re-alignment on the Portaferry Road and DFI have been called out several times to clear the drains. Heavy rain has also caused flooding in the area.
- Additional development within the floodplain will have a detrimental impact on the existing properties.

This has been assessed in detail in the main body of the report in Section 7. Consultation has been carried out with DFI Rivers who has raised no objections.

Existing Infrastructure

- Existing infrastructure in the area cannot cope with additional residential dwellings at this location.
- Concerns regarding drainage in the area being impacted by more residents using the system.

This has been assessed in detail in the main body of the report in Section 7. The site is within the development limits of Newtownards and no objections have been raised by statutory consultees.

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. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

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

3. After completing all remediation works under Condition 2 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

4. In the event that unexpected contamination is encountered during the approved development of this site, the development shall cease and a written report detailing the nature of this contamination and its management must be submitted to the Council for approval. This investigation and risk assessment must be undertaken in accordance with current best practice.

Reason: Protection of human health.

5. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. Council Planning hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing Number 09/B, bearing the date stamp 26th July 2021.

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

6. The proposed first-floor bedroom window, shaded BLUE on drawing No.07/B bearing the date stamp 17th June 2022, on the north-eastern elevation of the dwelling hereby approved at Plot 5 shall be fitted with obscure glazing prior to occupation and be retained in perpetuity thereafter.

Reason: To protect the private amenity of neighbouring properties.

7. The proposed bathroom window, shaded BLUE on drawing No.07/B bearing the date stamp 17th June 2022, on the north-eastern elevation of the dwelling hereby approved at Plot 5 shall be fitted with obscure glazing prior to occupation and be retained in perpetuity thereafter.

Reason: To protect the private amenity of neighbouring properties.

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

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

9. No dwelling shall be occupied until provision has been made for the parking of private cars in accordance with Drawing Number 03/B bearing the date stamp 10 June 2021. The parking provision as approved shall be retained in perpetuity thereafter.

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

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

Reason: Road safety and convenience of traffic and pedestrians.

11. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the DFI Roads Street Lighting Section (These works will be carried out entirely at the developer's expense).

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

12. The glazing and ventilation systems of the proposed residential units shall be installed prior to the occupation of the dwellings hereby approved and shall comply with the sound reduction performances as specified in Table 2 of point 4.6.2 of the Inward Sound Level Impact Assessment prepared by Lester Acoustics and referenced Document 01, bearing the date stamp 10th June 2021. The glazing and ventilation systems as installed shall be retained to these specifications in perpetuity thereafter.

Reason: To ensure the occupiers of nearby residential premises are not adversely affected by noise.

13. Prior to the occupation of any dwelling hereby approved, a 1.8m high acoustic fence shall be erected and maintained along the site's boundary and private amenity spaces as indicated in ORANGE on Drawing Number 03/B bearing the date stamp 17th June 2022. The fence shall be constructed of timber paneling (close lapped with no gaps) and shall have a minimum self-weight of 6kg/m² and shall be permanently retained thereafter.

Reason: To ensure the occupiers of nearby residential premises are not adversely affected by noise.

14. All hard and soft landscape works shall be carried out in accordance with the approved details on Drawing Number 03/A, bearing the date stamp 10th June 2021, and the appropriate British Standard or other recognised Codes of Practice. The works shall be completed during the first available planting season following the occupation of the first dwelling of the development hereby approved.

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

15. 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.

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

Reason: The further extension of this dwelling requires detailed consideration to safeguard the amenity of adjacent dwellings.

17. Notwithstanding the provisions of the Planning (General Development) Order (NI) 1993, or any Order revoking and re-enacting that Order, no buildings or other structures shall be erected within the curtilage of the dwellinghouses hereby permitted without the grant of a separate planning permission from the Council.

Reason: Further development within the curtilage of this dwelling requires detailed consideration to safeguard the amenity of adjacent dwellings.

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:



Drawing No.01 – Site Location Plan



Note: All dimensions are in feet and inches unless otherwise noted.
 All work shall be in accordance with the applicable codes and standards.
 All work shall be in accordance with the applicable codes and standards.
 All work shall be in accordance with the applicable codes and standards.

Second Floor 1/100
 First Floor 1/100
 Ground Floor 1/100

Drawing Number: **04A**
 Date: 18 JUN 2021
 Scale: 1/100

QVA Architect
 QVA Architect
 18 JUN 2021
 18 JUN 2021
 18 JUN 2021

**Housing Development at Lamont Avenue
 Proposed Terrace Housing Plans**

Drawing No.04/A – Floor Plans (Terrace Dwellings)



Drawing No.05/A – Elevations (Terrace Dwellings)



Drawing No.06/A – Elevations (Terrace Dwellings)



Drawing No.07/B – Floor Plans & Elevations (Detached Dwelling)



Drawing No.09/B – PSD Layout

RECEIVED
10 JUN 2011

Drawing Number 10A

NO.	DATE	BY	CHKD
DESCRIPTION			
DESIGNED BY			
CHECKED BY			
PROJECT NAME			
DRAWING NO.			
SCALE			
SHEET NO.			
TOTAL SHEETS			

Drawing No.10/A – Construction Details



Drawing No.11 – Sweep Path Analysis



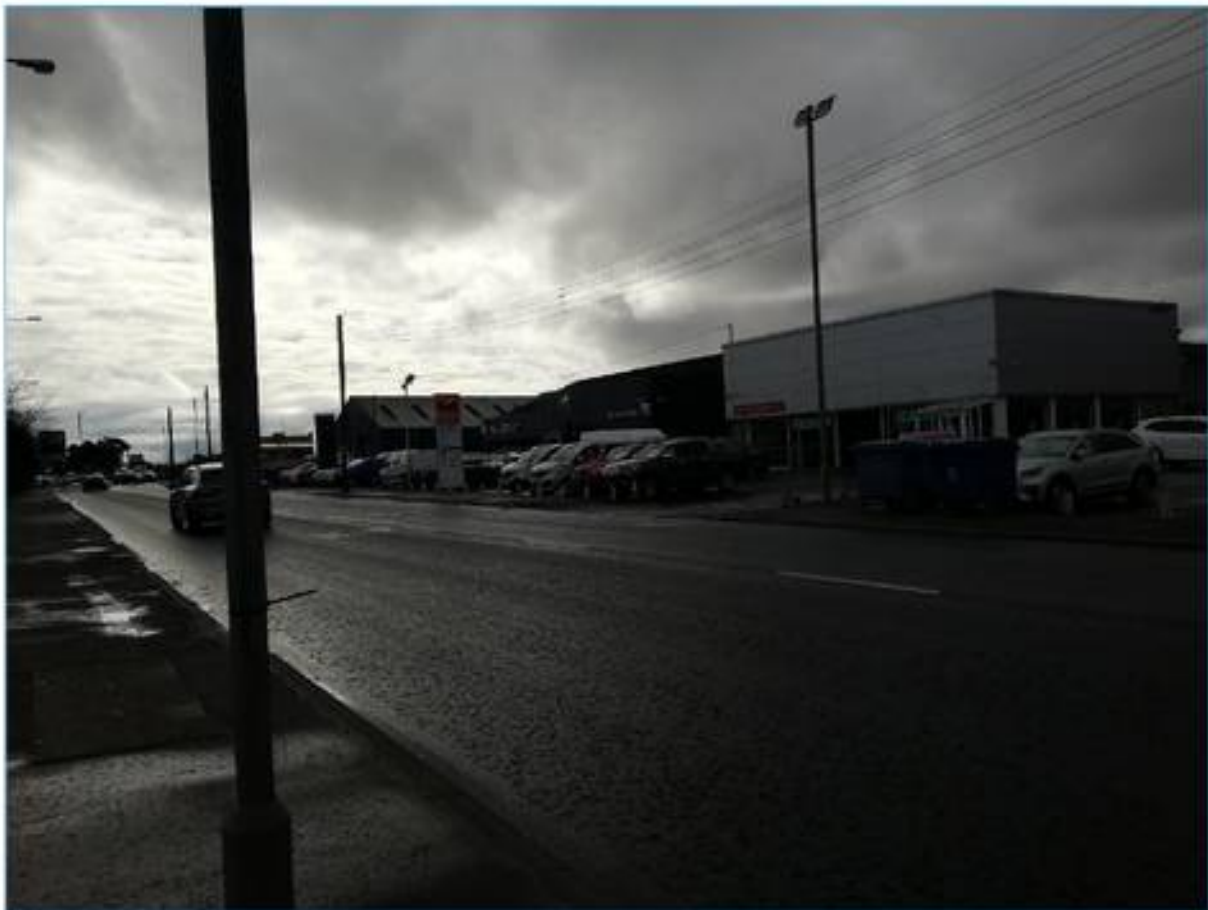













ITEM 4.7

Ards and North Down Borough Council

Application Ref	LA06/2022/0167/F
Proposal	Installation of A3 plaque
Location	Wall at the entrance to Ards Hospital Church Street, Newtownards DEA: Newtownards
Committee Interest	An application made by the Council
Validated	15/04/2022
Summary	<ul style="list-style-type: none"> • Proposed to record death of eight spectators who died as result of a crash during the Ards TT Race in 1936 • No public objections received • No proliferation of signage in the area • No impact on road or pedestrian safety • No significant visual impact • Complies with relevant Planning Policy
Recommendation	Grant Consent
Attachment	Item 4.7a – Case Officer Report

Development Management Case Officer Report			 Ards and North Down Borough Council		
Reference:	LA06/2022/0167/F	DEA: Newtownards			
Proposal:	Installation of A3 plaque	Location:	Wall at the entrance to Ards Hospital Church Street Newtownards		
Applicant:	Ards and North Down Borough Council				
Date valid:	15.04.2022	EIA Screening Required:	No		
Date last advertised:	05.05.2022	Date last neighbour notified:	21.04.2022		
Consultations – synopsis of responses:					
None required					
Letters of Support	0	Letters of Objection	0	Petitions	0
Summary of main issues considered:					
<ul style="list-style-type: none"> • Design of the proposal • Impact upon private amenity of any domestic properties nearby 					
Recommendation: Grant Consent					
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 a wall at the entrance to Ards Hospital, Church Street, Newtownards. There is a road to the north of the site and beyond this residential housing. To the south is the Newtownards hospital building and associated car park. The wall on which the plaque is to be fixed, stretches the length of the car park and is made in a mixture of red brick. The wall is approximately 2.5m high and 120m long.

The site is located within the Newtownards settlement limit in the Ards and Down Area Plan 2015.

2. Site Location Plan



3. Relevant Planning History
No relevant planning history
4. Planning Assessment
<p>The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:</p> <ul style="list-style-type: none"> • Ards and Down Area Plan 2015 • Strategic Planning Policy Statement for Northern Ireland (SPPS) • Planning Policy Statement 3: Access, Movement & Parking • Planning Policy Statement 17: Control of Outdoor Advertisements
<p>Principle of Development</p> <p>Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the LDP, so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.</p> <p>ADAP currently acts as the LDP for this area. Under ADAP, the site lies within the settlement limit of Newtownards. As there are no material provisions in the Plan that are pertinent to the proposal, the determination will be based on other material considerations.</p> <p>The proposal is for a wall mounted signage board, A3 in size.</p> <p>The proposed signage is in keeping with the character and appearance of the place where it will be displayed. Given the potential impact of outdoor advertising on amenity, both positive and negative, there is a need to balance the requirements of the industry with the protection and, where possible enhancement of the character and appearance of our cities, towns and villages. The proposed plaque will not prejudice public safety including road safety, in accordance with page 49 Para 6.52 of the SPPS.</p> <p>The proposed plaque will respect the amenity of the nearby residents.</p> <p>The proposed plaque is sensitively designed and located on the wall and will contribute positively to the appearance of the local area, providing historical information to local residents and visitors to the town.</p> <p>The proposal will not contribute to proliferation in the immediate area.</p>

It is my planning judgment that the proposed plaque is in line with the regional strategic objectives for the control of advertisements as laid out in the SPPS page 49 para 6.56.

Scale, Massing and Visual Impact

In the amplification of policy PPS17 it is requested that care must be taken to ensure that an advertisement will not detract from the place where it is to be displayed or its surroundings. Amenity, in relation to advertisements, is understood to mean its effect upon the appearance of the building or the immediate neighbourhood where it is displayed, or its impact over long distance views.

The guidance in Annex A states that poster panels have the potential to be over dominant and obtrusive in the street scene. There is a need therefore to ensure that such displays respect the scale of their surroundings.

The proposal involves the erection of a Wall mounted signage board, A3 in size and detailed with subtle colouring.



Proposed detail of plaque

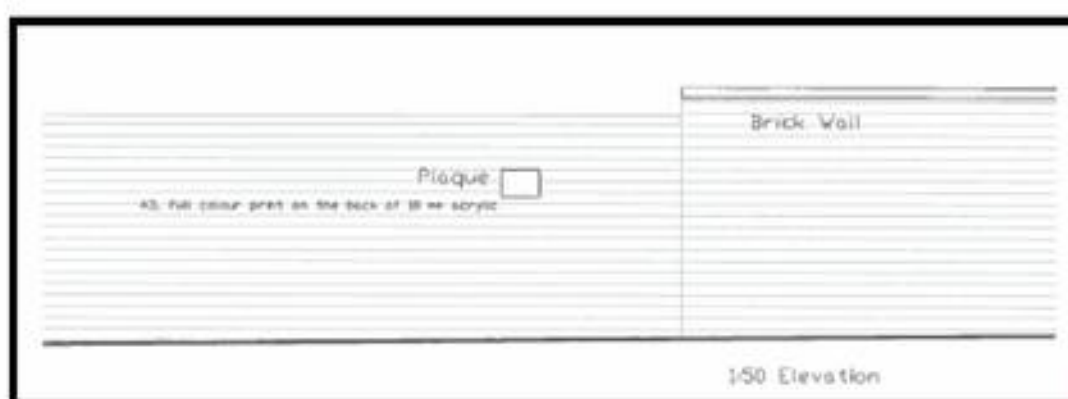
In terms of the general characteristics, I consider the area to be a mix of uses. The site is located next to the main tributary road leading from Belfast / Dundonald into the town centre. The Ards Hospital site is located to the south of the wall and there is residential housing and a funeral director to the north.

There is also a church, the Council building and small business all within the local area. The sign is small at A3 size, in comparison to the wall at approximately 2.5m high and 120m long, on which it will be located, and it will mainly be visible to pedestrians passing the wall. Due to the size and location of the sign it will not be easily observed by passing traffic.



There is a minimal amount of signage in the area with a parking sign on the wall of similar size to that proposed and signage on poles to the entrance of the hospital. Given the colouring proposed in the sign it will be less of a visual impact than that which exists. There are a number of typical road signs and traffic lights at the "X" junction with Fredrick Street, but they are very much as one would expect on any street/road junction and do not detract from the overall character of the area.

There will be no overbearing long distance views given the size and colour scheme of the plaque, together with the speed of traffic on this section of the road. The plaque is not to be illuminated and will have no negative visual impact upon the local area or when considered with any of the other signage on the wall or immediate area.



Location of plaque on the wall

It is my planning judgment that the proposed plaque which will provide historical information of Newtownards for local residents and those visiting the town, is very minimal development. I have considered the visual impact of the proposed plaque together with the cumulative impact of it and any other signage in the area and it is my planning judgment that the proposal will not detract from the character of the local area.

Residential Amenity

PPS17 also makes residential amenity a yardstick with which to judge development proposals. The plaque will not be illuminated and in my opinion given the size and colouring of the plaque it will have no impact upon any of the neighbouring residential properties. The closest residential unit facing the site has its southern gable wall, which is has no windows, facing the site.

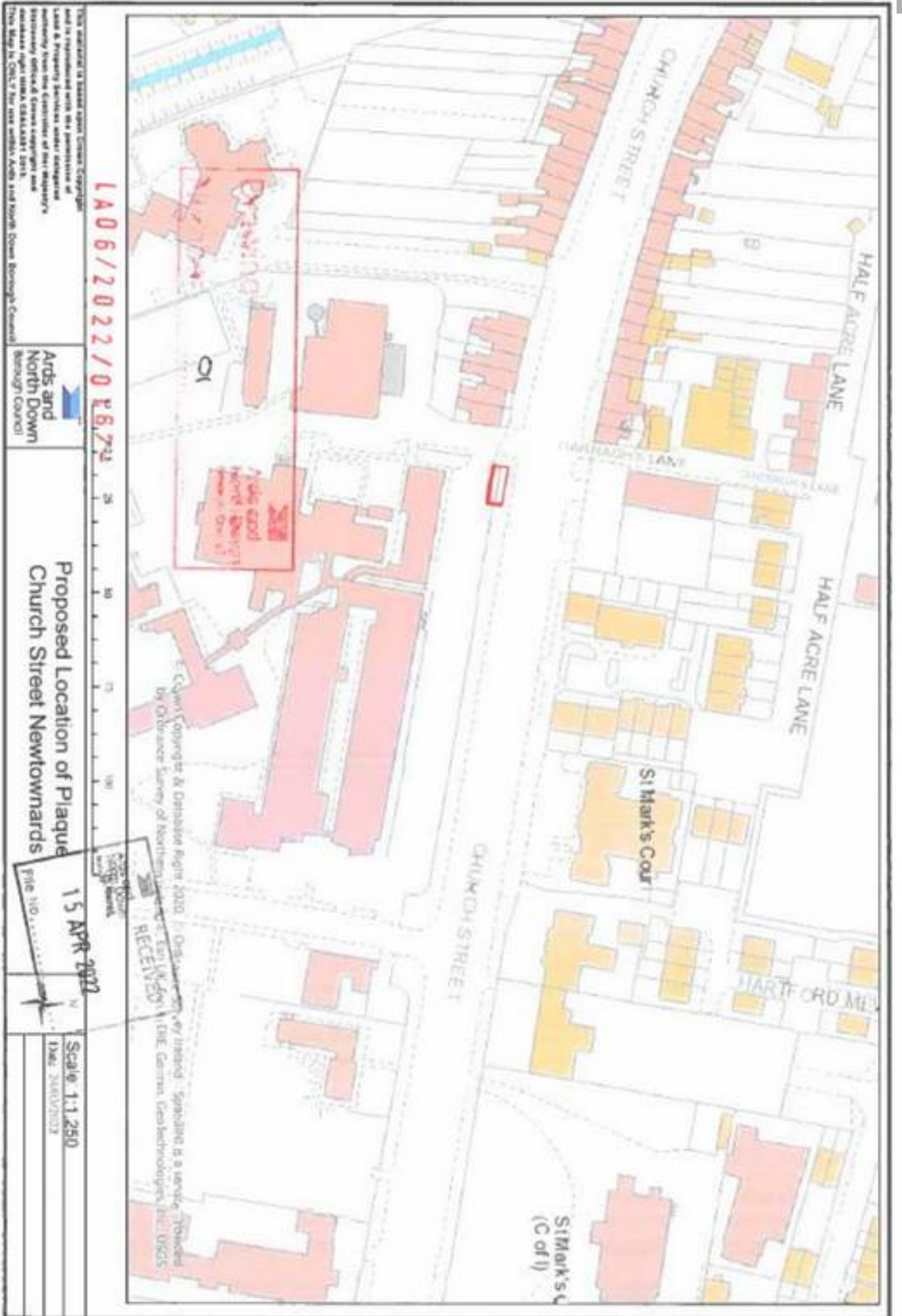
Road Safety

DFI roads did not require consultation given the location of the plaque, its size and it will not be illuminated. The plaque poses no road safety issues.

5. Representations

No Representations were received.

6. Recommendation
Grant Consent
7. Conditions
<ol style="list-style-type: none">1. The plaque hereby approved shall be erected in the position shown on approved plans Drawing No. LA06/2022/0167/03 date stamped 5th April 2022. Reason: In the interests of road safety and the convenience of road users.
Informative
<p>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.</p>



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Ards and North Down Borough Council

Proposed Location of Plaque Church Street Newtownards

15 APR 2022

Scale 1:1,250
File No: LA06/2022/0167









ITEM 5

Ards and North Down Borough Council

Council/Committee	Planning Committee
Date of Meeting	02 August 2022
Responsible Director	Director of Regeneration, Development and Planning
Responsible Head of Service	Head of Planning
Date of Report	04 July 2022
File Reference	Planning Committee
Legislation	Planning Act (NI) 2011
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/>
Subject	Update on Planning Appeals
Attachments	Item 5a – PAC decision 2020/A0053 Item 5b – PAC decision 2021/E0042

New Appeals Lodged

1. The following appeal was lodged on 01 July 2022.

PAC Ref	2022/A0075
Application ref	LA06/2021/1481/O
Appellant	Mr Ivan Robinson
Subject of Appeal	Refusal of 'Erection of off-site replacement dwelling with new access to Ravara Road'
Location	Approx 185m SW of 25 Ravara Road, Ballygowan

2. The following appeal was lodged on 30 June 2022.

PAC Ref	2022/A0073
Application ref	LA06/2019/1195/F
Appellant	Ms Rosina Herron
Subject of Appeal	Refusal of 'Two single storey infill dwellings'
Location	Land adjacent to and South of 9 Killinakin Road, Killinchy

3. The following appeal was lodged on 24 June 2022.

PAC Ref	2022/A0068
Application ref	LA06/2018/1264/F
Appellant	CES Quarry Products Ltd
Subject of Appeal	Retrospective approval for redevelopment of the site to provide a building containing storage, warehousing, builders merchant, trade and retail facilities, sales and display area, entrance wall & ancillary parking – appeal against Condition 6 requiring cessation of use of mezzanine floor for café and retail use
Location	163 Moneyreagh Road, Castlereagh

Decisions

4. The following appeal was dismissed on 27 June 2022.

PAC Ref	2020/A0053
Application ref	LA06/2018/0157/F
Appellant	Mr Eric Rosborough
Subject of Appeal	Refusal of 'Retention of embankments - Biodiversity and environmental research monitoring lands (BERMs), watchtower, access and ancillary storage and amenity units all for the purposes of academic research and development'
Location	Approximately 330M West of No 251 Bangor Road, Whitespots, Newtownards

The Council refused planning permission on 16 April 2020 for the above development for the following reasons:

- i. The proposal is contrary to the SPPS and Policy CTY 1 of PPS 21: Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location;
- ii. The proposal is contrary to Policy CTY 13 of PPS 21: Sustainable Development in the Countryside, in that it is an inappropriate form of development for the site and its locality and therefore does not visually integrate into the surrounding landscape;
- iii. The proposal is contrary to Policy CTY 14 of PPS 21: Sustainable Development in the Countryside, in that it results in a detrimental change to the rural character of the countryside;
- iv. The proposal is contrary to Policy AMP 3 of PPS 3: Access, Movement and Parking, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and road safety.

The Commissioner did not consider that refusal reasons iii. and iv. above were appropriate in relation to the R&D use as Policies CTY 13 and 14 refer to ancillary works associated with buildings, therefore these reasons for refusal were not sustained.

The Commissioner considered that the BERMs are an essential component necessary to facilitate the ongoing monitoring of the invasive species and their impact upon native species. Given they are now almost completely covered in a variety of planting which has softened their visual impact and allowed them to blend into the landscape, and not being visible from the protected route, and their limited scale, she did not consider that they have a detrimental impact upon the character of the area.

Given the uncertainty about the regularity of use of this facility or the numbers attracted to the site at any one time, the Commissioner was not persuaded that there was any requirement for such extensive areas of hardstanding around the BERMs. Whilst they would not have a detrimental visual impact, she was not persuaded that any or all of these areas of hardstanding were an essential feature at the location integral to the over use of the BERMs.

The Commissioner highlighted the considerable discrepancies in the information provided by the appellant and QUB in relation to the number of QUB staff and students using the R&D facility, including lack of detail pertaining to the ongoing research. A Technical Report addressing the issue of traffic generated by the development contradicted evidence presented regards Professor Dick visiting the site over the previous two years.

In respect of the laneway the Commissioner found that the initial stretch of laneway is essential to provide access to the R&D facility and considered that it would not have a detrimental impact on visual amenity or on the character of this rural area; however the extension of the laneway encircling the outer edge of the BERMs was not considered essential to the R&D use.

In respect of the watchtower, whilst it was considered that it may provide a panoramic longer-range view of deer's movements across the entire site, facilitating the use of night vision equipment, the Commissioner considered she had insufficient evidence on its usage to persuade her that the watchtower represents an essential component of the R&D facility.

In relation to a smaller container on site, the Commissioner was not persuaded of its alleged need as being able to provide a workstation, study, toilet and clothes-drying facility, given use of the R&D facility for 9 years without such facilities.

Dealing with the access onto the protected route, the Commissioner criticises the variations in trips generated by the R&D facility and lack of evidence provided. In light of absence of explanation as to why an alleged 16 traffic movements per year would require 5 parking spaces (then reduced to 2 in a revised scheme) she was not persuaded that the additional traffic generated would be less than 5%. In this regard the Council's 4th reason for refusal was upheld.

Given the contradictory evidence presented and the lack of clear and precise details about how and when the R&D facility would operate, the Commissioner found that the appellant had failed to demonstrate that it represented an appropriate form of development in the countryside, contrary to Policy CTY 1. As such the Council's 1st reason for refusal was upheld.

The PAC report is attached to this report.

The Enforcement Notice below deals with removal of the various elements determined as not being necessary in this appeal above.

5. The Enforcement Notice below is upheld but varied by the PAC on 27 June 2022.

PAC Ref	2020/E0053
Application ref	LA06/2018/0157/F
Appellant	Mr Eric & Mrs Alana Rosborough
Alleged breach of planning control	1) unauthorised extension to laneway; 2) unauthorised excavation of land and the creation of earth bunds; 3) unauthorised creation of hardcored areas; and 4) unauthorised use of the land for the purposes of shooting
Location	Approximately 330M West of No 251 Bangor Road, Whitespots, Newtownards

The Enforcement Notice set out the requirements for the offender as follows:

- i. Permanently remove the laneway and restore the land to its condition before the breach took place within six months from the date the Notice comes into effect;
- ii. Permanently remove the earth bunds and restore the land to its condition before the breach took place within six months from the date the Notice comes into effect;
- iii. Permanently remove the hardcored areas and restore the land to its condition before the breach took place within six months from the date the Notice comes into effect;
- iv. Permanently cease the unauthorised use of the land for the purpose of shooting from the date the Notice comes into effect.

In respect of the appeal against the Enforcement Notice the Commissioner determined the following:

- Ground (b) **fails** (appeal alleging that those matters specified have not occurred);
- Ground (c) **fails** (appeal alleging that those matters (if they occurred) do not constitute a breach of planning control);

- Ground (d) **fails** (appeal alleging that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters)
- Ground (f) **succeeds** to the extent that the Enforcement Notice is varied in relation to steps required
- Ground (g) **fails** (appeal alleging that any period specified in the notice falls short of what should reasonably be allowed)

The Commissioner was satisfied that the earth bunds had little visual impact in the landscape and thus did not consider their removal was a necessity and further considered such removal would cause more environmental damage, not only to the appeal site but beyond.

The PAC decision is attached to this report.

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 Decision

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87/91 Great Victoria Street
BELFAST
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T: 028 9024 4710
E: info@pacni.gov.uk

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Appeal Reference:	2020/A0053
Appeal by:	Mr Eric Rosborough
Appeal against:	The refusal of full planning permission
Proposal:	Retention of embankments - Biodiversity and environmental research monitoring lands (BERMs), watchtower, access and ancillary storage and amenity units all for the purposes of academic research and development.
Location:	Lands approx. 330m west of No. 251a Bangor Road, Whitespots, Newtownards.
Planning Authority:	Ards and North Down Borough Council
Application Reference:	LA06/2018/0157/F
Procedure:	Remote Hearing on 13 May 2022
Decision by:	Commissioner Pauline Boomer dated 27 June, 2022

Decision

1. The appeal is dismissed.

Claims for Costs

2. A claim for costs was made by Ards and North Down Borough Council against the appellant. The appellant has also submitted a counter claim for costs against the Council. Both claims are the subject of separate decisions.

Preliminary Issues

3. Whilst the appellant has raised concerns about the processing of the planning application, this is a matter outwith consideration in this appeal.

Admissibility of amended drawings and additional information

4. Section 59(1) of the Planning Act (NI) 2011 states that a party to the proceedings is not to raise any matter which was not before the Council at the time the decision appealed against was made unless that party can demonstrate (a) that the matter could not have been raised before that time or (b) that it not being raised before that time was a consequence of exceptional circumstances. Section 59(2) states that nothing in subsection (1) affects any requirement or entitlement to have regard to (a) the provisions of the local development plan, or (b) any other material consideration. The appellant submitted an amended scheme with his Statement of Case (SOC), reducing the site area, removing one of the containers and repositioning and reducing the area of parking within the appeal site. In his SOC,

he also introduced a civil engineer's report as well as a new argument relating to farm diversification and compliance with Policy CTY11 of PPS2. It falls to me to assess whether or not these revised plans and additional information are admissible in accordance with Section 59 of the 2011 Planning Act.

5. The retrospective planning application for this development was submitted to the Local Planning Authority (LPA) on 15 February 2018 and was considered over a 26 month period before a decision notice issued on 16 April 2020. At the Remote Hearing, the appellant indicated that, during the processing of the planning application, he had contacted the LPA on numerous occasions, requesting an office/site meeting to discuss the development which were denied. Whilst he had inquired if any amendments to the scheme were required, he had received no feedback to suggest revisions were needed to secure an approval. The LPA's response was that it was not their responsibility to request amendments where the principle of development was unacceptable. As the LPA failed to engage with the appellants or respond to their emails, once made aware that the application was to be refused, days before the decision notice issued, he felt that he had no option but to submit a revised scheme as part of the appeal process. For these reasons, I consider that the appellants were not afforded the opportunity to introduce these amendments at an earlier stage in the planning process. Similarly, as they were not advised of concerns about intensification of use of the existing access on to the Protected Route and was not afforded an opportunity to provide clarification about the baseline of vehicles already using this access and the numbers associated with the research facility, this information could not have been provided at an earlier stage.
6. Alteration to the size of the appeal site, exclusion of a large area of hardstanding and removal of the larger container, as now proposed, would result in a reduction in the scale of the development. Whilst the revised scheme has not been readvertised, it does not represent a significant departure from the original scheme. As the amended scheme and Civil engineer's report were submitted with the appellant's SoC and the nearest neighbours/objectors were involved in the appeal process and had an opportunity to respond in their Rebuttals, I do not consider that third party prejudice would result if the appeal were based on the revised scheme and additional details submitted on the access. In these circumstances, as these are not new matters, I find that the revised drawing and civil engineer's report submitted with the appellant's SoC are admissible and should be considered as part of the appeal process.
7. In his SoC, the appellant also presented new information to support his contention that the appeal development forms part of a farm diversification scheme which finds support in Policy CTY11 of PPS21. Whilst I acknowledge that in Appendix 1 of his Supporting Statement submitted with the appeal, he had presented a letter confirming his farm business number and herd number, no details of a farm diversification scheme were presented at an earlier stage. Evidence about the appellant's farming activities from a previous enforcement appeal on this site lie outside the remit of this appeal. I agree with the LPA that the introduction of this new argument at this late stage in the process conflicts with the original description which states clearly that those composite parts of this development are "all for the purposes of Research and Development only" (my emphasis). I consider this to be a new matter not previously discussed as part of the planning application. This alternative justification for the appeal development has not been

readvertised and DAERA have not been reconsulted on these new details to verify the scale of agricultural activity on the residual 4 acres within the appellant's ownership. I conclude that this new information is not admissible as Section 59 of the 2011 Planning Act prohibits the submission of new evidence at this late stage.

8. Whilst objectors have raised concerns about other activities/ developments carried out on the appeal site and the immediate area, this appeal can only consider those structures and activities outlined in the description above and contained within the site boundaries, now reduced. Whilst the appeal site has been the subject of a previous enforcement appeal and is also the subject of a current enforcement appeal, I must assess this development afresh. Given the fact that the previous enforcement appeal was considered in 2017/18, I note that circumstances have changed on the ground with the maturing of vegetation on the appeal site and furthermore it is not appropriate to transfer evidence presented in one case to another. My consideration shall be based on the evidence presented by all parties in relation to this specific appeal alone.

Reasoning

9. The main issues in this appeal relate to whether the appeal development:
 - is acceptable in principle at this location;
 - whether this is an appropriate form of development for the site and its locality which integrates into the landscape;
 - whether the appeal development would result in a detrimental change to the character of the area; and
 - would result in an intensification of an existing access on to the Protected Route, prejudicing the free flow of traffic and road safety.
10. Section 45(1) of the Planning Act requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
11. The Ards and Down Area Plan 2015 (ADAP) operates as the relevant statutory Local Development Plan (LDP). It indicates that the appeal site is located in the open countryside, outside the Settlement Limits of Newtownards and within a Local Landscape Policy Area (LLPA3) associated with Whitespots, Lead Mines and Golden Glen. The ADAP has no policies specific to this type of development. However, Policy CON 2 of ADAP is applicable here and it states that "development will not be granted for development proposals which would be liable to affect the environmental quality, integrity or character of these LLPAs". Whilst a small triangular section in the most westerly part of the appeal site lies within the Whitespots Site of Local Nature Conservation (SLNCI), the appeal development does not extend into this designated area.
12. The relevant planning policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21), Planning Policy Statement 2 :Natural Heritage (PPS2) and Planning Policy Statement 3 :Access, Movement

and Parking (PPS3) and its associated document : The Clarification of Policy AMP 3: Access to Protected Routes which are identified by the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development (SPPS) as retained policy documents.

13. Policy CTY 1 of PPS 21 identifies 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. Whilst the appeal development does not fall within any of the non-residential developments specified, the headnote of Policy CTY1 goes on to say that "other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.". The first reason for refusal states that the appeal development conflicts with the SPPS and Policy CTY1 as there are no overriding reasons why such a development is essential in this rural location. The appellant argues that this Research & Development (R&D) facility avails of the unique attributes that this appeal site provides which are not available elsewhere and could not be transferred into any settlement. He also contends that the LPA has failed to assess the appeal development against all relevant planning policies. I shall consider each of these arguments in turn.
14. Whilst the LPA has concluded that there is no specific policy for academic research facilities, therefore requiring assessment against Policy CTY1 of PPS21, this is disputed by the appellant. He contends that the appeal development does not fit squarely within one policy but falls within a number of policies such as Policy PSU1 of the Planning Strategy for Rural Northern Ireland (PSRNI) and Policy OS3 of Planning Policy Statement 8: Open Space, Sport and Recreation (PPS8). I shall consider each of these policies to ascertain the correct policy context against which to assess this R&D facility.
15. Policy PSU1 of the PRSNI is entitled "Community Needs" which seeks to allocate sufficient land to meet the anticipated needs of the community, in terms of health, education and other public facilities. Whilst it does refer to educational facilities, I note that the text refers specifically to the requirement of land to meet the needs of the community at large for public services (my emphasis). In acknowledging that this land is currently being used for R&D purposes open to QUB students and staff and possibly others involved in research, I do not consider that this meets a community need or offers a facility available to the general public and therefore conclude that Policy PSU1 is not applicable here.
16. Policy OS3 of PPS8 addresses the issue of outdoor recreation in the countryside with particular emphasis on the provision of a range of sporting and outdoor activities for both the local population and tourists. Whilst I recognise that the appeal site includes an open space with an educational value which the appellants seek to retain, I do not consider that it falls within the definition of "outdoor recreation". I note that it provides an educational resource for a limited number of students, rather than a range of outdoor activities for local people and visitors. I am not persuaded that "it falls within the overarching spirit of Policy OS3 ", as suggested by the appellant. In reaching the conclusion that Policy OS3 is not applicable here, I do not need to consider each of the listed criteria, with many of these matters later addressed under Policy CTY1. I am in agreement with the LPA's conclusion that Policy CTY1 and the SPPS provide the correct planning policy context against which to assess the appeal development.

17. The 2nd and 3rd Reasons for Refusal state that the appeal development conflicts with Policies CTY13 & CTY14 of PPS21. However the headnote of both of these policies refer specifically to "buildings in the countryside". Whilst Criterion (d) of Policy CTY13 and Criterion (e) of Policy CTY14 refer to ancillary works, I agree with the appellant that these relate to ancillary works associated with buildings in the countryside. I am not persuaded that these policies refer to ancillary works associated with the R&D use as suggested by the LPA and find their reliance on Policies CTY13 & CTY14 to be misplaced. In these circumstances, the 2nd and 3rd reasons for refusal are not sustained. However, I note that these particular matters are addressed in Paragraph 6.77 of the SPPS which states that:

"In all circumstances, proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations".

18. This reinforces the wording in the headnote text of Policy CTY 1. I am satisfied that the visual impact of this development and all its components fall to be considered under the SPPS and Policy CTY1.
19. The appeal site is located at lands to the rear of numerous roadside residential properties extending along the western side of the A21, the dual carriageway which runs from Newtownards to Bangor. It is accessed off this Protected Route (PR) via an existing crushed stone laneway for which retrospective approval is sought. This laneway extends over 350 metres back from the public road, providing access to the collection of earth embankments which have been erected in a circular formation. The laneway has also been extended to encircle the outer edges of these Biodiversity and Environmental Research Monitoring structures (BERMs). These bunds extend approximately 2m in height, planted up with native species, and are separated by 8 areas of hardstanding. A 5m high watchtower has been erected immediately south of the BERMs. A small "welfare" container has been positioned in a quarry void 60m west of the PR, within an area currently used for the storage of a digger, a dumper, a trailer and other building materials and this is to be adapted to provide facilities for staff and students. The appellant seeks the retention of the extended laneway, the earth bunds, the areas of hardstanding and the welfare container, all for the purposes of R&D.
20. The appeal site lies close to the Clandeboye estate and abuts the Clandeboye Golf Club to the north, with pedestrian access available from the appeal site. Directly south of the BERMs there are two sizeable wind turbines, accessed via a separate laneway off the PR. The aerial photograph provided by the appellant shows a number of commercial businesses to the south of appeal site, all with separate accesses. Whitespots Country Park and the Somme Museum sit within 200m south/south east of the appeal site.
21. The appellant is a member of the British Deer Society and through his association with this organisation, he met Professor Dick from Queens University Belfast (QUB) and realized that there was a lack of access for students and staff to observe and study wild deer in their natural habitat. Given the proximity to the Clandeboye estate, where deer roam free, the appellant's 7 acre farm is often frequented by herds of fallow deer. Professor Dick confirmed in an email in 2018

- that the appellant offered QUB complimentary long term access to the site which was considered suitable for strategic research purposes, to study deer habitats, behaviours and ecology. In October 2013, the appellant agreed to the erection of a watchtower on his land to allow unhindered access to observe the behaviour patterns of these mammals. Since then, observational research has been undertaken, focusing on non-lethal deer management by trialling scent repellents and attractants.
22. The OS map indicates that the appeal site and adjoining lands historically formed part of a Council landfill site. This has been disputed by the objectors, but in the absence of any evidence to the contrary, I concur the LPA's conclusions that this was a former landfill site. Given its former use, invasive species such as Japanese Knotweed and Winter Heliotrope grow on the appeal site which allowed research into how native species planting can resist these invasive species to be carried out here on behalf of the School of Biological Science at QUB. The appellant indicates that to facilitate surveying and field analysis, he constructed the embankments/BERMs under the supervision of Professor Dick. The appellant indicates that the former dumping of inert materials on the appeal site had resulted in random mounds on his land which was reconfigured to produce the BERMs. Whilst the objector contests this, arguing that large volumes of uncontrolled waste were transported in lorries onto the site, investigations carried out by the Environmental Crime Unit confirmed that only inert materials were found on the site. In this evidential context, I concur with the LPA's assessment that the BERMs were created by reshaping the existing materials on the site.
 23. Professor Dick advised that the principal use of the BERMs is experimental research on plant invasion ecology involving the identification of 80 experimental and control plots, each with an area of 1.5m². The prevalence of invasive species here offers an opportunity to examine the effectiveness of native wildflower and grass seed mixes and native species tree planting in resisting encroachment from these non-native species. Professor Dick confirmed that this important research initiative allows him and his students to assess ways to improve and enhance the native species and animal diversity ecosystem properties and functions, enriching the environment for plant, animal and human utilization. He contends that all of the associated development such as the watchtower, areas of hardstanding and welfare container are essential to facilitate the continued use of the site for this important R&D facility.
 24. In their SOC and Rebuttal, the LPA acknowledges that given the prevalence of invasive species on the appeal site and the presence of deer attracted to the habitat within this small holding, the continued use of this land for ecological research would allow QUB students and staff to avail of the site specific opportunities presented on this site. I agree with the appellant and the supporter, the former MLA, that the combination of species and animals found on the land is unique and could not be duplicated in a settlement. The LPA does not dispute that any academic research would be in harmony with PPS2 policies and would fall within the premise of sustainable development endorsed by the SPPS and PPS21. However it concludes that the academic studies could continue on the appeal site but without the need for all of the associated development which it considers to be inappropriate in this rural setting. In so doing, the LPA has accepted the principle of the R&D facility at this location and their objection solely relates to the different

- components associated with this use. The objectors' main concern related to the use for shooting which falls outside the remit of this appeal.
25. As the deer would continue to roam this land and the invasive species would continue to grow naturally on the site, the LPA consider that monitoring can be carried out on the flat land without the need for the BERMs which should be removed. Professor Dick contends that a flat plot would not provide the same surface area or offer the variation of topography/orientation provided by the BERMs whilst ensuring that plants/experiments are not trampled underfoot by the deer or students. For these reasons, I am persuaded that the BERMs represent an essential tool in the delivery of this research facility. However I also have to consider their visual impact in the landscape, in isolation and when read with the other ancillary development which the appellants seek to retain.
 26. There is considerable discrepancies in the information provided about the number of QUB staff and students using this R&D facility since the watchtower was erected in October 2013. Letters on file submitted in February 2016 from Professor Dick refer to 2 M.Sc students and 2 B.Sc students monitoring the plots each year as they develop. The LPA stated that they had received limited information about the extent and scale of the academic research being undertaken, during the processing of the planning application. An email from 2018 from QUB confirmed that the site was visited regularly both during the day and night. No logs or data were presented to confirm the field research which has been undertaken over the last 9 years. At the hearing, Professor Dick referred to ongoing research with multiple papers being published but no up-to -date details were presented in the appellants' submissions. When questioned on how often this facility was used at the hearing, Professor Dick referred to seasonal work being undertaken, with no requirement for intensive surveying over a prolonged period. He indicated that a number of students might visit to sample and investigate with masses of data being collected in a single day. Occasionally night vision would be carried out on the deers. He emphasized that the number of students engaging in this type of research varied each year but that given the uncertainty about the viability and future of this facility, students were not being encouraged to undertake this particular type of study at present but would resume if approval was granted. The pandemic had disrupted all research on the site with the exception of Professor Dick visiting once every two weeks. Whilst the objectors challenged the scale and nature of activities being carried out on this site , these largely referred to shooting which does not form part of the appeal development before me.
 27. This information has to be assessed against a backdrop of the Technical report submitted by the appellants' engineer in his SOC, addressing the issue of traffic generated by this development. This concluded that the maximum number of additional visits onto the PR generated by this R&D facility would be no more than 16 per year, given that the students and staff often share lifts to the site. This figure is contradicted by the evidence presented about the number of tris undertaken by Professor Dick alone over the last two years. The question raised by the LPA was why is there a need for such extensive development if this facility is so infrequently used.
 28. The appeal site has changed substantially since last assessed in Appeal 2016/E0040 in April 2017 with significant regeneration of planting having occurred in the intervening period. Whilst the LPA and objectors have attached weight to the

previous Commissioner's assessment at that time, which considered only part of the development now before me, I shall make my own assessment of the overall visual impact of each structure at present, both individually and collectively from any public viewpoint. Given the setback from the public road, the siting beyond the local crestline and the adequate intervening vegetation, the LPA acknowledges that only that section of the laneway closest to the dual carriageway and the welfare container would be visible from the PR. Whilst referring to public viewpoints being available of the BERMs and the watchtower from the adjacent golf course and the Whitespots Country Park, the LPA did not identify any specific critical viewpoints.

29. Having concluded above that the BERMs are an essential component necessary to facilitate the ongoing monitoring of the invasive species and their impact upon native species, I note that these structures are now almost completely covered in a variety of planting which has softened their visual impact and allowed them to blend into the landscape. These 2m high embankments are not visible from the PR and given their limited scale, I am satisfied that they do not create "an eyesore" as suggested by objectors, given that there is no awareness of them from any public aspect within either the adjacent golf course or the Country park. In these circumstances, I do not therefore consider that they would have a detrimental impact upon the character of the area.
30. I shall now consider each of the ancillary developments which the appellant seeks to retain, assess whether or not each is essential and its potential visual impact and impact on rural character. The BERMs have been laid out in a grid-like form separated by 8 areas of hardstanding. Although not referred to in the description of development and not annotated on the site layout plan, they are indicated in the cross section provided. No details of surfaces /finishes were provided. The justification for providing these areas of hardstanding was to allow easy access to the BERMs and allow ample space for parking and preparation of equipment. The revised plans show the parking to be provided alongside the laneway. Given the uncertainty about the regularity of use of this facility or the numbers attracted to the site at any one time, I am not persuaded that there is any requirement for such extensive areas of hardstanding. I have no evidence that poor ground conditions would render a grassed area inaccessible/unusable in winter months. References to their use for shooting purposes and parking associated with it raised by the LPA and objectors fall outside the remit of this appeal.
31. At the hearing, it was indicated that herbs and grasses have been planted in these areas to allow the deer to get nutrients on these "deer lawns" with a passing reference to reseeding annotated on the revised drawings. It is unhelpful that the appellant failed to provide a detailed landscaping plan at any stage in the planning process. Whilst I recognise that the ever changing situation on the ground with the colonization of native species at different rates and different times within the site made it difficult to predict what would happen next, some indication of new planting/reseeding introduced by or on behalf of QUB could have been provided. There is no explanation why there was a need to provide extensive areas of hardstanding which were then reseeded to facilitate these deer lawns. The reseeding and planting up of these areas has significantly reduced the awareness of the hardcore surface below, and I note that these areas are totally enclosed by the BERMs and have no public aspect. Whilst I consider that these features would not have a detrimental visual impact, I am not persuaded that any or all of these

areas of hardstanding are an essential feature at this location integral to the overall use of the BERMs.

32. Historically there was a farm access opening onto the Dual carriageway when the appellant bought the land. At the hearing, the appellant indicated that he widened the stretch closest to the public road in 2013/14, scrapped back the grass, re-soiled and added crushed stone from a local quarry. Increased in width to 5m in the eastern section, this also provides access to the rear of the adjacent dwelling and given the screening provided by those roadside properties, views would be limited to a fleeting glance travelling in a northerly direction only. Whilst the objectors referred to long distant views being available from the Donaghadee Road, I am satisfied that the section beyond the 90 degree bend would have no public aspect. For a substantial stretch, it is enclosed by mature hedgerows and trees on both sides with regeneration of planting occurring in the central grassed area and given its reduced width and limited visibility, do not consider that it reads as a motorway carved through the landscape, as suggested by the objector. I consider that it is better integrated into the landscape that the stark gravelled laneway serving the two wind turbines immediately to the south. I find that the 350m stretch of laneway is essential to provide access to the R&D facility and consider that it would not have a detrimental impact on visual amenity or on the character of this rural area.
33. The laneway has more recently been extended to encircle the outer edge of the BERMs. The only explanation offered by the appellant was that this extension was necessary to provide a safe access to their farm, especially in winter time when the ground conditions were wet but any use other than to serve the R&D facility lies outside the scope of this appeal. Allegations that the appellant seeks to use this lane for a different purpose are unsubstantiated. Notwithstanding the fact that this section too is not visible from any public aspect, I consider that this section is not essential and is not necessary to facilitate the use as a R&D facility.
34. Erected in 2013 to allow students and staff to watch and monitor the behaviour and habits of the deer without causing disturbance, the watchtower was constructed using scaffolding with a wooden platform for viewing. The appellant points to the fact that it needs to be 5m in height to ensure that human scent does not interfere with deer movements and offer unhindered views of their habits from a safe environment. Whilst the LPA argue that cameras could be placed on the ground as an alternative to the watchtower, Professor Dick indicated that cameras were used on the ground close to where the deer feed. Whilst the watchtower may provide a panoramic longer range view of the deers' movements across the entire site, facilitating the use of night vision equipment, I have insufficient evidence on its usage to persuade me that the watchtower represents an essential component of the R&D facility. The LPA acknowledged that the watchtower is not visible from the PR but indicated that views of it are available from the golf course and the Country Park. From my own assessment on the ground, I was unable to identify any critical viewpoints from the adjacent Country Park and whilst there would be fleeting views available from the closest green on the golf course, it would be read against a backdrop of the much more visually prominent wind turbine. In these particular circumstances, I do not find that the watch tower would be dominant in the landscape or have a detrimental impact on the rural landscape.

35. The appellant also seeks to retain the smaller container and adapt it by introducing windows and providing an internal water connection to facilitate its use as a welfare unit. The container is in situ positioned close to the public road and as it is currently locked, I was unable to view inside. The submitted plans indicate that this would provide a work station, study, toilet and clothes drying facility once adapted and is to be clad in brown vertical timber to reduce its visual impact. I can attach no weight to the appellant's argument that they wish for the structure to be dual functional to allow for the storage of farming equipment as the appeal proposal only seeks to retain it to provide facilities for the QUB staff and research students. I note that the students and staff have been using this R&D facility for 9 years without such facilities and I do not accept the appellant's argument that, up to now, the additional expenditure needed to install the toilet was not justified without the benefit of planning permission. I concur with the LPA's assessment that the appeal site is not so remote that the researchers could not utilize facilities available in the two adjacent settlements. In any case, the siting of any facilities up to 350m from the watchtower and BERMs would not provide readily accessible facilities.
36. In the absence of clarity about the numbers undertaking research on the appeal site and the frequency of use of this site, I am not persuaded that this welfare container is essential here as an integral part of this R&D facility. Given its limited size and scale, its setback from the PR and its siting within an existing quarry void enclosed by mature vegetation, visibility would be reduced to a fleeting glance travelling northwards along the dual carriageway. Whilst I do not consider that it would be unduly prominent or would have a detrimental impact on the visual amenity and character of the area, I am not persuaded that it represents an essential component of the R&D facility.
37. I have found that the combination of species and animals found on these lands offer a unique opportunity for the development of environmental and ecological research and teaching capacity. This is acknowledged by the LPA who agree that the continued use of this site as a R&D facility is acceptable in principle and meets the other type of development that could be not be located in a settlement as provided for in Policy CTY1. I have considered each of the ancillary developments which are currently on the ground and have concluded that only the BERMs and the main access laneway are essential as they form an integral part of this facility. I have also made my own assessment of the visual impact of each of these features/structures. Circumstances have changed significantly on the ground since the original assessment of this site under Appeal 2016/E0040 in April 2017. In the intervening 5 years, the site has reseeded and regenerated naturally, supplemented by new planting introduced by or on behalf of Professor Dick, allowing these features to better blend into and integrate sympathetically with the landscape. I do not consider that these features appear urban or industrial in the landscape or represent inappropriate forms of development in this rural area as when viewed in isolation or collectively, they would have little or no visibility from any public aspect. In respect of integration, I find that they comply with the SPPS and Policy CTY1. I agree with the LPA's conclusions that, given the scale and nature of the development, the character and integrity of the Whitespots, Lead Mines and Golden Glen LLPA would not be adversely affected by the development and it therefore finds support in Policy CON 2 of the ADAP.
38. The appeal site accesses directly onto the A21, the dual carriageway which extends between Newtownards and Bangor which is a PR, where historically there

was only an agricultural access. The LPA considers that the appeal development conflicts with Policy AMP3 of PPS3 and its Clarification document as it would result in an intensification of the existing access onto the PR which would prejudice the free flow of traffic and road safety. I can attach no weight to the fact that this issue was not raised as a concern in the assessment of previous applications and appeals. The initial assessment by DFI (Roads) was based on the traffic figures presented by appellant in his amended P1 form detailing that the average number of vehicles on a daily basis was one staff vehicle and one student vehicle, resulting in a maximum of 730 vehicle movements per annum. Development Control Advice Note 15 (DCAN 15) defines intensification of use as increasing the traffic flow using an access by more than 5%. In the Civil engineers report submitted with his SOC, the appellant presented additional information about the baseline figures currently using this lane, other than that associated with the R&D facility. Whilst I acknowledge that the current authorized traffic use is made up of several users with different rights of way, I am not persuaded that the total baseline trips per year is 2234, as suggested in that report. The bulk of these estimated trips (1460) are attributed to an unapproved development on adjoining lands which should be discounted. Whilst I accept that the appellant continues to carry out maintenance work on the residual 4 acres of farmland, I am not persuaded that that would require the regular help of a farm hand in addition to his own visits most days. There is no dispute that the adjoining resident at No. 251 utilises this laneway to service the rear of his property whilst the objector has a right of way over a section of this laneway. I cannot consider traffic generated by the unauthorized shooting activity on this land which lies outside the scope of this appeal. I therefore conclude that I cannot rely on these baseline figures presented in the civil engineer's report.

39. The civil engineer's report, dated November 2020, also revises the estimate of additional traffic generated by this R&D facility. The author stresses that they have consulted with Professor Dick and QUB who have provided a robust estimate of an additional 16 traffic movement per year, based on car sharing and seasonal work being undertaken but these are estimates unsupported by any evidence to back them up. There is no explanation why such a small number of vehicles would therefore require 5 parking spaces, then reduced to 2 in the revised scheme. The latest estimate conflicts sharply with the previous submissions where it was indicated that the site was regularly used. Given the contradictory evidence presented by the appellant over the years on the frequency of use and number of vehicles using this access, and the uncertainty about the current baseline figures, I am not persuaded that the additional traffic generated would be less than 5%, as suggested by the appellant. I do not consider that such a facility is of regional significance to justify an exception under Policy AMP3. Given the lack of consistent and up-to-date evidence to the contrary, I agree with DFI (Roads) that the increased traffic generated by the appeal development would result in an intensification of use of this existing agricultural access, in conflict with Policy AMP3 of PPS3. The lack of accidents at this junction does not persuade me otherwise. In this evidential context, I find that the 4th reason for refusal and the objector's concerns in this regard are sustained.
40. Policy CTY1 of PPS21 and the SPPS allows for other types of development in the countryside which are essential at a rural location and I have concluded above that there are site specific reasons why this site offers the unique opportunity to develop both spheres of research simultaneously. I have also found that some of

the ancillary features are essential for the continued use of the site for research purposes without having a detrimental effect on the visual amenity and rural character of the area. However, whilst the principle of this use is acceptable, the contradictory evidence presented during the planning and appeal process does not offer adequate clarity about the extent and scale of the development which has operated on this site in the past and will continue to do so in the future. This is even more significant at this location because the site accesses onto the Protected Route where certainty about the intensity of use and traffic generated is critical. Given the contradictory evidence presented and the lack of clear and precise details about how and when this R&D facility would operate, the appellant has failed to demonstrate that it represents an appropriate form of development in the rural area. To the extent outlined, I find that the appeal development therefore conflicts with Policy CTY1 and the SPPS and the first reason for refusal and objectors' concerns in this regard are sustained.

41. Whilst objectors have raised a number of additional concerns about the appeal development, those relating to disruption to businesses, family life and resultant mental hardship caused by shooting activities lie outside the remit of this appeal. References to such a commercial activity on the site are also irrelevant. Objectors refer to serious environmental damage being caused by the appeal development. To address concerns raised about potential contamination and human health pollutants, the appellants commissioned two Preliminary Risk Assessments which were considered by the Council's Environmental Health Department (EHD) and DAERA (Land and Groundwater team). Both consultees were satisfied that no adverse human health linkages would result and in the absence of evidence to the contrary, I find these objections are not sustained.
42. Concerns about increased ground water run-off from the appeal site onto the PR and towards the beach are unsubstantiated. To address concerns about the potential impact on wildlife and the natural habitat, the appellants undertook an Ecological survey which confirmed that there were no breeding badgers on the site. This was confirmed by DAERA: Natural Heritage who were satisfied that the appeal development would promote biodiversity. I find that none of these objections are sustained.
43. However, as I have found that the first and fourth reasons for refusal have been sustained, this appeal must fail.

This decision relates to the following drawings:

- 1:50 floor plan and elevation of welfare container date stamped received by Council on 13.9.18;
- 1:50 elevation and plan view of watchtower date stamped received by the Council on 13.9.18;
- 1:2500 site location plan submitted with appellant's SOC; and
- 1:1000 site layout plan submitted with the appellant's SOC.

COMMISSIONER PAULINE BOOMER

APPEALS 2020/A0053 & 2021/E0042**Attendees at Remote Hearing held on 13 May 2022**

- LPA** - Ms G. Corbett Ards & North Down Borough Council (BC)
 - Ms C. Barker Ards & North Down Borough Council (BC)
- Objectors** - Mr & Mrs Finnegan
 -Mr Stuart Magee
 -Ms Gilliland
- Appellant** - Mr Rosborough
 - Ms T. Cassidy
 - Professor J. Dick
 - Mr M. Hoy

Documents Received

- LPA 1** - Statement of Case & Annexes from Ards & North Down BC
- LPA 2** - Rebuttal from Ards & North Down BC
- OBJ1a** - Statement of Case and Appendices from Mr & Mrs Finnegan
- OBJ1b** - Rebuttal from Mr & Mrs Finnegan
- OBJ2a** - Statement of Case from Mrs. Gilliland
- OBJ2b** - Rebuttal from Mrs. Gilliland
- OBJ3a** - Statement of Case from Ms Boyle
- OBJ3b** - Rebuttal from Mrs. Boyle
- APP1** - Statement of Case & Appendices from Appellant
- APP2** - Rebuttal & appendices from Appellant.



Enforcement Appeal Decision

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Appeal Reference:	2021/E0042
Appeal by:	Mr Eric & Mrs Alana Rosborough
Appeal against:	An enforcement notice dated 13 August 2021
Alleged Breach of Planning Control:	1) unauthorised extension to laneway; 2) unauthorised excavation of land and the creation of earth bunds; 3) unauthorised creation of hardcored areas; and 4) unauthorised use of the land for the purposes of shooting
Location:	Lands approx. 330m west of No. 251 Bangor Road, Whitespots, Newtownards
Planning Authority:	Ards & North Down Borough Council
Authority's Reference:	LA06/2017/0036/CA
Procedure:	Hearing (remote) on 13 May 2022
Decision by:	Commissioner Pauline Boomer, dated 27 June 2022

Grounds of Appeal

1. The appeal was brought on Grounds (a), (b), (c), (f) & (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011. In their Statement of Case, the appellants sought to add Ground (d).

Preliminary Matter

2. Issues around deemed fees are purely administrative and should not arise at a matter for discussion at the appeal hearing the purpose which is to consider the merit of the case. In this case, I raised this issue at the hearing to afford clarification for the appellants and their agent.
3. The appellants pleaded Ground (a) appeal but did not pay the deemed application fee. It was argued that "no fee was required because of the live planning appeal (2020/A0053).
4. The Enforcement Notice was issued on 13 August 2021, sometime after the submission and refusal of a planning application and subsequent Appeal relating to the larger site, but incorporating the lands to which the Notice relates. That current planning appeal (2020/A0053) (as amended) seeks the retention of embankments - Biodiversity and Environmental Research Monitoring Lands (BERMs), as well of the retention of a watchtower, areas of hardstanding, access

and an ancillary amenity unit, all for the purposes of academic research and development.

5. At the hearing, the parties were directed to Regulation 3(1) of the Planning Fees (Deemed Planning Applications and Appeals) Regulations (Northern Ireland) 2015 requires that a fee be paid to the Planning Appeals Commission where an application for planning permission is deemed to have been made by virtue of the provisions of Section 145 (5) of the 2011 Planning Act. In Part 6 of those Regulations, it states that Section 3(1) does not apply to "an application for planning permission for the development to which the enforcement notice relates". In this instance, there is some overlap between the development which forms part of that appeal development and the alleged breaches, stated with the notice. However, there are significant discrepancies between what is described in the Notice and what is considered in Appeal 2020/A0053.
6. It is my consideration that as the planning application and subsequent appeal does not fully cover the development to which the notice relates, there is no deemed application. An opportunity was afforded to the appellant to pay a deemed planning fee, however at the hearing the appellant stated that they no longer wished to pursue the appeal on ground (a), confirmed by email. Accordingly there is no longer a ground (a) appeal.

Legal Grounds

7. In their Statement of Case, the appellants indicated that they only wished to have the use of the land for shooting as set out in Part 3.4 to be considered under Grounds (b), (c) and (d).

Ground (b)- that those matters have not occurred

8. The onus is on the appellants who plead Ground (b) to demonstrate, on the balance of probabilities, whether the matters alleged in the notice have occurred. In their Statement of Case, the appellants advised that the only alleged breach that they wished to pursue in regards to Ground (b) was in relation to the alleged unauthorized use of the land for the purposes of shooting.
9. The appellant considers that Ground (b) is applicable as no shooting was taking place on the appeal site on the date that the Enforcement Notice (EN) was served - 13 August 2021. Whilst the appellant acknowledges that some leisure shooting has infrequently been carried out on this land on an informal basis, an undated letter signed by him, states that no shooting activity has occurred on the appeal site since 5 June 2021.
10. The EN refers to unauthorized shooting activity being carried out on the appeal site over an unspecified period without the benefit of planning permission prior to its issue. There is no requirement in the legislation for the activities to be undertaken at the precise time of delivery of that EN. It would be unreasonable to expect the Local Planning Authority (LPA) to have prior knowledge of what days such activities were being carried out and to serve the EN on a day when guns were

actually being fired. I agree with the LPA that this does not invalidate this EN. In any case, the appellant has not provided any evidence that no shooting was being carried out on the date the EN was served.

11. No certifiable evidence has been presented to support the appellants' claim that no shooting activity has occurred on the site since 5 June 2021. This is disputed by the LPA who refer to photographs dated 13 August 2021 which show remnants of a recent shot and a bag of unused targets. Evidence presented from the Council's Environmental Health Department confirms that they had received complaints about shooting taking place on the appeal site on 16,17,28 and 29 June 2021. At the hearing, the objectors stated that they had recorded shooting taking place on the appeal site on 31 December 2021 and 7 January 2022 with further more recent incidents recorded in the local press. Whilst the appellants contend that it is probable that noise emanating from shooting activities on the Clandeboyne estate and other clay pigeon shooting in the area were mistaken for shooting occurring on the appeal site on those dates, this has not been substantiated as no records or logbooks were kept.
12. On the balance of probabilities, the appellants have failed to demonstrate that the matters alleged in Part 3.4 of the EN have not occurred. Thus, I consider that the appeal on Ground (b) must fail.

Ground (c) - that those matters (if they occurred) do not constitute a breach of planning control

13. The onus is on the appellants pleading Ground (c) to demonstrate, on the balance of probabilities, whether the matters which have occurred constitute a breach of planning control. In their Statement of Case, the appellants advised that the only alleged breach that they wished to pursue in regards to this ground was in relation to the alleged unauthorized use of the land for the purposes of shooting.
14. The appellants contend that any leisure shooting carried out on the appeal site does not constitute development. Under Section 23 of the 2011 Planning Act, development includes "the making of any material change in the use of any buildings or other land". I am satisfied that the change of use from agricultural land to use for shooting purposes constitutes development. The fact that this use may not have been continual or consistent does not alter my conclusion in this regard, regardless of whether any shooting was carried out by individuals or members of a shooting/gun club.
15. The second argument presented by the appellants under Ground (c) is that it falls within Part 5 Class B of the Planning (General Permitted Development) Order (NI) 2015 which addresses Temporary Buildings and Uses and allows for a temporary uses to operate for less than 28 days in any calendar year. The appellants state that leisure shooting occurred infrequently for a few hours on an occasional Saturdays but that this happened once a fortnight or once a month but less than 28 days in any calendar year. This is disputed by objectors who contend that it happens more regularly. Whilst the appellants indicated at the hearing that the local police were often called out to the site, following complaints from residents,

and should have a record of any incidents, this documentation was not made available to me. In the absence of any records to prove that the use was operating on less than 28 days each year, on the balance of probabilities, the appellants have failed to demonstrate that those activities did not constitute a breach of planning control. I therefore find that the appeal on Ground (c) must fail.

Ground (d) - That at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted

16. The appellants only indicated in their Statement of Case that they were appealing on Ground (d). The LPA and the objectors had the opportunity to respond to this in their rebuttal with further discussion at the appeal hearing.
17. The onus is on the appellants pleading Ground (d) to demonstrate, on the balance of probabilities, whether the matters which have occurred are immune from enforcement and no enforcement action could have been taken. In their Statement of Case, the appellants advised that the only alleged breach that they wished to pursue in regards to this ground was in relation to the alleged unauthorized use of the land for the purposes of shooting.
18. The appellants in their Statement of Case and Rebuttal did not offer any evidence to indicate that the shooting activities specified in Part 3.4 of the Notice were immune from enforcement action. At the hearing, they clearly stated that they did not consider that the shooting was immune from enforcement, instead reiterating their views that no enforcement action could be taken as shooting had not occurred on the day that the EN was served and that it does not constitute development, both addressed above. In these circumstances, the appellants have not attempted to demonstrate that no enforcement action could be taken and the appeal on Ground (d) must fail.

Ground (f)- That the steps required by the Notice, to be taken, exceed what is necessary to remedy any breach of planning control

19. The remedy in Part 4.2 seeks the removal of the earth bunds and the restoration of the land to its condition before the breach took place. The appellants contend that the steps required in the EN exceed what is necessary to remedy the breach. They argue that the removal of the bunds would not only result in a loss of natural habitat, but would lead to bare soil being likely to be recolonised by invasive species from adjacent lands and this would be in conflict with policies in Planning Policy Statement 2: Natural Heritage. They questioned how the land could be restored to its former condition if the materials used to create them originated on the site and was subsequently removed. They also queried the lack of clarity about the levels at which the land should be restored.
20. The LPA acknowledged that these earth bunds were created from the legacy landfilled material on the site. At the Hearing, they indicated that they would have no objection to the earth bunds being demolished rather than removed but stated that if it was considered that there would be merit in retaining the earth bunds, they would be satisfied to leave this as a matter to be determined in this appeal.

21. I agree that there is a contradiction between seeking the removal of the earth bunds and the restoration of the lands to their former condition which originally included this material. Even if the earth bunds were demolished and redistributed, as suggested by the LPA at the Hearing, I share the appellants' concerns about the lack of clarity about former levels on the ground which are not readily apparent from the photographs supplied.
22. I acknowledge that the redistribution of this inert material within the appeal site would result in the bare soil being recolonized by invasive species such as winter heliotrope and Japanese Knotwood, having a detrimental impact on the native species planting recently introduced here. This consideration is consistent with my consideration in the conjoined appeal decision 2020/A0053. Accordingly I am satisfied that given the regeneration which has occurred, the earth bunds have little visual impact in the landscape, with no public visibility. In these circumstances, I do not consider that there is a necessity that these earth bunds be removed as their removal would be likely to cause more environmental damage, not only on the appeal site but beyond.
23. However, in retaining these earth bunds, an alternative remedy is required, restricting their use for the purposes of Research & Development only (as BERMs) and shooting should cease immediately. The EN should therefore be varied to reflect and take account of these amendments.
24. Part 4.1 and Part 4.3 of the EN seeks that that section of laneway (marked blue on the accompanying map) and the two areas of hardstanding (coloured orange) be removed and restored to their former condition. The appellants argued that these areas should instead be topsoiled and reseeded without having to disturb the land. As indicated in the attached report on Appeal 2020/A0053, I have concluded that these areas have little visual impact, given the regeneration of planting that has occurred. I also consider that minimal disturbance would be caused if both the laneway and areas of hardstanding were topsoiled and reseeded and accordingly, vary the EN to reflect that alternative remedy.
25. Part 4.4 of the EN seeks that the unauthorised use of the land for the purposes of shooting cease. I note the concerns of the appellants but this does not impose a sanction on all shooting which may be authorised. I consider that the remedy steps set out in the EN in relation to the use for unauthorised shooting on the appeal site are reasonable.
26. I conclude that the steps to remedy the alleged breach of planning control as set out in the EN in relation to the earth bunds, the laneway and the areas of hard standing exceeded what was necessary to remedy the breach of planning control.
27. The appeal under Ground (f) succeeds to the extent indicated above and the EN is therefore varied.

Ground (g)- That any period specified on the Notice falls short of what should reasonably be allowed

28. The EN requires that all of the remedial works be carried out within 6 months. Whilst the appellants state in their submission that "this may not be sufficient, depending on the time of year", they offered no alternative time frame. Given that the only remedial works now required involve the topsoiling and reseedling of the laneway and the two areas of hardstanding, I consider that six months is an adequate timeframe to carry out the necessary works. Given the reduced works now required and combined with the date of this decision leading into the summer period, I have not been persuaded that the timescale for Part 4 should be amended. The appeal on Ground (g) fails.

Decision

29. The decision is as follows: -

- The appeal on Ground (b) fails
- The appeal on Ground (c) fails.
- The appeal on Ground (d) fails..
- The notice is varied as follows:-

Part 4.1-Topsoil and reseed the laneway within 6 months from the date of the Notice

Part 4.2 – Permanently cease the unauthorised use of the earth bunds for the purposes of Research & Development and/or shooting.

Part 4.3- Topsoil and reseed the areas of hardstanding within 6 months from the date of the Notice and the appeal on Ground (f) succeeds to that extent.

- The appeal on Ground (g) fails.
- The notice (as so varied) is upheld.

COMMISSIONER PAULINE BOOMER

2021/E0042**List of Appearances**

LPA - Ms G. Corbett Ards & North Down Borough Council (BC)
 - Ms C. Barker Ards & North Down Borough Council (BC)

Objectors - Mr & Mrs Finnegan
 -Mr Stuart Magee
 -Ms Gilliland

Appellant -Mr Rosborough
 - Ms T. Cassidy
 - Professor J. Dick
 - Mr M. Hoy

Documents Received

LPA 1 -Statement of Case & Appendices from Ards & North Down BC

LPA 2 - Rebuttal from Ards & North Down BC

OBJ1a - Statement of Case and Appendices from Mr & Mrs Finnegan

OBJ1b - Rebuttal & Appendices from Mr & Mrs Finnegan

APP1 - Statement of Case & Appendices from Appellant

APP2 - Rebuttal & Appendices from Appellant

ITEM 7

Ards and North Down Borough Council

Council/Committee	Planning Committee
Date of Meeting	02 August 2022
Responsible Director	Director of Regeneration, Development and Planning
Responsible Head of Service	Head of Planning
Date of Report	20 July 2022
File Reference	Planning Committee
Legislation	Planning Act (NI) 2011
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/>
Subject	Local Development Plan – Member Workshops
Attachments	N/A

Background

Members will be aware that the formulation of the Draft Plan Strategy is progressing and will require agreement. The draft Plan Strategy is also subject to Sustainability Appraisal.

Detail

In order to progress to advanced draft agreement, dates for a first set of workshops, open to all Elected Members, are being held for 20 and 21 September. Further dates shall be presented to Members in due course.

RECOMMENDATION

It is recommended that Council notes this report.